

## **FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** CONSTITUTION COMMITTEE

**DATE:** WEDNESDAY, 24 APRIL 2013

**REPORT BY:** DEMOCRACY & GOVERNANCE MANAGER

**SUBJECT:** CONSULTATION ON FAMILY ABSENCE FOR MEMBERS

### **1.00 PURPOSE OF REPORT**

- 1.01 To determine the Council's response to consultation issued by the Welsh Government on draft regulations and draft statutory guidance on family absence for Members.

### **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; adopters' absence; new adoption absence and parental absence.

- 2.02 The entitlement in the Measure is subject to Members satisfying conditions prescribed by Welsh Ministers in the regulations. The draft regulations describe the conditions Members must satisfy and also include provisions about the extent of the various periods of absence, cancellations and bringing to an end such periods of absence. The draft guidance is to be read together with the Measure and the draft regulations. Copies of the consultation documents including the draft regulations and draft guidance have been placed in Member Services and in the group rooms.
- 2.03 The Measure provides that the section in the Local Government Act 1972 whereby a Member automatically vacates their office if they fail to attend a meeting for a period of six consecutive months does not apply where a Member is exercising a right of family absence. The Independent Remuneration Panel for Wales Regulations provide that payments of so called basic and senior salaries will continue during a period of family absence.

### **3.00 CONSIDERATIONS**

- 3.01 The provisions in the Measure give similar entitlements to elected Members as those that other legislation gives to those in employment.

The provisions are also an important equalities initiative for those Members having family responsibilities, which is to be welcomed.

- 3.02 The conditions that have to be satisfied to be entitled to a period of family absence are a necessary requirement of the Measure and provide a workable system for managing such absence. These conditions are dealt with in parts 1 to 5 of the draft regulations.
- 3.03 Part 6 of the draft regulations makes general provisions applicable in relation to all types of family absence. Each of these regulations is considered in turn in the following paragraphs.
- 3.04 Regulation 32 requires certain records to be maintained by the Head of Democratic Services relating to family absence for at least 10 years. Officers have no proposed observations on this.
- 3.05 Regulation 33 requires 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. Officers think that this is perhaps a little excessive. The Group Leaders should be made aware plus the Chair of whichever committee will be responsible for managing some of the other provisions (see 3.06 below). Exactly which committee should be a matter of local choice for Councils.
- 3.06 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. Clearly, it is necessary to have some form of safeguard to prevent abuse of the system. Rather than place any one person in the invidious position of having to cancel such leave it should be open for anyone to complain to a committee or panel. It could then decide whether the leave should be cancelled. Whilst Flintshire might give such a function to the Democratic Services Committee, again it should be a matter of local choice.
- 3.07 Regulations 35 & 36 contains provisions where if a family absence is cancelled the Member affected may complain and a panel of Members then consider the matter. It is suggested that where a Member complains that another Member is not entitled to a period of family absence that issue is then referred to the Standards Committee for it to resolve. If however, the existing regime is to continue then greater clarity needs to be given as to how the local authority cancels a period of family absence without then prejudging the issue for those Members who subsequently sit on the panel required by Regulation 36.

- 3.08 Regulations 37 to 39 require certain provisions to be included in Council standing orders. Firstly, Regulation 38 is specifying that where a Member is on maternity or parental absence standing orders should prescribe what meetings or duties they can perform. Again there is provision for a panel to consider any complaint made by the Member affected. Regulation 39 is specifying that where a Member is on family absence the standing orders must make provision as to the extent of the duties, if any, which remain applicable during the period of family absence. This seems unnecessarily bureaucratic and officers believe it should be left to the individual choice of the Member concerned as to what duties they perform or meetings they attend during a period of family absence. In which case there would then be no need for the provisions in Regulations 37 to 39.

#### **4.00 RECOMMENDATIONS**

- 4.01 It is recommended that the committee confine their response to consultation to part 6 of the draft regulations and include in their representations the points in paragraphs 3.06 to 3.08 above.

#### **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 in the Measure for family absence for Members are an important equal opportunities initiatives of the Welsh Government.

#### **9.00 PERSONNEL IMPLICATIONS**

- 9.01 None as a result of this report.

#### **10.00 CONSULTATION REQUIRED**

- 10.01 None as a result of this report.

#### **11.00 CONSULTATION UNDERTAKEN**

- 11.01 None as a result of this report.

## **12.00 APPENDICES**

12.01 None

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

Consultation paper, draft guidance and draft regulations on family absence for Members.

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