

Council report

Report of Head of Head of Legal and Democratic Services

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To: Council

DATE: 19 February 2014

Declaration of vacancy – Wantage Charlton

Recommendation

That Council:

1. notes that John Morgan has become disqualified for being a member of this authority;
2. declares as vacant the office held by John Morgan as a councillor for the Wantage Charlton ward.

Purpose of report

1. To note that John Morgan has become disqualified for being a member of this authority by virtue of his conviction and imprisonment and to formally declare a vacancy in the Wantage Charlton ward.

Background

2. Under section 80(1)(d) of the Local Government Act 1972 a councillor is disqualified from holding office if they are convicted of an offence and have passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.
3. Section 86 of the Local Government Act 1972 requires an authority to declare a vacancy in such circumstances.

Disqualification of Mr John Morgan

4. Mr Morgan has been convicted of an offence and received a prison sentence of five years. The period for making an appeal or application with respect to the conviction and sentence has expired. He is therefore disqualified from holding office as a councillor.

Declaration of vacancy

5. Section 86(1)(b) of the Local Government Act 1972 provides that where a councillor becomes disqualified for being a member of the authority, the authority shall, except in any cases in which a declaration has been made by the High Court, forthwith declare the office to be vacant. This is a statutory duty on the Council. Officers recommend that Council declares the vacancy.

Next steps

6. Under section 87(1) (f) of the Local Government Act 1972 the vacancy is deemed to be the date on which Council declares the vacancy – 19 February 2014.
7. Public notice of the vacancy must be given immediately after this declaration. An election to fill the casual vacancy must be held within 35 days from the date of the declaration. The returning officer has responsibility to fix the date of the by election.

Financial Implications

9. The cost of the by election will be met from existing budgets drawing on contingency if necessary.

Legal Implications

10. These are set out in the body of this report.

Conclusion

11. Mr Morgan has become disqualified for being a member of this authority by virtue of his conviction and prison sentence. Council is required to declare the seat vacant.

Background papers: None