

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

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