



## DEMOCRATIC SERVICES COMMITTEE - 13TH FEBRUARY 2014

**SUBJECT: FAMILY ABSENCE REGULATIONS**

**REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151 OFFICER**

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### 1. PURPOSE OF REPORT

- 1.1 To inform Members of the implementation of new regulations which provide councillors with an entitlement to 5 types of family absence; namely, maternity absence; newborn absence; adopter's absence; new adoption absence and parental absence.
- 1.2 To recommend to Full Council to make Standing Orders to support the new arrangements as outlined in paragraph 8.

### 2. LINKS TO STRATEGY

- 2.1 To implement new regulations aimed at providing Members with legitimate absence to facilitate periods of maternity absence and provide care for children. The regulations aim to encourage a greater diversity of people seeking to stand for election.

### 3. THE REPORT

- 3.1 The Welsh Government recently introduced the Family Absence for Members of Local Authorities (Wales) Regulations 2013. They create an entitlement to the following types of Family Absence:
  - **Maternity Absence** – Available to pregnant Members who can take an absence period of up to a maximum of 26 weeks.
  - **Newborn Absence** – Available to a Member who is married to, the civil partner or partner of a child's mother and expects to have responsibility for the upbringing of the child. Up to two consecutive weeks are available to be taken within 56 days of a child's birth.
  - **Adopter's Absence** – Available to a Member who adopts a child. Up to two consecutive weeks are available to be taken within 56 days of a child being adopted.
  - **New Adoption Absence** – Available to a Member who is married to, the civil partner or partner of a person adopting a child and expects to have responsibility for the upbringing of the child. Up to two consecutive weeks are available to be taken within 56 days of a child being adopted.
  - **Parental Absence** – Available to a Member who has or expects to have responsibility for the care of a child and does not satisfy the criteria for Maternity Absence, Newborn Absence, Adopters Absence or New Adoption Absence. Up to 90 days can be taken in a single or a series of absences from the date a councillor assumes responsibility for the care of a child under the age of 14 and ends 1 year later.

3.2 Members can claim a period of Family Absence by satisfying the following requirements:

### **Maternity Absence**

3.3 No later than 15 weeks before the expected week of childbirth or, if that is not practical, as soon as reasonably practical, a Member must give written notice to the Head of Democratic Services of:

- a. The Member's pregnancy.
- b. The expected week of childbirth.
- c. The date on which the Member intends the maternity absence will start.
- d. The duration of the period of maternity absence. The period of absence will be 26 weeks unless the Member specifies a shorter period of time.

3.4 A Member can vary the period of absence by giving the Head of Democratic Services a new start date at least one week before the intended start date or at least one week before the new start date or, if that is not reasonably practicable, as soon as possible. Regardless, Maternity Absence will start automatically on the day after childbirth, if the baby is born before the date specified by the Member.

3.5 A Member must provide a certificate from a registered medical practitioner or midwife stating the expected week of childbirth if requested to do so by the Head of Democratic Services.

3.6 A Member can vary the duration of Maternity Absence by giving the Head of Democratic Services written notice of the new duration by giving at least one week notice before the expected end of the absence or, at least one week before the intended new end of the period of absence or, if that is not practical, as soon as is reasonable practical.

3.7 Maternity Absence may begin between the start of the 11<sup>th</sup> week before the expected childbirth and the day after childbirth occurs.

3.8 Although a Member can choose the day on which their maternity absence starts, if a member is absent from a meeting during the 4 week period before the start of the expected childbirth due wholly or partly to pregnancy, the Maternity Absence will begin on the day after the meeting from which the Member was absent.

3.9 A Member may cancel Maternity Absence at anytime before the start of Maternity Absence by giving written notice to the Head of Democratic Services.

### **Newborn Absence**

3.10 A Member must give the Head of Democratic Services written notice of the date the Member intends the period of Newborn Absence to start. The period of absence will be 2 consecutive weeks unless the Member specifies a shorter period of time.

3.11 Newborn Absence may be taken between the day of childbirth and 56 days after that date.

3.12 A Member may cancel Newborn Absence at anytime before the start of Newborn Absence by giving written notice to the Head of Democratic Services.

### **Adopter's Absence**

3.13 A Member must give the Head of Democratic Services written notice of the date the Member intends the period of Adopter's Absence to start. The period of absence will be 2 consecutive weeks unless the Member specifies a shorter period of time.

3.14 Adopter's Absence may be taken between the date on which a child is placed with a Member for adoption and 56 days after that date.

- 3.15 A Member may cancel Adopter's Absence at anytime before the start of Adopter's Absence by giving written notice to the Head of Democratic Services

### **New Adoption Absence**

- 3.16 A Member must give the Head of Democratic Services written notice of the date the Member intends the period of Adopter's Absence to start. The period of absence will be 2 consecutive weeks unless the Member specifies a shorter period of time.
- 3.17 New Adopter's Absence may be taken between the date on which a child is placed with the adopter and 56 days after that date.
- 3.18 A Member may cancel New Adopter's Absence at anytime before the start of New Adopter's Absence by giving written notice to the Head of Democratic Services.

### **Parental Absence**

- 3.19 A Member must give the Head of Democratic Services written notice of:
- a. Their intention to take parental Absence.
  - b. The date on which the Member intends the Parental Absence will start.
  - c. The duration of the period of Parental Absence.
  - d. Whether the absence is intended to be taken as a single period or as a series of absences. Where Parental Absence is to be taken in a series of absences, a Member must give the Head of Democratic Services advance written notice of the intended start date and duration of each period of parental Absence.
- 3.20 If requested to do so, a Member must give the Head of Democratic Services evidence in relation to the extent that they have responsibility for the child.
- 3.21 The period of absence will be up to 90 days which can be taken in a single or a series of absences from the date a councillor assumes responsibility for the care of a child under the age of 14 and ends 1 year later.
- 3.22 A Member may cancel Parental Absence at anytime before the start of Parental Absence by giving written notice to the Head of Democratic Services.
- 3.23 A Member may bring any period of Parental Absence to an end earlier than intended by notifying the Head of Democratic Services in writing of their intention.

### **Management of Family Absence**

- 3.24 The Head of Democratic Services must inform the Mayor, Leaders of each political group and Chair of Democratic Services Committee of all periods of Family Absence.
- 3.25 The Regulations make provision for the Council to cancel periods of family absence where the Head of Democratic Services suspects that a Member is not entitled to the absence, however, there is a mechanism for a Member to appeal against any such decision.
- 3.26 The Regulations require the Council to include in it's Constitution, Standing Orders to confirm which, if any, duties a Member on Maternity or Parental Absence can:
- a. Attend particular meetings.
  - b. Attend particular descriptions of meetings
  - c. Perform particular duties
  - d. Perform duties of a particular description

- 3.27 Before a Member can resume their duties, they must seek the permission of the Mayor who can approve or refuse such a request. A Member who has a request refused can appeal against the decision to a Panel of Members who in turn can uphold or overturn the Mayor's decision.
- 3.28 Members responsibilities are complex and involve decision making and scrutiny duties within the Council and, by virtue of being a councillor, as a member of various other organisations such as school governing bodies, community centre management committees, other public sector bodies and third sector organisations. In addition, Members undertake a significant amount of ward duties acting as a consultee before council decisions are made or acting on behalf of local groups or representing residents etc. Therefore, it would be extremely difficult to specify clearly which meetings or activities a Member could undertake (subject to approval by the Mayor). That said, it would assist in providing clarity if Members were required to specify start and finish dates in any application to suspend Family Absence.
- 3.29 The Regulations do not place the same requirements for New Born, Adopter's or New Adoption Absence, therefore, the Council can make its own local arrangements for these categories of absence. It is proposed that each type of Family Absence adopt the same procedures outlined in paragraphs 3.26 and 3.27.
- 3.30 The Regulations do not deal with the entitlement of Members to receive salaries during a Family Absence which is a matter for the Independent Remuneration Panel for Wales.

#### **Independent Remuneration Panel for Wales – draft determinations in relation to Family Absence**

- 3.31 The Independent Remuneration Panel for Wales (IRP) have recently published the following draft determinations in relation to Family Absence.
- a. A Member taking a period of Family Absence is entitled to retain the Basic Salary.
  - b. A Member in receipt of a Senior Salary can continue to receive a senior salary for the period of Family Absence, subject to a decision of full Council.
  - c. A Member substituting for a senior salary holder taking a period of Family Absence is eligible to a senior salary.
- 3.32 A further report will be presented on the issue upon receipt of the final determinations of the IRP.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 None arising from this report, a further report will be presented when the final IRP report is available which will outline the potential financial implications.

#### **5. PERSONNEL IMPLICATIONS**

- 5.1 There are no personnel implications associated with this report.

#### **6. EQUALITIES IMPLICATIONS**

- 6.1 The Family Absence Regulations aim to encourage a greater diversity of people seeking to stand for election as they offer elected councillors legitimate periods of absence from public office to assist with parental responsibilities.

#### **7. CONSULTATIONS**

- 7.1 There are no consultation responses that have not been reflected in this report.

## **8. RECOMMENDATIONS**

- 8.1 Members are asked to note the introduction of Family Absence entitlement.
- 8.2 Members recommend to full Council that:
- a. Any Member can exercise any duty or attend any meeting whilst on a Family Absence within specific dates, subject to the approval of the Mayor.
  - b. A Panel is established to consider appeals against refusals of requests by a Member to attend a meeting or undertake a duty whilst on a period of Family Absence and the cancellation of periods of Family Absence by the Head of Democratic Services. The Panel be politically balanced and made up from 3 Members of the Democratic Services Committee.
- 8.3 The Interim Monitoring Officer be given delegated powers to make the necessary amendments to the Council's Constitution and Standing Orders.

## **9. REASONS FOR THE RECOMMENDATIONS**

- 9.1 To make Members aware of the Family Absence framework and make Standing Orders to support the new entitlement.

## **10. STATUTORY POWER**

- 10.1 Local Government (Wales) Measure 2011 and The Family Absence for Members of Local Authorities (Wales) Regulations 2013.

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