
NORTH AYRSHIRE COUNCIL

9 June 2021

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 Scott Davidson'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 4 March 2021 and (ii) the likelihood that Councillor Davidson'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 Davidson failure to attend is due to a reason approved by the Council and (ii) if required, a further update be submitted to the December 2021 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 Davidson, Covid-related illness has prevented him attending meetings since the Council meeting on 4 March 2021. The period of time likely to be needed for his recovery is such that Councillor Davidson'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 Davidson 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 3 (Kilwinning) Elected Member Councillor Scott Davidson serves on the Council, North Ayrshire (Planning), the Local Development Plan Committee and was appointed to represent the Council on the Community Planning Partnership Board, North Ayrshire CCTV Limited and the West of Scotland Road Safety Forum. Councillor Davidson also chairs the Kilwinning Locality Partnership.
- 2.5 Recent ill health has meant that Councillor Davidson has not been able to attend a meeting of the Council or the committees on which he serves since the Council meeting held on 4 March 2021. Taking into account the case law referred to at 2.2 above, if Councillor Davidson were unable to attend a meeting on or prior to the full Council on 8 September 2021, 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 Davidson 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 Davidson'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 4 March 2021 and (ii) the likelihood that Councillor Davidson'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 Davidson's failure to attend is due to a reason approved by the Council and (ii) if required, a further update be submitted to the December 2021 meeting of the Council.

4. Implications/Socio-economic Duty

Financial

- 4.1 None arising from this report.

Human Resources

- 4.2 None arising from this report.

Legal

- 4.3 Failure by the Council to approve the reason for absence would result in Councillor Davidson ceasing to be a Councillor in the event of the Member not being in a position to attend a meeting within the time allowed, as provided for in section 35 of the Local Government (Scotland) Act 1973.

Equality/Socio-economic

- 4.4 None arising from this report.

Environmental and Sustainability

- 4.5 None arising from this report.

Key Priorities

- 4.6 Not applicable.

Community Wealth Building

- 4.7 Not applicable.

5. Consultation

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

Andrew Fraser
Head of Democratic Services

For further information please contact Melanie Anderson, Senior Manager (Committee and Member Services) on telephone number 07385 417274.

Background Papers

N/A