

DRAFT REPORT

Report Number **A/**

To: Council
Date: TBC
Status: Non – executive decision
Responsible Officer: Susan Priest, Head of Paid Service

SUBJECT: MEMBERS' ALLOWANCES – PARENTAL LEAVE POLICY

SUMMARY: This report sets out, for consideration by members a draft parental leave policy for the members' allowance scheme.

RECOMMENDATIONS:

1. To receive and note report A/
2. To consider the draft parental leave scheme attached and decide whether to adopt it, with or without amendments into the Council's allowance scheme for members.

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1. BACKGROUND

- 1.1 At its meeting on 24 July 2019 Council considered Cllr McConville's motion which called on the Council to implement a parental leave policy for members. The Council resolved:-

"To refer this parental leave policy to the IRP for consideration in their next review" Minute 33.3

- 1.2 On 20 November 2019 Council received the 4th report of its Independent Remuneration Panel. One of the recommendations of the panel was:-

"13.6 Officers be asked to bring forward a parental leave scheme for consideration by the Council which would provide leave of absence for Councillors in cases of the birth or adoption of a child and that any such scheme, if approved by the Council, should be on the basis of no detrimental impact on an individual's basic allowance and the ICT allowance but that any SRA cease to be paid during the period when the special responsibilities are no longer being undertaken."

- 1.3 This report sets out a possible scheme.

2. CONSULTATION

- 2.1 Currently the Council does not have a formal parental leave scheme for Members, and has no recent experience of members who wished to take parental leave.

- 2.2 Section 85 Local Government Act 1972 provides that if a member fails to attend a Council meeting (or executive meeting if the member is a member of the Cabinet) for a period of six consecutive months, then unless before the expiry of that period the Council approves the non-attendance, then by law the member will cease to be a member at the end of that six months. This provision will continue, of course, to apply.

- 2.3 The Local Authorities (Members' Allowances) (England) Regulations 2003 provide that local authorities must make a scheme which provides for both a basic allowance payable to all councillors and for special responsibility allowances to be paid to members who have special responsibilities within the categories defined in the regulations. Once the Scheme is agreed, they also provide for the payment of dependant carers' allowance and travelling and subsistence allowance. Once agreed, allowances may only be made to members in accordance with the scheme. The scheme may be amended at any time.

- 2.4 Before a Council makes or amends a scheme of members' allowances, it must have regard to the recommendations made in relation to it by its independent remuneration panel.

- 2.5 Members are now asked to consider whether to introduce a provision for paid parental leave for councillors into its scheme of members' allowance. In doing so, they are reminded of the legal requirement to have regard to

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the recommendation of the Council's Independent Remuneration Panel. This is set out above in paragraph 1.2.

- 2.6 The Council's employee scheme for maternity, adoption and paternity are complex and exceeds the statutory requirements. In brief statutory maternity pay is paid for 39 weeks, the Council's scheme supplements this (depending on length of service) by paying a percentage of the employee's normal pay. This percentage reduces after 12 weeks
- 2.7 Those failing to return to work for less than 3 months after their maternity leave are required to repay a certain amount.
- 2.8 Adoption leave can also be for up to one year. The Council employee scheme for adoption leave and pay is the same as the maternity scheme.
- 2.9 The Council also has a Paternity Leave policy for those employees who take time off because their partner is having a baby or taking Adoption Leave. Paternity Leave is for one or two weeks. The leave must be taken in one go. Employees with one year's continuous service with the council are eligible for pay at 90% of their average weekly earnings while on Paternity Leave.

3. THE STATUS OF MEMBERS

- 3.1 By definition, any scheme for members' parental leave will differ from that applying to employees as there is a different legal framework applying to both. Members are not employees and replacement maternity cover for members who are in receipt only of basic allowance may not be obtained unless the member resigns and an election is held.
- 3.2 Fellow ward members may need to cover for ward based work in the absence of a member on parental leave (or if the ward is single member, a member from an adjoining ward) may cover the work) for example. Examples from elsewhere show that some councils have adopted schemes which mirror the employee scheme, whilst others have a more bespoke scheme.

4. DRAFT SCHEME

- 4.1 A draft scheme is appended (1). It draws on schemes from other councils and in particular from the model parental leave policy drawn up by the Local Government Association's Labour Women's Taskforce.
- 4.2 It does differ from the model scheme in specifying, in line with the IRP's recommendations that the SRA will no longer be paid when the special responsibilities are no longer being undertaken.

5. RISK MANAGEMENT ISSUES

- 5.1 There is not a great deal of risk management involved in this issue

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

6.1 Legal Officer's Comments (NE)

As set out in the report, Councillors are subject to s85 of the Local Government Act 1972 which states that any Councillor who fails to attend any meeting of the Council or of any committee, joint committee or sub-committee of which they are a member for more than six months, shall cease to be a member of the Council, unless the failure to attend was due to a reason approved by the Council. So, even if the Council introduces a parental leave scheme, it will still be necessary for any member on such leave to attend at least one Council meeting in any period of 6 consecutive months to avoid a causal vacancy arising, unless the Council before the expiry of that period approves the reason for the absence.

6.2 Finance Officer's Comments (SP)

Adoption of the proposed policy would result in a small financial implication for the Council should any Councillor be in a position to utilise the policy. It is anticipated that these implications would be small and could be contained within the overall budget envelope

6.3 Diversities and Equalities Implications (GE)

A parental leave policy it would be a positive contribution that helps meet the principles of the Public Sector Equality Duty and ensures that people with protected characteristics are not excluded from public life.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Jemma West, Committee Services Specialist
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Email: Jemma.west@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

None

Appendices: Draft Parental Leave Policy

Members allowances – Parental Leave

1. Leave Periods

1.1 A Member giving birth is entitled to up to six months' parental leave from one month before the due date, with the option to extend to 52 weeks, by agreement of full Council in exceptional circumstances

1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

1.3 In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 6 month entitlement.

1.4 A member shall be entitled to take a minimum of two weeks paternity leave if they are the biological father or nominated carer of their partner or spouse following the birth of or adoption of their child (ren)

1.5 A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from the Council.

1.6 Where both parents are members of the Council, leave may be shared up to a maximum of 24 weeks for the first six months, up to a maximum of 50 weeks in exceptional circumstances and subject to the agreement of full Council. Special and exceptional arrangements may be made in cases of prematurity.

1.7 A member who adopts a child through an approved adoption agency shall be entitled to take up to 6 months adoption leave from the date of placement with the option to extend up to 52 weeks in exceptional circumstances subject to the agreement of full Council.

1.8 Any Member who takes parental leave is still subject to their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council agrees to an extended leave of absence prior to the expiration of that six month period.

1.9 Any Member intending to take parental leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

1.10 Any member taking parental leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

2. Basic Allowance and ICT Allowance

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2.1 All Members shall continue to receive their Basic Allowance and ICT Allowance in full whilst on parental leave.

3. Special Responsibility Allowances

3.1 Special Responsibility Allowance shall cease to be paid when the special responsibilities are not being undertaken.

3.2 Unless the Member taking parental leave is removed from their post by the Council or leader (as the case may be) they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began. This does not affect the legal right of the leader to remove a member from the Cabinet at any time or of the Council to remove a member from a post.

4. Resigning from Office and Elections

4.1 If a Member decides not to return at the end of their parental leave, they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

4.2 If an election is held during the Member's parental leave and they are not re-elected, or decide not to stand for re-election, basic allowances will cease from the Monday after the election date when they would technically leave office.