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Gareth Owens LL.B Barrister/Bargyfreithiwr
Head of Legal and Democratic Services
Pennaeth Gwasanaethau Cyfreithiol a Democrataidd



To: Cllr Robin Guest (Chairman)

CS/NG

Councillors: Chris Bithell, Derek Butler,
Clive Carver, David Cox, Glenys Diskin,
Ian Dunbar, David Evans, Veronica Gay,
George Hardcastle, Joe Johnson, Rita Johnson,
Dave Mackie, Tim Newhouse, Neville Phillips,
Ian Roberts, Tony Sharps, Paul Shotton,
Nigel Steele-Mortimer, Owen Thomas and
Arnold Woolley

2 January 2014

Maureen Potter 01352 702322
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Dear Sir / Madam

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 8TH JANUARY, 2014** at **2.15 PM** to consider the following items.

Members will note the start of the meeting is 15 minutes later than normal. This is for a short informal meeting at 2.00pm to receive a briefing on declarations of interest from the Monitoring Officer/Deputy Monitoring Officer.

Yours faithfully

Democracy & Governance Manager

AGENDA

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

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The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

3 **MINUTES** (Pages 1 - 8)

To confirm as a correct record the minutes of the last meeting.

4 **WALES AUDIT OFFICE NATIONAL SCRUTINY IMPROVEMENT STUDY UPDATE** (Pages 9 - 16)

Report of Member Engagement Manager

5 **PLANNING COMMITTEE QUORUM** (Pages 17 - 20)

Report of Head of Legal and Democratic Services

6 **FAMILY ABSENCE FOR MEMBERS** (Pages 21 - 40)

Report of Head of Legal and Democratic Services

CONSTITUTION COMMITTEE **16 OCTOBER 2013**

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold, on Wednesday, 16 October 2013.

PRESENT: Councillor Robin Guest (Chairman)

Councillors: Chris Bithell, Clive Carver, Dave Mackie, Neville Phillips, Paul Shotton, Nigel Steele-Mortimer, and Arnold Woolley

SUBSTITUTION: Councillor Richard Lloyd for Veronica Gay

APOLOGIES:

Councillors: David Cox, Ian Dunbar, George Hardcastle, and Owen Thomas

IN ATTENDANCE:

Head of Legal and Democratic Services, Democracy and Governance Manager, Member Engagement Manager, Internal Audit Manager, and Committee Officer

12. DECLARATIONS OF INTEREST

Councillors Chris Bithell, Clive Carver, Robin Guest, Richard Lloyd, Dave Mackie, Neville Phillips, Paul Shotton, Nigel Steele-Mortimer and Arnold Woolley declared a personal interest in agenda item 8: Consultation by the Independent Remuneration Panel for Wales (IRPW)

13. MINUTES

The minutes of the meeting of the Committee held on 17 July 2013, were submitted.

Matters arising

Page 2: The Democracy and Governance Manager advised that the Contract Procedure Rules had been approved by County Council at the meeting held on 25 September 2013.

Page 4: The Democracy and Governance Manager advised that the Financial Procedure Rules had been approved by County Council at the meeting held on 25 September 2013 and were in the process of being translated before being added to the Authority's website.

Page 5: The Democracy and Governance Manager advised that amendments to the procedure rules had been made, a procedure for dealing with contractors agreed, and the constitution updated.

Page 6: The Democracy and Governance Manager advised that a response from the Authority had been sent to the consultation on remote attendance at Council meetings.

Page 7: The Democracy and Governance Manager advised that an item on the Overview and Scrutiny Annual Report would be submitted to a meeting of the County Council on 23 October 2013.

RESOLVED:

That the minutes be received, approved and signed by the Chairman as a correct record.

14. AUDIT COMMITTEE TERMS OF REFERENCE

The Chair welcomed David Webster, Internal Audit Manager, and invited him to introduce the report on Audit Committee Terms of Reference.

The Internal Audit Manager advised that the purpose of the report was to seek Members agreement to changes to the Audit Committee Terms of Reference contained in Article 7 of the Council Constitution. He provided background information and gave an overview of the main changes which had been agreed by the Audit Committee.

The Democracy and Governance Manager referred to Article 7 which currently stated that "The Audit Committee will keep the above terms of reference under annual review and propose any amendment to the County Council". He asked Members to consider that the words be deleted so that in future the annual review was not automatically referred to County Council. He explained that Article 19.2 enabled minor or consequential changes to be made by the Head of Legal and Democratic Services following consultation with the Chair of the Audit Committee and group leaders if none of them required the matter to be considered by Council.

Councillor R.C. Bithell referred to the draft Terms of Reference for the Audit Committee which were appended to the report and raised a query around the appointment of a lay member and the term of office. He emphasised the importance of continuity of membership. The Head of Legal and Democratic Services responded to the point raised and agreed to provide further clarification concerning multiple terms of office of lay members.

RESOLVED:

- (a) That the Committee endorsed the changes to the Audit Committee Terms of Reference as agreed by the Audit Committee; and
- (b) That the Committee endorsed the removal of the sentence in Article Seven which referred to changes being referred to the County Council.

15. INTERNAL AUDIT CHARTER

The Internal Audit Manager introduced a report to update the Internal Audit Charter contained in Part 7 of the constitution. He provided background information and referred to the new Public Sector Internal Audit Standards (PSIAS) which replaced the CIPFA Code of Practice for Internal Audit in Local

Government. Members were informed that the Flintshire Charter had been updated to allow for the changes most of which were established practice but had not been written into the Charter. The Charter had been agreed by the Audit Committee at the meeting held on 30 July 2013 with minor amendments, however, subsequent to the meeting, at the request of the Chair a further sentence had been added which reflected current practice.

Members were asked to consider the proposed changes to the Internal Audit Charter. If the Committee agreed the changes the Chair and the political Group Leaders would be consulted and if no objections the Constitution would be updated to reflect what the Committee had agreed. Should there be an objection it would be reported to County Council.

Members referred to the proposed new Charter which was appended to the report. Councillor Chris Bithell sought clarification of the measures in place to identify and protect the Authority against fraud. The Internal Audit Manager explained that all managers and staff were responsible for the reasonable prevention and detection of fraud. He advised that actual or suspected incidents of fraud were investigated by the Internal Audit department when reported. On the subject of resources the Internal Audit Manager explained that the department would prioritise investigations over standard audit work. In answer to the further questions raised by Councillor Bithell the Internal Audit Manager commented on the further measures in place and advised that staff training was provided to raise awareness and ensure controls and systems were in operation to safeguard the Authority.

In response to the concern raised by Councillor Clive Carver around audit personnel being called on in emergency situations to carry out non-audit work, the Internal Audit Manager gave an assurance that this applied to emergency circumstances only and clarified the type of situation which may arise. It was agreed that as Councillor Arnold Woolley was also a member of Audit Committee he would arrange for this point to be considered at a future meeting of the Audit Committee.

RESOLVED:

That the Committee endorsed the updated Internal Audit Charter as agreed by The Audit Committee with the additional sentence added at the request of the Chair of the Audit Committee.

16. THE LOCAL GOVERNMENT (DEMOCRACY) (WALES) ACT 2013

The Democracy and Governance Manager introduced the report to provide a summary of the above legislation that received Royal Assent in July 2013. He provided background information and advised that most of the provisions in the Act related to the renamed Local Democracy and Boundary Commission for Wales and the conduct of reviews by either the Commission or by County Councils. Members were informed that Flintshire's current community review was unaffected as it commenced before the Act received Royal Assent and had taken into account the provisions in the Act.

The Democracy and Governance Manager advised that Part 5 of the Act most directly affected the County Council and he provided an overview of the relevant sections which were detailed in the report.

Councillor Paul Shotton raised concerns around the cost and workload for small community councils in relation to sections 55 to 57 dealing with websites and the information required to be on them. The Democracy and Governance Manager commented that Welsh Government funding had been made available to Flintshire to assist Community Councils to set up websites.

Councillor Chris Bithell commented on the measures in Section 67 which required Flintshire and other County Councils to publish information relating to all payments made to its Members by other public bodies. He expressed the view that the current arrangements in this matter were adequate and that it should be for each public body to publicise the payments it made to Members. He reiterated the concerns he had expressed previously that the new requirement would create confusion amongst the public. The Chair suggested that the Committee write to the Welsh Government to express regret that its concerns in response to the consultation on the Bill were not accepted in relation to Section 67.

RESOLVED:

- (a) That the report be noted; and
- (b) That the Committee write to the Welsh Government to express regret that its concerns in response to the consultation on the Bill were not accepted in relation to Section 67.

17. LOCAL GOVERNMENT (WALES) MEASURE 2011 CONSULTATION DOCUMENT 'DESIGNATED PERSONS ORDER' (NUMBER 1).

The Member Engagement Manager introduced the report on the draft response to the Welsh Government Consultation Document number WG17306, Designated Persons Order (Number 1) which had been made to provide specific external scrutiny powers under section 59 of the Local Government (Wales) Measure 2011. He provided background information and referred to the main considerations as detailed in the report.

The Committee considered the proposals and during discussion the matter of increased workload was raised. The Member Engagement Manager responded to the concerns expressed and commented that he did not foresee any significant problems arising for Members in terms of the additional duty to scrutinise involved.

RESOLVED:

- (a) That the Committee agreed the proposals for Designated Persons order (Number 1); and

- (b) That the Member Engagement Manager be authorised to respond to the Welsh Government consultation document that all statutory public bodies (apart from town and community councils) should become 'designated persons' for the purpose of section 59 of Local Government (Wales) measure 2011.

18. CONSULTATION BY THE INDEPENDENT REMUNERATION PANEL FOR WALES (IRPW)

The Democracy and Governance Manager introduced the report on the Council's response to consultation by the IRPW on its draft annual report for 2014. He provided background information and referred to the proposed changes in the IRPW draft annual report for 2014 which were detailed in the report with the implications for Members consideration.

The Democracy and Governance Manager explained that to assist the Committee in its consideration a draft response to the proposal was appended to the report. Each of the proposed changes were considered in turn by the Committee.

- In relation to the proposed increase of £125 p.a. in basic allowance it was agreed that this should only be implemented if NJC staff are receiving at last the same percentage increase.
- Similarly in relation to the proposed increases for the Leader, Deputy Leader and Cabinet members the Committee's support for this was dependent on the workforce having a 1% or more increase.
- There was approval for the introduction of local choice from three bands of payment for individual committee chairs.
- In relation to the proposed increase for the Leader of the so called largest opposition group it was agreed that there should be greater local choice and left to individual authorities to decide how this amount should be awarded to the Leaders of the groups not represented on the Cabinet.
- In relation to the increased flexibility and local choice for payments to Civic Heads and Deputy Civic Heads, this was welcomed.
- The provision of adequate telephone and e-mail facilities and electronic access with no cost to the individual member was noted
- The proposed removal of the separate maximum for overnight stays in Cardiff was agreed.
- The second and third paragraphs of the draft response to the IRPW prepared by the Democracy and Governance Manager were agreed relating to the limit on the number of posts that could be paid an uplift on basic allowance and the increase in complexity for co-opted members not being welcomed.

It was agreed that the Democracy and Governance Manager would prepare a draft response to reflect the above decisions for consultation with the Leader of the Council and the Chair of the Committee to finalise the Council's response to consultation.

RESOLVED:

That the Democracy and Governance Manager prepares a draft response to reflect the above decisions for consultation with the Leader of the Council and the Chair of the Constitution Committee to finalise the Council's response to consultation.

19. WALES AUDIT OFFICE SCRUTINY IMPROVEMENT STUDY

The Member Engagement Manager introduced the report to provide an update on the progress which had been made with the Wales Audit Office (WAO) Scrutiny Improvement Study.

The Member Engagement Manager provided background information and gave an overview of the key considerations detailed in the report. He referred to a self assessment exercise which had been undertaken by the Authority and advised that the questions, which had to be responded to and evidenced, together with the FCC and Wrexham Peer Learning Exchange Team (PLET) (WPLET) assessments were listed in appendix 2 of the report. As a result of the self assessment and that of the WPLET colleagues an action plan was produced. An updated version of the action plan showing progress to date was attached as appendix 1.

Members were advised that there was merit in carrying out an annual assessment which would be analysed and reported back to the Constitution Committee. This would ensure that the Overview and Scrutiny function continued to be a beneficial element of corporate governance and provided value for money.

Members referred to the Action Plan appended to the report. Councillor Chris Bithell welcomed the update. He referred to the value of workshops and pre meeting briefings as an effective way of enhancing the scrutiny process.

RESOLVED:

- (a) That the Committee supported the Action Plan; and
- (b) That the Committee agreed that an annual self-evaluation be undertaken, with details to be provided in due course.

20. PRESS IN ATTENDANCE

There were no members of the press in attendance.

21. DURATION OF MEETING

The meeting commenced at 2.00 pm and finished at 4.15 pm.

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Chairman

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CONSTITUTION COMMITTEE**

DATE: **WEDNESDAY, 8 JANUARY 2014**

REPORT BY: **MEMBER ENGAGEMENT MANAGER**

SUBJECT: **WALES AUDIT OFFICE NATIONAL SCRUTINY
IMPROVEMENT STUDY UPDATE**

1.00 PURPOSE OF REPORT

- 1.01 To update the committee on the progress with the Wales Audit Office (WAO) National Scrutiny Improvement Study.

2.00 BACKGROUND

- 2.01 Members will be aware of this on-going project from the previous reports which have been made to the Constitution Committee. The study commenced in September 2012 with a self-evaluation exercise. Subsequently, a 'Peer Learning Exchange Team' (PLET) comprising Members and Officers was established.
- 2.02 The PLET visited Denbighshire County Council on two occasions to observe at Overview & Scrutiny committee meetings and to provide feedback. The Wrexham PLET observed at two of our committee meetings (Lifelong Learning & Environment).

3.00 CONSIDERATIONS

- 3.01 The culmination of the exercise was to have been the '*Scrutiny in the spotlight: Investing to maximise its impact*' conference held in Cardiff on 28th November. Flintshire was represented at the conference by Cllr Dave Mackie and officers from the Overview & Scrutiny and Performance Teams.
- 3.02 At that conference, the collected learning from the year long scrutiny study, which it was intended would include the 'Characteristics of effective scrutiny' was to have been launched. However, that launch did not take place and is still awaited. It had been intended that the final report would inform elements of our own Overview & Scrutiny action plan, a copy of which is attached. It is suggested that the action plan be revisited again once the WAO final report and the 'Characteristics of Effective Scrutiny' are published. Other elements, relating to public engagement, are awaiting the Centre for Public Scrutiny workshop to be held in Llandudno in March.

3.03 At the conference, the key note speaker was Lesley Griffiths AM, the Minister for Local Government and Government Business, who emphasised the importance of investing in Overview & Scrutiny to benefit the wider organisations of which it is a part. The Minister also emphasised that without appropriate training and development for the Members and officers of the right calibre, Overview & Scrutiny is not able to function effectively, which is to the detriment of the democratic process. A copy of the Minister's speech will be deposited in the Members' Library when it becomes available.

3.04 During the conference, the Flintshire delegates attended and participated in the following workshops:

1. The Role of the Networked Councillor in Scrutiny.
2. Public Engagement in Scrutiny.
3. Evidencing the Impact: getting a return on investment in scrutiny.
4. Taking the fear out of budget scrutiny.
5. Use of Information/evidence based scrutiny
6. Doing collaborative scrutiny: reflections from practice.

When the slides for the presentations are published, a copy will be placed in the Members' Library.

3.05 There was also a presentation '*Accountability through listening – Lessons learnt from the Mid Staffordshire NHS Foundation Trust Public Inquiry*', an object lesson in how problems can arise when there is insufficient scrutiny within a system of governance.

3.06 One aspect of the action plan which it would be beneficial to put in place now would be the creation of an 'Overview & Scrutiny Chairs and Vice-chairs' steering group which could meet from time to time to discuss good practice with the officer support team. This is something which has arisen out of the WAO study and also from the recent training. This would be a similar group to the former Co-ordinating Body which was instrumental in the early development of Overview & Scrutiny within Flintshire. From 2002, the Co-ordinating Committee, which was formally constituted, replaced it.

4.00 RECOMMENDATIONS

That the committee consider the report and endorse the proposed approach towards the development of the action plan and the creation of the Overview & Scrutiny Chairs and Vice-Chairs steering group.

5.00 FINANCIAL IMPLICATIONS

None arising directly from this report.

6.00 ANTI POVERTY IMPACT

None arising directly from this report

7.00 ENVIRONMENTAL IMPACT

None arising directly from this report

8.00 EQUALITIES IMPACT

None arising directly from this report

9.00 PERSONNEL IMPLICATIONS

None arising directly from this report

10.00 CONSULTATION REQUIRED

Publication of this report constitutes consultation.

11.00 CONSULTATION UNDERTAKEN

Publication of this report constitutes consultation

12.00 APPENDICES

Updated Peer Review Action Plan

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

None

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WAO Peer Review Action Plan

	Area for consideration	Proposed Actions	Lead	Timescale	Actions Carried Out
1.	Citizen Engagement – restricted space for public attendance	Review the approach and consider additional capacity requirements according to need.	Robert Robins	Achieved	Tables to be moved from public gallery and extra chairs put in as required(as per the suggestion made at the Constitution Committee)
2.	Continue to raise the profile of scrutiny and 'awareness raising'	. In view of the forthcoming 'Public Engagement' workshop organized by the Centre for Public Scrutiny (CfPS), the timescale has been adjusted.	Robert Robins	End April 2014	Work in progress.
3.	Reports to Cabinet to include a section to ensure scrutiny accurately reflected	Cabinet to consider suggestion of including an additional section within Cabinet report template – best practice example Wrexham.	Gareth Owens/ Peter Evans	End of 2013/14 Municipal year	Work in progress.
4.	More challenge and more effective questioning needed in O&S meetings What value was added by scrutiny?	O & S Member training needs analysis – taking into account specific skills required for effective scrutiny – e.g. questioning skills / Different chairing skills / encourage apolitical environment etc. (avoid groups sitting together etc) Why poor attendance? Need for certain aspects to be compulsory? (Audit/planning). Training not well attended	Peter Evans	On-going	Julia Wright delivered three training sessions: 14.00-17.00, 18.00 -21.00 31 st October 9.30-12.30 1 st November (Subject of a separate report to the Constitution Ctte)

	Area for consideration	Proposed Actions	Lead	Timescale	Actions Carried Out
5.	Certain aspects of training to be made compulsory	This was the subject of a report to the Democratic Services Committee in July, where it was agreed that O&S training should not be compulsory but that group leaders would be asked to encourage their members to attend	Robert Robins	On-going	Detailed in proposed actions.
6.	Inconsistency between scrutiny committees in terms of pre-meetings	The issue of variation is accepted but there has to be some flexibility that allows judgment to be used based on the different needs of O & S Committees. Pre-meetings for both chairs and for whole committees are recognised as being good practice.	Robert Robins	On-going	Whether a chair wants a briefing or not depends on the content of the agenda. A 'mixed economy' approach is likely to prevail. The officers advocate holding of briefings as good practice.
7.	Value of an executive summary or briefing note for lengthy reports/documents	To be considered	Gareth Owens	End of 2013/ 2014 Municipal year	Work in progress.
8.	More detailed and 'active' recommendations for and resolutions from O&S cttes	'Active' rather than 'passive' recommendations to be included within reports where possible. Committee Chairs and their advisors to ensure that committee resolutions are 'active'	Report Authors/ Ctte takers	Achieved	Since October, this has been reflected in business practice.
9.	Members of public not allowed to routinely speak at scrutiny	Covered by the 'Four protocols' and to be an element of the Public Engagement Strategy	O&S Team	On-going	Work in progress. NB: at recent meetings of the Housing and Environment Overview &

	Area for consideration	Proposed Actions	Lead	Timescale	Actions Carried Out
					Scrutiny Committees, the respective Chairs have used their discretion to allow members of the public who were attending to contribute at the meeting.
10.	Consider the impact of the limited resource available and impact on activity e.g. expert witnesses, training, etc	The use of 'expert witnesses' within O&S has always been very limited, but should not be discounted as their use could be fundamental to Members' understanding of issues in particular cases. Within 2013/14 there has been budget available for training. For the future, the O&S officer team can deliver training.	O&S Team	On-going	Training was carried out in October/November but was poorly attended which reduces the cost effectiveness of sourcing external trainers.
11.	Engage local members more formally on issues affecting their communities (as the voice of local people)	Chair/Vice Chairs to consider (Denbighshire example)	O&S Team	End of April 2014	Work in progress: this will be informed by the CfPS Workshop on Public Engagement and will fall within the remit of the proposed steering group (see item 12, below)
12.	Consultation on development issues with Chairs and vice-chairs	Previous versions of this action plan have referred to Chairs and Vice-chairs. This also arose during the O&S training. It is proposed to establish regular meetings between the O&S Chairs and Vice chairs and the O&S Team to discuss issues of common interest in the continued development of O&S. This is a practice which FCC had in the past (the former Co-	O&S Team	Immediate, if the Constitution Committee Supports the proposal.	

	Area for consideration	Proposed Actions	Lead	Timescale	Actions Carried Out
		<p>ordinating Body) and is still used to great benefit in other North Wales authorities.</p> <p>It is intended that such a body would 'own ' this action plan and that it would continue as a 'live document', reporting to the Constitution Committee as necessary.</p> <p>The Co-ordinating Group would also lead on the self-evaluation proposals which were agreed at the October meeting</p>			

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CONSTITUTION COMMITTEE**
DATE: **WEDNESDAY, 8 JANUARY 2014**
REPORT BY: **HEAD OF LEGAL & DEMOCRATIC SERVICES**
SUBJECT: **PLANNING COMMITTEE QUORUM**

1.00 PURPOSE OF REPORT

- 1.01 To consider a recommendation from the Planning Strategy Group that the quorum of Planning & Development Control Committee meetings should be increased to 50% of the membership.

2.00 BACKGROUND

- 2.01 The Planning & Development Control Committee of 21 members has the same quorum as other committees of a quarter of its membership. In practice this means that if six members are present decisions granting or refusing planning applications can be made by the Planning and Development Control Committee.

- 2.02 At its meeting on the 21 November the Planning Strategy Group received a report from the Head of Planning on the recommendations of the Welsh Government's study into the operation of Planning Committees in Wales. That study included the following recommendations:-

The size of Planning Committees should be between 11 and 21 members, the quorum should be a minimum of 50% of the committee and the use of substitutes should not be allowed.

- 2.03 The Planning Strategy Group resolved that there should be no change to the current arrangements regarding the size of the committee or the use of substitutes but that the quorum should increase to 50% of the membership (i.e. eleven).

3.00 CONSIDERATIONS

- 3.01 The study commissioned by the Welsh Government forms part of the background to the proposed Planning Reform Bill and White Paper which the government is due to publish shortly. Whilst at some time in the future legislation may be passed requiring a larger quorum for Planning Committee meetings the Planning Strategy Group is keen to make changes in advance of any legal requirement to do so.

- 3.02 The size of Flintshire's Planning and Development Control Committee is at the very top end of the range believed to be an appropriate size for Planning Committees. The current quorum would allow decisions to be made by as few as six members. Anybody disappointed with the decision reached by so few members is likely to take a poor view of only a quarter of the members being involved in the decision reached. A larger quorum is also likely to result in a greater consistency of decision making. Increasing the quorum is unlikely to cause practical difficulties as normally at least this number of members are in attendance when decisions are reached.

4.00 RECOMMENDATIONS

- 4.01 That the Constitution be amended so that the quorum for meetings of the Planning and Development Control Committee be 50% of its membership.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

- 9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

- 10.01 Any changes to the Constitution require consultation with political Group Leaders and the Chair of the Constitution Committee anyone of whom can require the matter to be considered by Council.

11.00 CONSULTATION UNDERTAKEN

- 11.01 The Planning Strategy Group is Chaired by the Cabinet member with responsibility for this area and the Chair of Planning Committee is a member of the Planning Strategy Group. Both were present when this decision was made by the Planning Strategy Group.

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 **BACKGROUND DOCUMENTS**

Minute of Planning Strategy Group meeting of the 21 November 2013 when it considered the Welsh Government study into the operation of Planning Committees in Wales.

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CONSTITUTION COMMITTEE**

DATE: **WEDNESDAY, 8 JANUARY 2014**

REPORT BY: **HEAD OF LEGAL & DEMOCRATIC SERVICES**

SUBJECT: **FAMILY ABSENCE FOR MEMBERS**

1.00 PURPOSE OF REPORT

- 1.01 To inform the committee of the legislation relating to the family absence for Members and put in place appropriate standing orders.

2.00 BACKGROUND

- 2.01 The Local Government (Wales) Measure 2011 makes available to members of local authorities entitlement to five types of family absence:-

Maternity absence; new born absence; adopter's absence; new adoption absence and parental absence.

The provision in the Local Government Act 1972 whereby a member ceases to be a member if no meetings are attended for 6 months (unless absence approved by Council) does not apply to any period of family absence.

- 2.02 Entitlement in the Measure is subject to satisfying conditions prescribed by Welsh Ministers in subsequent regulations. There was consultation on draft regulations in the spring of 2013. As part of that consultation a report was submitted to the Constitution Committee meeting of the 24 April 2013. The committee decided that it disagreed in principle with the legislation and believed the procedures should be as simple as possible. It also resolved that the Democratic Services Committee should have responsibility rather than the Head of Democratic Services for some aspects.
- 2.03 The final version of the regulations has now been published and took effect on the 5 December 2013. The final version contains only minor differences from the consultation draft. A copy of those regulations is attached as Appendix 1.

3.00 CONSIDERATIONS

- 3.01 The provisions for family absence gives similar entitlements to elected

members as those that other legislation gives to those in employment and is seen by the Welsh Government as an important equal opportunities initiative.

- 3.02 The regulations prescribe the conditions that members of local authorities must satisfy to be entitled to a period of family absence and make provision, amongst other things, about the extent of the various periods of absence, the cancellation of periods of absence and bringing of absence to an end.
- 3.03 The periods of absence for the various reasons are set out below:-
- Maternity absence – 26 weeks
 - New born absence – 2 consecutive weeks
 - Adopter's absence – 2 consecutive weeks
 - New adoption absence – 2 consecutive weeks
 - Parental absence – 3 months.
- 3.04 The regulations do not deal with the entitlement of members to receive allowances during family absence which is a matter for the Independent Remuneration Panel for Wales.
- 3.05 Part 6 of the regulations make general provisions applicable in relation to all types of family absence. These were the regulations considered in detail at the April meeting of the committee and are considered in turn in the following paragraphs.
- 3.06 Regulation 32 requires records of periods of family absence to be maintained by the authority's Head of Democratic Services for at least 10 years.
- 3.07 Regulation 33 provides that once the Head of Democratic Services has been informed by a member that they are taking a period of family absence, the Head of Democratic Services must inform the Council Chair, the Chair of its Democratic Services Committee and the Leader of each political group. One change since the draft is that where a Council has a presiding member, the presiding member must also be informed.
- 3.08 Regulation 34 is placing a requirement on the Head of Democratic Services to inform the local authority and provide all relevant information where he has reasonable grounds to suspect a member is not entitled to the family absence they have given notification of. The local authority may then cancel that member's period of family absence. It is suggested that in Flintshire the member decision is delegated to the Democratic Services Committee rather than full Council.
- 3.09 Regulations 35 and 36 contain provisions where if a family absence is cancelled by the authority the member affected may complain and a panel of members must then be formed to consider that complaint. It

is suggested that in Flintshire the panel of three members is chosen by the Council Chair from members who do not sit on the Democratic Services Committee.

- 3.10 Regulations 37 and 39 require local authorities as soon as is reasonably practicable after the coming into force of the regulations to make standing orders covering the matters in regulations 38 and 39.
- 3.11 Regulation 38 requires a member on maternity absence or parental absence to obtain the permission of the Council Chair before attending any meeting or performing any duty. The Council Chair is required to inform the Leaders of each political group before granting any such permission. It goes on to provide that a member may complain if consent is refused and the Head of Democratic Services must then refer such a complaint to the Council's Chair so that a panel of members can then decide to confirm the Chair's decision or substitute its own decision. As previously indicated in the report to the committee in April this seems an unsatisfactory process.
- 3.12 Paragraph 39 requires standing orders to make provision as to the extent of duties, if any, which remain applicable to Members during a period of family absence. This does seem at odds with regulation 38 where the consent of the Council's Chair was required for a member on maternity or parental absence.
- 3.13 Attached as Appendix 2 are draft standing orders relating to family absence for approval or amendment by the committee. It is suggested that the new arrangements for family absence are brought to the attention of all Members by consulting with the Group Leaders over the proposed addition to the Constitution of the new Standing Orders.

4.00 RECOMMENDATIONS

- 4.01 To note the provisions relating to family absence for members.
- 4.02 To approve or amend as the committee believes appropriate the standing orders in Appendix 2.
- 4.03 To agree the suggestions in paragraphs 3.08, 3.09 and 3.13.
- 4.04 That the Head of Legal & Democratic Services have delegated power to make amendments to Democratic Services Committee terms of reference to give effect to the committee's decision subject to consultation with Group Leaders.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 The provisions for family absence for members are seen by the Welsh Government as an important equal opportunities initiative.

9.00 PERSONNEL IMPLICATIONS

9.01 This depends upon the extent to which the family absence are used by members.

10.00 CONSULTATION REQUIRED

10.01 The draft regulations were consulted on by the Welsh Government and considered by the Constitution Committee on 24 April 2013.

11.00 CONSULTATION UNDERTAKEN

11.01 The draft regulations were consulted on by the Welsh Government and considered by the Constitution Committee on 24 April 2013.

12.00 APPENDICES

12.01 Appendix 1 - Family Absence Regulations
Appendix 2 - Draft Standing Orders

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

Standing Orders relating to Family Absence for Members

Contact Officer: Peter Evans
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Draft Order laid before the National Assembly for Wales under section 172(2) of the Local Government (Wales) Measure 2011, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2013 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Family Absence for Members
of Local Authorities (Wales)
Regulations 2013**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of the Local Government (Wales) Measure 2011⁽¹⁾ (“the Measure”) makes available to members of local authorities entitlement to a period of family absence.

The Measure creates an entitlement to five types of family absence: maternity absence; newborn absence; adopter’s absence; new adoption absence and parental absence. The entitlement created by the Measure is subject to members satisfying conditions prescribed by the Welsh Ministers in regulations.

These Regulations prescribe the conditions that members of local authorities must satisfy to be entitled to a period of family absence. The Regulations also make provision, amongst other things, about the extent of the various periods of absence; the cancellation of periods of absence and bringing absence to an end.

These Regulations are divided into six Parts. Parts 1 to 5 deal with the different types of absence. Part 6 makes general provision applicable in relation to all types of family absence.

Part 1 makes provision relating to maternity absence. Regulation 3 prescribes the conditions that a member must satisfy to be entitled to a period of maternity

(1) 2011 nawm 4.

absence. The conditions include notification requirements and, where requested by the head of democratic services, the production of evidence. Part 1 also includes provision for the start of maternity absence, variation of the intended start, duration, bringing to an end and cancellation.

Part 2 makes provision relating to newborn absence. Regulation 9 sets out the conditions as to relationship with a child or the child's mother and responsibility for the upbringing for that child required for a member to be entitled to newborn absence. Part 2 also includes provision for duration of newborn absence, when absence may be taken, cancellation of absence and the start date of a period of newborn absence.

Part 3 makes provision relating to adopter's absence. Regulation 14 prescribes the conditions that a member must satisfy to be entitled to a period of adopter's absence. Part 3 also makes provision for duration of adopter's absence, when absence may be taken, the start date of a period of adopter's absence and cancellation.

Part 4 makes provision relating to new adoption absence. Regulation 20 prescribes the conditions that a member must satisfy to be entitled to a period of new adoption absence. It sets out the relationship requirements between a member and a child's adopter and that the member must have responsibility for the upbringing of a child. Part 4 also makes provision for the duration of new adoption absence, when absence may be taken, cancellation and the start date of a period of new adoption absence.

Part 5 makes provision relating to parental absence. Regulation 26 prescribes the conditions to be satisfied for a member to be entitled to a period of parental absence. The conditions relate to the responsibility for the care of a child. It also sets out the notification requirements and evidence to be produced to the head of democratic services where required. Regulations 27 to 31 provide for the duration of absence, when absence may be taken, cancellation, bringing parental absence to an end and the start date of a period of parental absence.

Part 6 makes provision relating to record keeping, duties to inform, cancellation of family absence by the local authority, complaints and standing orders relating to members whilst taking a period of family absence.

Draft Order laid before the National Assembly for Wales under section 172(2) of the Local Government (Wales) Measure 2011, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2013 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Family Absence for Members
of Local Authorities (Wales)
Regulations 2013**

Made

Coming into force

5 December 2013

The Welsh Ministers, in exercise of the powers conferred by sections 9, 24, 25, 26, 27, 28, 29 and 172 of the Local Government (Wales) Measure 2011(1), make the following Regulations.

In accordance with section 172 of that Measure, a draft of these Regulations was laid before and approved by a resolution of the National Assembly for Wales.

Title and commencement

1.—(1) The title of these Regulations is the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

(2) These Regulations come into force on 5 December 2013.

General Interpretation

2.—(1) In these Regulations—

“childbirth” (“*geni’r plentyn*”) means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy;

(1) 2011 nawm 4.

“expected week of childbirth” (“*yr wythnos y disgwylir geni’r plentyn*”) means the week, beginning with midnight between Saturday and Sunday, in which it is expected that childbirth will occur;

“the Measure” (“*y Mesur*”) means the Local Government (Wales) Measure 2011; and

“partner” (“*partner*”) means one of a couple whether of the same or opposite sex who live together.

(2) Any reference in these Regulations to a “chair of the local authority” (“*cadeirydd yr awdurdod lleol*”) is a reference to a person elected as chairman by that local authority under section 22 of the Local Government Act 1972⁽¹⁾.

(3) Any reference in these Regulations to “a member” (“*aelod*”) is a reference to a member of a local authority in Wales.

(4) Any reference in these Regulations to “a presiding member of a local authority” (“*aelod llywyddol awdurdod lleol*”) is a reference to a person elected as presiding member by that local authority under section 24A of the Local Government Act 1972⁽²⁾.

PART 1

Maternity absence

Prescribed conditions

3. For the purposes of section 24(1) of the Measure, the prescribed conditions are that—

- (a) no later than the end of 15 weeks before the expected week of childbirth, or, if that is not reasonably practicable, as soon as is reasonably practicable, the member has given written notice to the head of democratic services of—
 - (i) that member’s pregnancy;
 - (ii) the expected week of childbirth;
 - (iii) the date on which the member intends the maternity absence to start; and
 - (iv) the duration of the period of maternity absence the member intends to take, if less than 26 weeks;

(1) 1972 c.70.

(2) Inserted by section 51 of the Local Government (Democracy) (Wales) Act 2013 (2013 anaw 4).

- (b) the member has, if requested to do so by the head of democratic services, provided the head of democratic services with a certificate from a registered medical practitioner or a registered midwife stating the expected week of childbirth;
- (c) where the member wishes to vary the start of the maternity absence which has been specified under paragraph (a)(iii), the member has given the head of democratic services written notice of the new start date at least one week before the date specified under paragraph (a)(iii), or at least one week before the new date, whichever is the earlier, or, if that is not reasonably practicable, as soon as is reasonably practicable; and
- (d) where the member wishes to vary the duration of the maternity absence, the member has given the head of democratic services written notice of the new duration at least one week before the expected end of the period of absence in accordance with the duration specified under paragraph (a)(iv), or at least one week before the new intended end of the period of absence, whichever is the earlier, or if that is not reasonably practicable, as soon as is reasonably practicable.

Period of maternity absence

4. The period of maternity absence is 26 weeks, unless the member gives written notice under regulation 3(a)(iv), (d) or 7 that the period of maternity absence will be shorter than 26 weeks.

When maternity absence may be taken

5. Maternity absence may only be taken so as to begin during the period—

- (a) beginning at the start of the eleventh week before the expected week of childbirth; and
- (b) ending on the day after the day on which childbirth occurs.

Member to choose start date of maternity absence

6.—(1) Subject to paragraphs (2) and (3) and regulation 5, a member may choose the date on which their maternity absence is to start.

(2) Where, during the four week period before the start of the expected week of childbirth, a member is absent from a meeting of the authority for a reason wholly or partly attributable to pregnancy, the period of maternity absence starts on the day after the meeting from which the member is absent.

(3) Where a member's maternity absence has not started in accordance with the date notified by a member under regulation 3(a)(iii) when childbirth occurs, that member's maternity absence starts on the day after the day on which childbirth occurs.

(4) Regulations 3(a)(ii), (iii) and (b) do not apply in respect of a member whose absence starts by virtue of paragraph (3).

Bringing a period of maternity absence to an end

7. A member may bring a period of maternity absence to an end earlier than the end of the period set out in regulation 4, which was notified under regulation 3(a)(iv) or varied under regulation 3(d) by notifying the head of democratic services in writing of their intention to do so at least 7 days before their return.

Cancelling maternity absence

8. The circumstances in which a member may cancel a period of maternity absence are that—

- (a) the period of maternity absence has not yet started; and
- (b) the member has notified the head of democratic services in writing of their intention to cancel the absence.

PART 2

Newborn absence

Prescribed conditions

9.—(1) For the purposes of section 25(1) of the Measure, the prescribed conditions are that the member—

- (a) is either—
 - (i) the child's father and has, or expects to have, responsibility for the upbringing of the child; or
 - (ii) married to, the civil partner or the partner of the child's mother, but is not the child's father and has, or expects to have the main responsibility (apart from any responsibility of the mother) for the upbringing of the child; and
- (b) gives the head of democratic services written notice of the date the member intends the period of newborn absence to start.

(2) A member is to be treated as having satisfied the condition in paragraph (1)(a)(ii) if that member would

have satisfied the condition but for the fact that the child's mother has died.

(3) A member is to be treated as having satisfied either of the conditions in paragraph (1)(a) if they would have satisfied the condition but for the fact that the child was stillborn after 24 weeks of pregnancy or has died.

Extent of entitlement to newborn absence

10.—(1) A member's entitlement to newborn absence is two consecutive weeks.

(2) Where more than one child is born as a result of the same pregnancy, a member is entitled to newborn absence only in respect of the first child born.

When newborn absence may be taken

11. Newborn absence may only be taken during the period—

- (a) beginning with the date of childbirth; and
- (b) ending 56 days after that date.

Cancelling newborn absence

12. The circumstances in which a member may cancel a period of newborn absence are that—

- (a) the period of newborn absence has not yet started; and
- (b) the member has notified the head of democratic services in writing of their intention to cancel the absence.

Member to choose start date of newborn absence

13. Provided that the period of newborn absence will come to an end within the period prescribed by regulation 11, a member may choose the date on which their newborn absence is to start.

PART 3

Adopter's absence

Prescribed conditions

14. For the purposes of section 26(1) of the Measure, the prescribed conditions are that the member—

- (a) is the child's adopter; and
- (b) gives the head of democratic services written notice of the date the member intends the period of adopter's absence to start.

Extent of entitlement to adopter's absence

15. A member's entitlement to adopter's absence is two consecutive weeks.

When adopter's absence may be taken

16. Adopter's absence may only be taken during the period—

- (a) beginning with the date on which the child is placed with the member for adoption; and
- (b) ending 56 days after that date.

Member to choose start date of adopter's absence

17. Provided that the period of adopter's absence will come to an end within the period prescribed by regulation 16, a member may choose the date on which their adopter's absence is to start.

Cancelling adopter's absence

18. The circumstances in which a member may cancel a period of adopter's absence are that—

- (a) the period of adopter's absence has not yet started; and
- (b) the member has notified the head of democratic services in writing of their intention to cancel the absence.

Interpretation of this Part

19. —(1) In this Part—

“adopter” (*“mabwysiaddd”*) in relation to a child, means a member who has been matched with a child for adoption, or in a case where two members have been matched jointly, whichever of them has elected to be the child's adopter for the purposes of this Part;

“adoption agency” (*“asiantaeth fabwysiadu”*) means a body which may be referred to as an adoption agency by virtue of section 2 of the Adoption and Children Act 2002(1); and

“child” (*“plentyn”*) means a person who is, or when placed with an adopter for adoption was, under the age of eighteen.

(2) For the purposes of this Part a member is matched with a child for adoption when an adoption agency notifies that member of its decision that the member is a suitable adoptive parent for the child, whether individually or jointly with another person.

(1) 2002 c.38.

PART 4

New adoption absence

Prescribed conditions

20. For the purposes of section 27(1) of the Measure, the prescribed conditions are that the member—

- (a) is married to, the civil partner or the partner of the child's adopter;
- (b) has, or expects to have, the main responsibility (apart from the responsibility of the adopter) for the upbringing of the child; and
- (c) gives the head of democratic services written notice of the date the member intends the period of adopter's absence to start.

Extent of entitlement to new adoption absence

21.—(1) A member's entitlement to new adoption absence is two consecutive weeks.

(2) Where more than one child is placed with the member as part of the same arrangement, a member is entitled to new adoption absence only in respect of the first child placed with the member for adoption.

When new adoption absence may be taken

22. New adoption absence may only be taken during the period—

- (a) beginning with the date on which the child is placed with the child's adopter; and
- (b) ending 56 days after that date.

Cancelling new adoption absence

23. The circumstances in which a member may cancel a period of new adoption absence are that—

- (a) the period of new adoption absence has not yet started; and
- (b) the member has notified the head of democratic services in writing of their intention to cancel the absence.

Member to choose start date of new adoption absence

24. Provided that the period of new adoption absence will come to an end within the period prescribed by regulation 22, a member may choose the date on which their new adoption absence is to start.

Interpretation of this Part

25.—(1) In this Part—

“adopter” (*“mabwysiaddd”*) in relation to a child, means a person who has been matched with the child for adoption, or in a case where two people have been matched jointly, whichever of them has elected to be the child’s adopter for the purpose of Part 3 of these Regulations;

“adoption agency” (*“asiantaeth fabwysiadu”*) means a body which may be referred to as an adoption agency by virtue of section 2 of the Adoption and Children Act 2002;

“child” (*“plentyn”*) means a person who is, or when placed with an adopter for adoption was, under the age of eighteen;

(2) For the purposes of this Part a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child, either individually or jointly with another person.

PART 5

Parental absence

Prescribed conditions

26. For the purposes of section 28(1) of the Measure, the prescribed conditions are that the member—

- (a) could not satisfy the prescribed conditions under Parts 2 to 4 of these Regulations;
- (b) has, or expects to have, responsibility for the care of a child;
- (c) provides the head of democratic services with written notice of—
 - (i) their intention to take parental absence;
 - (ii) the date on which the member intends the parental absence to start;
 - (iii) the duration of the intended parental absence; and
 - (iv) whether the absence is intended to be taken as a single period or as a series of absences;
- (d) if requested to do so by the head of democratic services, provides the head of democratic services with evidence in relation to the extent of the responsibility for the child; and
- (e) where the parental absence is to be taken as a series of absences, gives the head of democratic services advance written notice of

the intended start date and duration of each period of parental absence.

Extent of entitlement to parental absence

27.—(1) A member's entitlement to parental absence is three months.

(2) Parental absence may be taken as a series of periods of absence or as a single period.

When parental absence may be taken

28. Parental absence may only be taken during the period—

- (a) beginning with the date that the member assumes responsibility for the care of a child under the age of 14; and
- (b) ending one year after that.

Bringing a period of parental absence to an end

29. A member may bring any period of parental absence to an end earlier than that notified under regulation 26(c)(iii) by notifying the head of democratic services in writing of their intention to bring the period of parental absence to an end.

Cancelling a period of parental absence

30. The circumstances in which a member may cancel a period of parental absence are that—

- (a) the period of parental absence has not yet started; and
- (b) the member has notified the head of democratic services in writing of their intention to cancel the period of parental absence.

Member to choose start dates of parental absence

31. Provided the date falls within the period prescribed by regulation 28, a member may choose the date on which any period of parental absence is to start.

PART 6

General

Record keeping

32.—(1) A local authority's head of democratic services must maintain a record of all—

- (a) notifications made by members of that local authority of periods of family absence; and
 - (b) periods of family absence taken by members of that local authority.
- (2) A record made under paragraph (1) must be kept by the local authority for at least 10 years from the date it is made.

Duty to inform

33.—(1) Having been notified in accordance with Parts 1 to 5 of these Regulations that a member is taking a period of family absence, the head of democratic services must inform each relevant person as soon as is reasonably practicable of that fact.

(2) In this regulation “relevant person” (*“person perthnasol”*) means—

- (a) the chair of the local authority, or where a local authority has elected a presiding member, the presiding member of that local authority;
- (b) the chair of the local authority’s Democratic Services Committee; and
- (c) the leader of each political group of the local authority.

Cancellation of family absence by a local authority

34.—(1) Where the head of democratic services has reasonable grounds to suspect that a member, who has provided notification that they are taking a period of family absence, is not entitled to that family absence, the head of democratic services must inform the local authority and provide all relevant information.

(2) Where a member is not entitled to a period of family absence, following the receipt of information under paragraph (1), a local authority may cancel a member’s period of family absence before it begins or bring a period of family absence to an end.

(3) Where a local authority exercises its power under paragraph (2), the head of democratic services for that authority must provide the member with a written notice setting out—

- (a) the decision to cancel or bring to an end a period of family absence; and
- (b) the date from which the member must return from the period of family absence.

(4) Where a member has failed to return from a period of family absence on the date specified in the notice provided under paragraph (3), a local authority may withhold that member’s remuneration.

Complaints

35.—(1) A member may complain in writing to the head of democratic services regarding a decision made under regulation 34(2).

(2) A complaint must be received by the head of democratic services within 28 days of the member being notified under regulation 34(3) of a local authority's decision under paragraph (2) of that regulation.

(3) The head of democratic services must refer any complaint received within the period specified in paragraph (2) to the chair of the local authority or where a local authority has elected a presiding member, to the presiding member.

The panel

36.—(1) The local authority must appoint a panel to determine a complaint made under regulation 35.

(2) The panel must consist of three members appointed by the local authority.

(3) Neither the chair of the local authority nor the presiding member of a local authority may be appointed to the panel.

(4) The panel may—

- (a) confirm a local authority's decision made under regulation 34(2); or
- (b) substitute its own decision as to the member's entitlement to a period of family absence in accordance with these Regulations.

(5) The decision of the panel is final.

Standing orders

37. A local authority must, as soon as is reasonably practicable after the coming into force of these Regulations, make standing orders securing the requirements set out in regulation 38.

38.—(1) A member on maternity absence or parental absence may, subject to paragraphs (2) to (6),—

- (a) attend particular meetings;
- (b) attend particular descriptions of meetings;
- (c) perform particular duties; or
- (d) perform duties of a particular description.

(2) The member must obtain the permission of the chair of the local authority, or where a local authority has elected a presiding member, the presiding member, before attending any meeting or performing any duty.

(3) The chair of the local authority, or where a local authority has elected a presiding member, the presiding member, must inform the leaders of each

political group of the local authority before granting permission under paragraph (2).

(4) A member may complain in writing to the head of democratic services regarding a refusal under paragraph (2).

(5) The head of democratic services must refer a complaint under paragraph (4) to the chair of the local authority, or where a local authority has elected a presiding member, to the presiding member.

(6) A panel constituted in accordance with these Regulations must determine a complaint made under paragraph (4).

(7) The panel may—

- (a) confirm the decision of the chair of the local authority, or where a local authority has elected a presiding member, the decision of the presiding member, under paragraph (2); or
- (b) substitute its own decision as to the member attending any meeting or performing any duty.

39. A local authority must, as soon as is reasonably practicable after the coming into force of these Regulations, make provision in standing orders as to the extent of the duties, if any, which remain applicable to members during a period of family absence.

**Draft Standing Orders relating Family Absence
for Members**

1. The Local Government (Wales) Measure 2011 provides members with legal entitlement to periods of family absence. Subordinate legislation requires local authorities to have certain standing orders concerning such periods of family absence.
2. The first such requirement is to have a standing order securing the requirements set out in Regulation 38 of the Family Absence for Members of Local Authorities (Wales) Regulations 2013. That regulation is attached as Appendix A and this standing order secures its requirements.
3. Regulation 39 of the regulations requires a standing order as to the extent of the duties, if any, which remain applicable to members during a period of family absence. For maternity absence or parental absence the duties applicable shall be those determined by either the Council Chair or a panel of members under the preceding standing Order. For all other types of family absence it shall be such duties as the individual member concerned chooses to undertake.

Regulation 38

- (1) A member on maternity absence or parental absence may, subject to paragraphs (2) to (6), -
 - (a) attend particular meetings;
 - (b) attend particular descriptions of meetings;
 - (c) perform particular duties; or
 - (d) perform duties of a particular description.
- (2) The member must obtain the permission of the chair of the local authority, or where a local authority has elected a presiding member, the presiding member, before attending any meeting or performing any duty.
- (3) The chair of the local authority, or where a local authority has elected a presiding member, the presiding member, must inform the leaders of each political group of the local authority before granting permission under paragraph (2).
- (4) A member may complain in writing to the head of democratic services regarding a refusal under paragraph (2).
- (5) The head of democratic services must refer a complaint under paragraph (4) to the chair of the local authority, or where a local authority has elected a presiding member, to the presiding member.
- (6) A panel constituted in accordance with these Regulations must determine a complaint made under paragraph (4).
- (7) The panel may –
 - (a) confirm the decision of the chair of the local authority, or where a local authority has elected a presiding member, the decision of the presiding member, under paragraph (2); or
 - (b) substitute its own decision as to the member attending any meeting or performing any duty.