



REPORT TO: CORPORATE COMMITTEE ON 8 NOVEMBER 2022

SUBJECT: ELECTED MEMBERS FAMILY LEAVE

BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND ORGANISATIONAL DEVELOPMENT)

1. REASON FOR REPORT

- 1.1 The Committee is invited to consider and note the proposed new scheme in relation to Family Leave for Elected Members.
- 1.2 This report is submitted to Committee in terms of Section III (B)(6) of the Council's Scheme of Administration relating to consideration of any new policy matter which does not fall within the terms of reference of any other Committee.

2. RECOMMENDATION

2.1 It is recommend that the Committee:

- (i) **considers and approves the Family Leave for Elected Members Scheme. This is a new scheme which incorporates the recommended guidance on Family Leave which was endorsed by COSLA in September 2019 and updated in May 2020 and is attached for reference as Appendix 1.**
- (ii) **note that if the scheme is adopted then it will require to be referenced in the separate Members Allowance and Expenses Scheme.**

3. BACKGROUND

- 3.1 The Council's employment policy framework is reviewed regularly to ensure it remains up-to-date in terms of legislative requirements, good practice and operational relevance. Whilst not an employment policy as such because Elected Members are not employees of the Council, this scheme does nevertheless demonstrate best practice.

- 3.2 This scheme is being introduced following receipt of COSLA guidance and recommendations with the purpose of removing barriers to participating in local government. It is intended that this policy will support and improve the diversity of experience, age and background of Councillors. It will also assist with retention of experienced Councillors, particularly women, and making public office more accessible to individuals who might otherwise feel excluded from it.

Principles

- 3.3 The scheme sets the key principles to support elected members during periods of maternity, paternity, shared parental and adoption leave. The Family Leave Guidance updated in April 2020 was circulated to Scottish Councils for adoption on a voluntary basis.
- 3.4 There is no legal right to family leave of any kind for people in elected public office. The scheme however provides as insofar as is possible that there is provision for Elected Members to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to cover for portfolio holders and others in receipt of Special Responsibility Allowances (SRA) or additional councillor payments during any period of leave taken.
- 3.5 This guidance confers no contractual or worker/employer status and can be withdrawn at any time. Councillors retain their status as office holders during any agreed leave. As proposed in the COSLA guidance leave has been limited to 6 months with the requirement that Elected Members have a legal duty to attend at least one qualifying meeting in a period of six months.
- 3.6 Table 1 sets out the main leave provision or the scheme

Type of Leave	Provision
Maternity Leave	Up to 6 months (26 weeks) maternity leave from 28 days prior to their due date In the event of premature birth (before the 37 th week of pregnancy), maternity leave maybe extended by a period equivalent to the period between the date of birth and the expected due date.
Paternity Leave	Up to a maximum of 2 weeks paternity leave if they are biological or nominated carer of their partner/spouse following the birth of their child(ren).
Shared Parental Leave	A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the council of these arrangements at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from the council. Up to 6 months (26 weeks) shared parental leave where maternity leave is curtailed. Leave is limited to 6 months

Type of Leave	Provision
	(26 weeks) in total where both parents are Elected Members.
Adoption leave	A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months' adoption leave from the date of placement.

Remuneration

- 3.7 The basic councillor remuneration is guaranteed by legislation and all Members will continue to receive their basic allowance in full while on maternity, paternity, and shared parental or adoption leave.
- 3.8 Members entitled to a Special Responsibility Allowance will continue to receive the additional remuneration during a period of leave (for either maternity, paternity, shared parental or adoption leave) for up to 6 months, or until the date when the member taking the leave stands for re-election, whichever date is sooner. Where appropriate and following review, if the member is re-elected, the Council may agree to extend the leave for the remainder of the 6 month period, with appropriate additional remuneration.
- 3.9 Elected Members retain their legal duty under the Local Government (Scotland) Act 1973 to attend a qualifying meeting of the Council or an outside body within a 6 month period, however absence due to one of the reasons within this policy will be recorded as such to ensure transparency.
- 3.10 For any senior councillor substitution to replace an Elected Member on maternity, paternity, shared parental or adoption leave by a councillor who already holds a remunerated position, the ordinary rules relating to payment of more than one senior councillor payment shall apply. Backfill is only required where the person on family leave receives a special responsibility allowance and there is no proposal to appoint temporary Councillors.
- 3.11 The proposed policy is based closely on the recommended guidance from COSLA with no local adaptation or enhancement.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The work noted in this report supports the Council in achieving the objectives and priorities in the Corporate and 10 Year Plan, and sets out how the Council will meet the challenges in making best use of our workforce and resources. In particular, the actions will ensure continued progress towards the Council's commitment to be a good employer.

(b) Policy and Legal

This report supports the Council's employer responsibilities and commitments with regard to the health, safety and wellbeing of the workforce

(c) Financial implications

Corporate Management Team Additional Expenditure Warning

When the Council approved the budget for 2021/22 on 3 March 2021 (paragraph 3 of the Minute refers) it balanced only by using one-off financial flexibilities. The indicative 3 year budget showed a likely requirement to continue to make significant savings in future years. All financial decisions must be made in this context and only essential additional expenditure should be agreed in the course of the year. In making this determination the committee should consider whether the financial risk to the Council of incurring additional expenditure outweighs the risk to the Council of not incurring that expenditure, as set out in the risk section below and whether a decision on funding could reasonably be deferred until the budget for future years is approved.

The financial impact of this proposal relates to any backfill arrangements and payment of allowances for cover arrangements. This is difficult to quantify in terms of forecasting demand and costs, however applying this policy retrospectively over the last 5 years indicates a nil return in terms of requests that would have come within the auspices of this policy and consideration of the age and gender demographics of the current cohort of councillors suggests a potentially low level of uptake and consequent cost. This indicates that there is not anticipated to be any significant financial implication associated with adopting the new policy and any costs should be able to be contained within existing budgets. The position will be kept under review.

(d) Risk Implications

The Remuneration Regulations in relation to payment of members specify a maximum number of senior councillor payments and total collective yearly amount that the council is able to pay senior councillors. Arguably this scheme may on certain occasions place the Council in breach of these regulations however there is also a risk of a breach of equalities legislation if the council does not address the parental leave issues. On balance and in light of the national guidance from COSLA it is considered reasonable to implement the proposals in this report and deal with any future challenge on the breach of councillor payments, taking advice from COSLA, should it arise.

(e) Staffing Implications

There are no staffing implications arising from this report.

(f) Property

There are no property implications arising from this report.

(g) Equalities/Socio Economic Impact

There are no equalities/socio economic implications arising from this report.

(h) Climate Change and Biodiversity Impacts

There are no climate change or biodiversity impacts arising from this report.

(i) Consultations

Consultation have taken place with the Corporate Management Team, Head of Governance, Strategy and Performance and Political Group Leaders and their views have been incorporated.

5. CONCLUSION

5.1 The objective of this guidance is to ensure that insofar as is possible, Elected Members can take appropriate leave at the time of birth or adoption, that both parents are able to take leave and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

5.2 Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of Local Authority councillors. It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

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Background Papers: COSLA Guidance on Councillor Family Leave

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