
Subject:	PARENTAL LEAVE POLICY FOR COUNCILLORS
Meeting and Date:	GOVERNANCE COMMITTEE – 2 DECEMBER 2021 COUNCIL – 26 JANUARY 2022
Report of:	DEMOCRATIC & CORPORATE SERVICES MANAGER
Classification:	UNRESTRICTED

Purpose of the report: To agree a Parental Leave Policy for Councillors and incorporate it into the Constitution.

Recommendation: Governance Committee

“That the Governance Committee recommend the draft Parental Leave Policy for Councillors to the full Council for adoption and incorporation into the Constitution.”

Council

“That the draft Parental Leave Policy for Councillors be adopted and incorporated into the Constitution.”

1. Summary

This report sets out the process by which Members can seek a leave of absence for parental leave.

2. Introduction and Background

(a) Council Motion

2.2 The Council at its meeting held on 20 July 2021 agreed a Motion from Councillor C A Vinson that the Council adopt a parental leave policy for councillors. This Motion in addition to agreeing to adopt a policy called for the Council’s Constitution to clearly set out the process by which Members could seek a leave of absence, which should reflect not only the formal legislative permission required for periods longer than six months, but also the Council’s own process to support new and adoptive parents seeking a period of leave of shorter duration.

2.3 In addition, the Council has resolved that requests for parental or adoption leave should not be unreasonably refused.

(b) Parental Leave for Elected Members

2.4 There is at present no legal right to parental leave of any kind for the holders of elected public office, with the exception of those covered by the Ministerial and other Maternity Allowances Act 2021 (Ministers of the Crown and some paid Opposition positions). The Act does not apply to MPs in general and there is no equivalent legal right for councillors. These policies can therefore only currently be implemented on a voluntary basis by local authorities.

2.5 In East Kent, Thanet District Council adopted a Parental Leave Policy for elected members earlier this year and Folkestone and Hythe District Council has considered such a policy, although at the time of writing this report has not adopted one.

(c) Implications - Local Government Act 1972

2.6 In legislative terms, there are no impediments to prevent a Member from taking a leave of absence for a period of less than six months as s.85 of the Local Government Act

1972 only relates to the vacation of the office of a councillor due to non-attendance for a period of six months or more. The draft policy acknowledges this position.

- 2.7 For an absence of greater than six months the full Council will need to approve the absence. Once an absence has been granted it will apply until the date of the next ordinary elections of the council. This does not of course preclude the councillor benefiting from the approval returning early. No permission is required from anybody to do so.
- 2.8 It is also recognised that there may be implications politically and in terms of democratic representation for such an absence, so the draft policy proposes, in accordance with the original Motion, that the Member concerned will make arrangements for their constituents to be represented in their absence.

(d) Implications – Members’ Allowances

- 2.9 All councillors receive a Basic Allowance in accordance with the provisions of The Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended). In accordance with regulation 4(1), the Basic Allowance shall be the same for each member and, unless voluntarily surrendered by a member, there is no provision for the Council to withhold or alter the Basic Allowance paid to a particular member.
- 2.10 For Special Responsibility Allowances (SRA) the Council may determine these for specific posts and responsibilities as it sees fit. An SRA is payable so long as a Member holds the relevant office. It automatically ceases to be payable once a Member is no longer holding that office. It should be noted that for non-executive posts, the full Council must make any changes for them to take effect (such as removing a committee chairman). In the case of executive posts and appointments or the shadow cabinet, this is made by the Leader or Main Opposition Group Leader respectively.

(e) Implications – Continuity of Office of Councillor

- 2.11 It should be noted that neither the Parental Leave Policy nor the resolution under section 85 Local Government Act affect the legal status of the member concerned as a councillor. They will throughout their period of absence remain full members of the Council entitled to all their rights and privilege as such. They will also retain many of their responsibilities. It follows from this that a member on parental leave could exercise their functions at any time whether regularly or on a sporadic basis. The Local Government Association (LGA) has developed a model policy, and this has been used as the basis for the draft policy accompanying this report as it covers the points raised in the original Motion. The model policy does not directly address what the expectations of the council are in this regard and neither is this addressed in the draft Dover District Council Policy. The difficulty in attempting to do so lies in the fact that the member continues to be a councillor with the consequences outlined in the opening lines of this paragraph.
- 2.12 The converse of the situation referred to in paragraph 2.11 is also true. Given that a member on parental leave remains a councillor there is nothing to prevent constituents, lobbyists, officers and indeed, other members from contacting them whilst on leave. Again, the LGA Policy is silent on what the expectations of the Council are with regard to how the member on parental leave should conduct themselves in such circumstances or indeed, what the rest of the organisation should do or refrain from doing. The draft Dover District Council Policy is similarly silent.
- 2.13 The draft policy does make some limited provision for the issues outlined in paragraphs 2.11 and 2.12 above in that it requires notification via the website as to what arrangements are in place to cover the ward work of the member on parental leave. It is suggested that a way forward would be for a member when notifying the Democratic and Corporate Services Manager of their wish to take parental leave to also notify their

preferences with regard to contact and discharge of responsibilities during their period of absence.

(f) Consultation with Statutory Officers

- 2.14 The Council's statutory officers have been consulted on the proposed amendments to the Constitution in accordance with the requirements of Article 15.02(a) of the Constitution. They have no further observations to make.

(g) Views of the Governance Committee

- 2.15 The Governance Committee at its meeting on 2 December 2021 proposed an amendment to the wording at paragraph 3.1 to change the period of the start of parental leave for councillors from the date of adoption or birth to the date that the Member concerned indicates that they want their parental leave to commence from. It was the view of the Governance Committee that this would provide needed flexibility in situations such as a complicated pregnancy where earlier leave may be desirable.
- 2.16 This proposed change was compatible with the original Motion's intent and therefore has been incorporated into the draft policy at Appendix 2.

3. Identification of Options

- 3.1 Option 1 (Governance Committee): To recommend to the Council that the draft Parental Leave Policy for Councillors as set out in Appendix 2 be adopted.
- 3.2 Option 1 (Council): To adopt the draft Parental Leave Policy for Councillors as set out in Appendix 2.
- 3.3 Option 2 (Governance Committee): To recommend to the Council that the draft Parental Leave Policy for Councillors, as set out in Appendix 2, be adopted with amendments.
- 3.4 Option 2 (Council): To adopt the draft Parental Leave Policy for Councillors, as set out in Appendix 2, with amendments.
- 3.5 Option 3 (Governance Committee): To recommend that the Council does not adopt the draft Parental Leave Policy for Councillors as set out in Appendix 2 or any amended version of it.
- 3.6 Option 3 (Council): To not adopt the draft Parental Leave Policy for Councillors as set out in Appendix 2 or any amended version of it.

4. Evaluation of Options

- 4.1 Option 1 (Governance Committee & Council): This is the recommended option as it implements the Motion agreed by Council on 21 July 2021. The draft policy set out in Appendix 2 of the report is based on the Local Government Association's Parental Leave Policy for Councillors. There has been a small number of amendments to this based on the requirement of the Motion adopted by the full Council that this set out the process by which Members can seek parental leave.
- 4.2 Option 2 (Governance Committee & Council): If this option still meets the requirements of the original Motion and is consistent with legislative arrangements it will be an adoptable alternative to Option 1. If it is the intention to adopt an amended policy then it is requested that the amendments are discussed with officers in advance so that their feasibility can be assessed.
- 4.3 Option 3 (Governance Committee & Council): This is not the recommended option as the proposed policy implements the requirements of the Motion adopted by the full Council.

5. Resource Implications

- 5.1 There are no direct resource implications arising from this policy. The draft Parental Leave Policy for Councillors does not increase the levels of Basic or Special Responsibility Allowance paid to Members.

6. Climate Change and Environmental Implications

- 6.1 There are no significant climate change implications arising from the draft policy set out in Appendix 2.

7. Corporate Implications

- 7.1 Comment from the Section 151 Officer: The Section 151 Officer and the Accountancy Section have been consulted on this report and have no further comments to make. It is noted that there are no financial implications to the recommendations of the report. (LS)
- 7.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no comment.
- 7.3 Comment from the Equalities Officer: The Equality Officer has been consulted during the development of this report which proposes a positive impact for Members who have parental responsibility. Should the need arise for a Member to take parental leave, they will be able to continue to perform their role as an elected Member of the Council without fear of losing their role as a lead Councillor, along with the allowance that is attached. In discharging their duties Members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

8. Appendices

Appendix 1 – Original Motion adopted by the full Council
Appendix 2 – Draft Parental Leave Policy for Councillors

9. Background Papers

Council Agenda – 21 July 2021

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