

COUNCIL

Wednesday, 23 January 2019

DECLARATION OF VACANCY (REP1979)

EXECUTIVE SUMMARY

1. To note that Mr T Reynolds ceased to be a Councillor by virtue of his absence and to formally declare a vacancy in the Harbour Ward.

Is the report Open or Exempt?	Open
Wards Affected:	Harbour
Cabinet Member:	Councillor M Bee Leader of the Council
Supporting Officer:	Nicola Wotton Democratic Services Manager 01502 523241 nicola.wotton@eastsoffolk.gov.uk

1 BACKGROUND

- 1.1 Mr Reynolds has not attended a meeting of the authority for 6 months. Under Section 85 of the Local Government Act 1972 if a Councillors 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.
- 1.2 Section 86 of the Local Government Act 1972 requires an authority to declare a vacancy in such circumstances.

2 ATTENDANCE OF MR TOM REYNOLDS

- 2.1 Mr Reynolds last attended a meeting of the District Council on 18 July 2018, when he attended the Full Council meeting. He therefore had until midnight on 18 January 2019 to attend a further meeting to avoid the effect of Section 85, which is that he would cease to be a Councillor.
- 2.2 Officers have undertaken thorough checks of attendance records and minutes of meetings. There is no record of Mr Reynolds attending a meeting between 19 July 2018 and 18 January 2019. Within that period, Council has not given its approval to any reason for failure to attend and therefore Mr Reynolds ceased to be a Councillor by virtue of Section 85 of the Local Government Act 1972.

3 DECLARATION OF VACANCY

- 3.1 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. As this is a statutory duty of the Council, it is recommended that the Council declares the vacancy, forthwith.

4 NEXT STEPS

- 4.1 Under Section 87(1)(f) of the Local Government Act 1972, the vacancy is deemed to be the date on which the Council declares the vacancy – 23 January 2019. Normally, public notice of the vacancy must be given immediately after this declaration.
- 4.2 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, an election shall not be held. In this case, Waveney District Council will cease to exist on 31 March 2019 and the Shadow East Suffolk Council will be in operation until the District Council elections take place for the new East Suffolk Council on 2 May 2019. Also, The East Suffolk (Local Government Changes) Order 2018 states, at paragraph 5, that we cannot hold an election to fill a casual vacancy where that vacancy arises after 30th September 2018 and before 1st April 2019. Therefore, it will not be possible to fill the casual vacancy, once declared, but it does have an impact on the political balance of the Council, as referenced in Report REP1946, which in turn forms part of the agenda for this meeting.

5 FINANCIAL AND GOVERNANCE IMPLICATIONS

- 5.1 None in relation to this report.

6 OTHER OPTIONS CONSIDERED

6.1 None. The Council is required to formally declare any such vacancies forthwith.

7 REASON FOR RECOMMENDATION

6.1 The Council is required to declare vacancies caused by virtue of absence, as they arise. Mr Reynolds has ceased to be a member of this authority by virtue of his absence, and the Council is required to declare the seat vacant. Because the vacancy has occurred within two months of the ordinary elections, and the abolition of Waveney District Council, no by-election will be held.

RECOMMENDATIONS

1. That the Council notes that Tom Reynolds has ceased to be a Member of this authority.
2. That the Council declares as vacant the office held by Tom Reynolds, as a Councillor for the Harbour Ward.
3. That the Council notes that no by-election will be held to fill the vacancy.

APPENDICES – None

BACKGROUND PAPERS – None