

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive and Council
Date:	Executive 14 July 2014 Council 9 October 2014
Subject:	Family Absence Regulations
Portfolio Holder(s):	Alwyn Rowlands
Head of Service:	Lynn Ball – Head of Function (Council Business)/Monitoring Officer
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Local Members:	N/A

A –Recommendation/s and reason/s
<p><u>RECOMMENDATION</u></p> <p>The Executive recommends to Council that:</p> <ul style="list-style-type: none"> (i) Council approve the changes to the Council’s Constitution, as detailed in Appendix 1 to this Report; (ii) Democratic Services Sub-Committee be established for the purpose of hearing Appeals under the Measure; (iii) When a Member is taking family absence under the Regulations, and is paid a senior salary, this senior salary shall be discontinued during any period of family absence which exceeds two weeks. Members will still be eligible to retain the basic allowance. A substitute may be appointed to cover for the member on family absence provided that the period of absence lasts for longer than two weeks, and that substitute shall be entitled to receive a senior salary where appropriate. (iv) The Chief Executive shall have delegated authority from Council to cancel or end a period of family absence which is not covered by the Regulations. <p><u>REASONS</u></p> <p>Part 2 of the Local Government (Wales) Measure 2011 (“the Measure”) introduces a new entitlement to a period of family absence for Members of local authorities which is subject to Members’ satisfying the conditions prescribed in the newly published Regulations.</p> <p><u>ISSUES</u></p> <p>There are five types of family absence to which a Member may be entitled under the Measure, provided they comply with the Regulations. These are:</p>

- (i) **Maternity absence** – (maximum 26 weeks);
- (ii) **New-born absence** – (maximum two weeks);
- (iii) **Adopter's absence** – (maximum 2 weeks);
- (iv) **New adoption absence** – (maximum 2 weeks); and
- (v) **Parental absence** – (maximum 3 months).

Full definitions for each type of family absence are contained in Appendix 2.

- The Regulations set out the following provisions:-

- (i) The Member must give written notice to the Head of Democratic Services (“HDS”) of his/her intention to take family absence and the intended start and end dates;
- (ii) The HDS must keep a record of all notifications and periods of family absence;
- (iii) If the HDS informs the Council that he/she has reasonable grounds to suspect that a Member may not be entitled to the family absence notified, the Council may cancel or end the family absence, or delegate the authority to do this to the Chief Executive or another suitable Officer;
- (iv) The option for a Member to continue to attend particular meetings or perform particular duties during a period of maternity or parental absence, subject to permission from the Chair of Council;
- (v) A requirement for provisions to be included in the standing orders regarding the extent of any duties which Members may still be permitted to perform during a period of family absence;
- (vi) A requirement for the Council to appoint a Panel comprising of three Members (which cannot include the Chair of Council) to hear and determine appeals from Members;
- (vii) The right for a Member to appeal to the Panel against a decision of the Council (or an Officer with delegated authority) that the Member is not entitled to family absence following a referral from the HDS; and or against a refusal by the Chair of Council to grant permission for the Member to continue to attend particular meetings or perform particular duties whilst on family absence.

FINANCIAL IMPLICATIONS

- A supplementary report has been issued by the Independent Remuneration Panel for Wales which includes the following relevant decisions:-
 - (i) A Member is entitled to retain a basic salary when taking family absence under the Regulations, irrespective of the attendance record prior to the commencement of the absence;
 - (ii) When a senior salary holder is eligible for family absence, he/she will be able to continue to receive the senior salary for the duration of the absence if the Council so decides;
 - (iii) Any Member substituting for a senior salary holder taking family absence will be eligible for a senior salary;

- (iv) If the paid substitution results in the Council exceeding the maximum number of permitted senior salaries, an addition to the maximum will not be allowed for the duration of the substitution without first obtaining the consent of the Minister; and
- (v) When a Council agrees a substitution for family absence, the Panel must be informed within 14 days of the date of the decision of the details, including the particular post and the duration of any substitution.

B – What other options did you consider and why did you reject them and/or opt for this option?

The implementation of the Regulations is compulsory, however, some elements of how it is implemented are optional. That is, the recommendations in A above. The alternatives are:-

- (ii) A sub-committee of the Council
- (iv) Any decision to rescind is not delegated and is taken by full Council

Both are thought too cumbersome and bureaucratic.

C – Why is this a decision for the Executive?

As the implementation of the Regulations will result in constitutional changes which can only be approved by the full Council after consideration by the Executive.

CH – Is this decision consistent with policy approved by the full Council?

Yes.

D – Is this decision within the budget approved by the Council?

Yes.

DD – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	
2	Finance / Section 151 (mandatory)	
3	Legal / Monitoring Officer (mandatory)	Joint author of Report so comments are included here.

4	Human Resources (HR)	n/a
5	Property	n/a
6	Information Communication Technology (ICT)	n/a
7	Scrutiny	n/a
8	Local Members	n/a
9	Any external bodies / other/s	The Democratic Services Committee were consulted and had no comments to add and noted the recommendations

E – Risks and any mitigation (if relevant)		
1	Economic	
2	Anti-poverty	
3	Crime and Disorder	
4	Environmental	
5	Equalities	An equality impact assessment has been done and these recommendations are compliant with the provisions of the Equality Act 2010.
6	Outcome Agreements	
7	Other	

F - Appendices:
(1) Amended parts of constitution; (2) Definitions and overview of allocation of functions.

FF - Background papers (please contact the author of the Report for any further information):
<ol style="list-style-type: none"> 1. The Family Absence for members of Local Authorities (Wales) Regulations 2013. http://wales.gov.uk/docs/dsjlg/consultation/130322familyabsenceregsannex1en.pdf 2. Draft Supplementary Report – Family Absence http://wales.gov.uk/irpwsb/home/publication/201415/draft-supp-report-family-absence/?lang=cy 3. Statutory Draft Guidance made under Section 30 of the Local Government (Wales) Measure 2011. http://wales.gov.uk/docs/dsjlg/consultation/130322familyabsenceguideannex2en.pdf

2.5 Article 5 – Chairing The Council

2.5.1.2.7 to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013

3.4.12 Democratic Services Committee

3.4.12.5 Reports and recommendations by Democratic Services Committees

3.4.12.8 Family Absence Appeals Panel (Sub-Committee of the Democratic Services Committee)

3.4.12.8.1 There is a requirement for all Local Authorities to appoint a Committee-Panel of the Council to hear appeals arising from the Family Absence for Members of Local Authorities (Wales) Regulations 2013 (“the Regulations”).

3.4.12.8.2 Membership

3.4.12.8.2.1 The Sub-committeePanel will consist of three Members of the Democratic Services Committee (must not include the Chair of the Council) and in establishing any Panel the Council will endeavour to achieve political balance.

3.4.12.8.3 Duties

3.4.13.3.1 to hear appeals from Members against a decision to withdraw entitlement to family absence.

3.4.13.3.2 to settle disputes, where a Member, who is on family absence leave would like to attend a particular meeting/s, or perform a particular duty or type of duty and the Chair of the Council has refused the request.

3.5.3.16 Head of Democratic Services – (HDS)

3.5.3.16.11 to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013

~~4.1.98 Attendance by County Councillors at Meetings of Bodies in respect of which they are not Members Quorum~~

If a Member is on family absence leave, and it would be difficult to replace that Member on a temporary basis, the Chair of the Council may request that Member to attend a meeting if it might otherwise be inquorate. The Member is not compelled to attend.

4.1.29 Family Absence for Members

4.1.29.1 A Member on maternity absence or parental absence may, subject to paragraphs 4.1.29.2 and 4.1.29.6 below:

- Attend particular meetings;
- Attend particular descriptions of meetings;
- Perform particular duties; or
- Perform duties of a particular description,

4.1.29.2 If permission is granted by the Chair of the Council attendance may be appropriate upon the following events / circumstances (non-exhaustive):

- Where the Member has a known particular interest or area of expertise in a matter of business / item on the agenda, or
- Where urgent business affecting their local area is considered; or
- Where the meeting might otherwise be inquorate.

4.1.29.3 The Member must obtain the permission of the Chair of the Council before attending any meeting or performing any duty.

4.1.29.4 The Chair of the Council must inform the Leaders of each Political Group on the Council before granting permission under paragraph 4.1.29.2 above.

4.1.29.5 A Member may complain in writing to the Head of Democratic Services regarding a refusal under paragraph 4.1.29.2 above.

4.1.29.6 The Head of Democratic Services must refer a complaint under paragraph 4.1.29.5 above to the Chair of the Council.

4.1.29.7 A Panel constituted in accordance with The Family Absence for Members of Local Authorities (Wales) Regulations 2013 must determine a complaint made under paragraph 4.1.29.5 above.

4.1.29.8 The Panel may:

- Confirm the decision of the Chair of the Council; or
- Substitute the decision at of the eChair of the Council for its own decision.

Definitions for Family Absence

<u>Type of Absence</u>	<u>Definition</u>
Maternity Absence period	A period of absence following the Member giving birth.
Newborn Absence (Paternity Leave) period	Absence granted to the “parent” of a child other than the mother. (i.e. father, husband, partner).
Adopter’s Absence period	A period of absence which starts at the physical date of the placement of the child with the Member for adoption. (Adoption Leave) and will be due to the child’s adopter.
New Adoption Absence period	A Member who has a “relationship” with another person who is adopting a child may take up to two weeks new adoption absence (i.e. married to or partner of child’s adopter). If a Member jointly adopts a child with another Member, one Member may elect to be the child’s adopter and would be entitled to adopter’s absence, and the other would be entitled to a period of new adoption absence.
Parental Absence period	A period of absence allowed to assist a Member to care for a child who was previously someone else’s responsibility.

Functions of relevant parties

<u>Officer</u>	<u>Function</u>
Head of Democratic Services (HDS)	<ul style="list-style-type: none"> • To receive notifications of family absence, to include notification of intention to take absence, and notification of start and end date. • To keep a record of all notifications and inform the Chair of the Council, the Chair of the DSC and the Leader of each Political Group of any notification received. • Inform the Council if they do not think the Member is entitled to a period of family absence. • Write to the Member to set out any decision by the Council to cancel the period of absence before it begins or while it is ongoing. • Receive appeals from Members on a decision not to allow absence (the

	<p>appeal is then passed to the Chair of the Council).</p>
<p>Chair of Council</p>	<ul style="list-style-type: none"> • Receive notice of appeal against decision to rescind family absence and to refer the hearing of the appeal to the Family Absence Appeal Panel. • Decide which functions a Member may continue to perform during a period of family absence at their request (upon consultation with the Leaders of the Political Groups). • To request voluntary attendance for the purpose of a quorum.
<p>Family Absence Appeal Panel (Sub-Committee of DSC)</p>	<ul style="list-style-type: none"> • Hear appeals against decisions to rescind family absence. • Hear appeals if there is a disagreement on what duties a Member shall be allowed to continue during the period of absence.
<p>Full Council (But recommending delegation to the Chief Executive or any Officer acting with his/her authority)</p>	<ul style="list-style-type: none"> • Council may cancel a Member's period of absence before it begins or bring a period of family absence to an end. • If a local member fails to return from absence, to withhold the Member's remuneration, subject to decision of Council. •
<p>Leaders of Political Groups</p>	<ul style="list-style-type: none"> • Entitled to be notified of family absence. • Consultees on decisions relating to the functions that a Member may continue to perform during absence.