
NORTH AYRSHIRE COUNCIL

19 September 2018

North Ayrshire Council

Title: Elected Member Attendance

Purpose: To advise of the circumstances surrounding the non-attendance of an Elected Member and the relevant provisions within Standing Orders Relating to Meetings and Proceedings of the Council and its Committees.

Recommendation: That the Council agrees (a) to note (i) the exceptional circumstances surrounding Councillor Shaun Macaulay's non-attendance at any meeting of the Council, Committee, Joint Committee, Joint Board or other body as representative of the Council since the Council meeting on 9 May 2018 and (ii) the likelihood that Councillor Macaulay's absence may extend beyond the six-month period; and (b) that (i) in terms of Standing Orders and section 35 of the Local Government (Scotland) Act 1973, Councillor Macaulay's failure to attend is due to a reason approved by the Council and (ii) if required, a further update be submitted to the May 2019 meeting of the Council.

1. Executive Summary

- 1.1 In terms of the section 35 of the Local Government (Scotland) Act 1973, as incorporated into the Council's Standing Orders Relating to Meetings and Proceedings of the Council and Committees, an Elected Member who fails to attend any meetings of the Council, its committees, Joint Committees, Joint Boards or other body as a representative of the Council, throughout a six-month period ceases being a Member of North Ayrshire Council, unless their non-attendance is due to a reason approved by the Council.
- 1.2 In the case of Councillor Shaun Macaulay, serious illness has prevented him attending meetings since the last Council meeting on 9 May 2018. The period of time likely to be needed for his recovery is such that Councillor Macaulay's absence risks exceeding the six months provided for in Standing Orders. In the circumstances, the Council is asked to apply appropriate discretion to allow Councillor Macaulay to remain as an Elected Member.

2. Background

- 2.1 Section 35 of the Local Government (Scotland) Act 1973 states that "...if a member of a local authority fails throughout a period of six months to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority, cease to be a member of the authority....Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body to whom for the time being any of the functions of the authority are being discharged, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed to be attendance at a meeting of the authority."
- 2.2 In turn, this is incorporated into Standing Order 7.3, which states that:-
"Subject to the provisions of Section 35 of the 1973 Act and Section 19 of the 2000 Act, if a Member fails throughout a period of six consecutive months to attend any meetings of the Council, Committee, Joint Committee or Joint Board to which any function of the Council has been delegated, he/she shall, unless the failure to attend was due to some reason approved by Council cease to be a Member of North Ayrshire Council."
- 2.3 Case law provides that the six-month period mentioned above expires on the date of the next committee the Councillor could have attended after expiry of the six-month period.
- 2.4 Ward 1 (Irvine West) Elected Member Councillor Shaun Macaulay serves on the Council, North Ayrshire (Planning), the Local Development Plan Committee, Planning Committee and Local Review Body and was appointed by Cabinet as the Council's Young People Champion. Councillor Macaulay is also a Council representative on North Ayrshire Leisure Limited and serves on the Irvine Locality Partnership.
- 2.5 Recent ill health has meant that Councillor Shaun Macaulay, has not been able to attend a meeting of the Council or the committees on which he serves since the Council meeting held on 9 May 2018. Taking into account the case law referred to at 2.2 above, if Councillor Macaulay were to be unable to attend a meeting on or prior to the Planning Committee on 5 December 2018, he would, at that point cease to be a Member of North Ayrshire Council. The Council does, however, have the power to approve the reason for non-attendance, which will permit Councillor Macaulay to remain as an Elected Member beyond that date.

3. Proposals

- 3.1 The Council is invited to agree:-
- (a) to note (i) the exceptional circumstances surrounding Councillor Shaun Macaulay's non-attendance at any meeting of the Council, Committee, Joint Committee, Joint Board or other body as representative of the Council since the Council meeting on 9 May 2018 and (ii) the likelihood that Councillor Macaulay's absence may extend beyond the six-month period; and

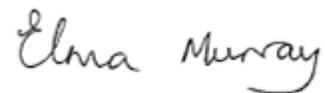
- (b) that (i) in terms of Standing Orders and section 35 of the Local Government (Scotland) Act 1973, Councillor Macaulay's failure to attend is due to a reason approved by the Council and (ii) if required, a further update be submitted to the May 2019 meeting of the Council.

4. Implications

Financial:	None arising from this report.
Human Resources:	None arising from this report.
Legal:	Failure by the Council to approve the reason for absence would result in Councillor Macaulay ceasing to be a Councillor on 5 December 2018, as provided for in section 35 of the Local Government (Scotland) Act 1973.
Equality:	None arising from this report.
Children and Young People:	Councillor Macaulay is the Young Persons' Champion and pending his return consideration may need to be given as to interim arrangements.
Environmental & Sustainability:	None arising from this report.
Key Priorities:	Not applicable.
Community Benefits:	Not applicable.

5. Consultation

- 5.1 Councillor Burns, as Leader of the SNP Group, has updated the Chief Executive on Councillor Macaulay's illness.



Elma Murray OBE
Chief Executive

For further information please contact Melanie Anderson, Committee Services Team Leader on telephone number 01294 324131.

Background Papers

N/A