

Council report

Report of Head of Legal and Democratic Services

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To: Council

DATE: 10 December 2014

Declaration of vacancy – Grove

Recommendation

That Council:

1. notes that Kate Precious has ceased to be a member of this authority;
2. declares as vacant the office held by Kate Precious as a councillor for the Grove ward;
3. notes that no by election will be held to fill the vacancy.

Purpose of report

1. To note that Ms Precious ceased to be a councillor by virtue of her absence and to formally declare a vacancy in the Grove ward.

Background

2. Ms Precious has not attended a meeting of the authority for six months. Under section 85 of the Local Government Act 1972 if a councillor fails throughout a period of six consecutive months from the date of his/her last attendance to attend any meeting of the authority, he/she shall, unless the failure was due to some reason approved by Council before the expiry of that period, cease to be a member of the authority.
3. Section 86 of the Local Government Act 1972 requires an authority to declare a vacancy in such circumstances.

Attendance of Ms Kate Precious

4. Ms Precious last attended a meeting of the district council on 14 May 2014 when she attended the annual meeting of Council. She therefore had until midnight on 14 November 2014 to attend a further meeting to avoid the effect of section 85 set out in paragraph two of this report.

5. Officers have undertaken thorough checks of attendance records and minutes of meetings. There is no record of Ms Precious attending a meeting between 15 May and 14 November 2014. Within that period Council has not given its approval to any reason for failure to attend and therefore Ms Precious ceased to be a councillor by virtue of section 85 of the Local Government Act 1972.

Declaration of vacancy

6. Section 86(1)(c) of the Local Government Act 1972 provides that where a councillor ceases to be a member of the authority by reason of failure to attend meetings 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

7. 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 – 10 December 2014. Public notice of the vacancy must be given immediately after this declaration.
8. Under section 89(3) of the Local Government Act 1972 where a casual vacancy occurs within six months before the day on which the councillor whose office is vacant would regularly have retired (calculated as the fourth calendar day after the day of the poll to fill the particular vacancy - in this case 11 May 2015), an election shall not be held unless the total number of unfilled vacancies exceeds one third of the total membership of the council. Because this vacancy occurred within six months of 11 May 2015 the vacancy will be filled at the next ordinary election on 7 May 2015.

Financial Implications

9. None arising from this report.

Legal Implications

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

Conclusion

11. Ms Precious has ceased to be a member of this authority by virtue of her absence. Council is required to declare the seat vacant. Because the vacancy occurred within six months of the office retirement date of 11 May 2015 no by election will be held.

Background papers: None