

Report to: Governance Committee

Date of meeting: 30 September 2021

By: Assistant Chief Executive

Title: Councillor Parental Leave Policy

Purpose: To consider the adoption of a parental leave policy for councillors

RECOMMENDATION: The Committee is recommended to recommend the County Council to agree the parental leave policy and to amend the Constitution accordingly.

1 Background

1.1 A number of Councils have adopted parental leave policies for councillors in recognition that councillors may become parents during their term of office and may need or wish to take a period of leave from their councillor duties as a result.

1.2 It is anticipated that the adoption of parental leave policies will help ensure that the councillor role is accessible as possible to all sections of the community, potentially enhancing the diversity and representativeness of candidates and those elected. A parental leave policy provides anyone considering standing for election with clarity on what to expect in the event of the birth or adoption of a child during their term of office. This complements and enhances wider activity being undertaken by many Councils to encourage people from all walks of life to consider standing for election, such as the ESCC 'Be a Councillor' campaign.

1.3 Employees have defined statutory rights in relation to maternity, paternity, adoption and shared parental leave and pay, supplemented where applicable by any occupational schemes such as that provided by ESCC to its employees. However, there are currently no equivalent legal rights for elected representatives, hence the need for Councils to make local arrangements on a voluntary basis which are applicable to the position of councillors who hold elected office rather than employment.

2 Supporting information

2.1 The County Council does not currently have in place a defined approach to parental leave for councillors, albeit that informal arrangements have been made as required in any instances where a Member has required a period of leave from their normal duties as a councillor or where there has been a councillor vacancy.

2.2 Following review of a range of policies in place at other local authorities and information provided by the Local Government Association (LGA), it is proposed that ESCC adopts the model policy provided by the LGA - attached at appendix 1. This policy has been adopted or adapted by a number of other authorities and the LGA indicates that it has taken legal advice on the policy, and that it conforms with current requirements.

2.3 The policy is underpinned by recognition that the position of elected councillors is different to that of employees. Subject to continuing to meet certain minimum criteria, councillors are entitled to continue to hold elected office and to continue to receive their basic allowance. The policy therefore focuses on providing clarity on expected leave periods, and arrangements in relation to special responsibilities.

2.4 The LGA policy does not provide any guidance on cover for local Member responsibilities, for example casework. Following consultation with the Member Reference Group an addition (section 5 of appendix 1) has been made to the standard LGA policy to reference the need for a Member planning to take a period of leave to make appropriate arrangements for an alternative Member point of contact for residents in their division. This recognises that the specific arrangements will be dependent on individual circumstances and that flexibility should be retained.

3 Conclusion and Reason for Recommendation

3.1 Adoption of a parental leave policy will provide clarity to Members, candidates for election and those considering standing for election on what to expect in the event of the birth or adoption of a child during a councillor's term of office. The committee is recommended to recommend to the Council the adoption of the parental leave policy attached at appendix 1.

PHILIP BAKER
Assistant Chief Executive

Contact Officer:
Claire Lee, Head of Policy
Tel: 07523 930526

Member Parental Leave Policy

The objective of this policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption and that reasonable and adequate arrangements are in place to provide cover for any special responsibilities during any period of leave taken.

1. Leave Periods

1.1 Members giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks by agreement if required.

1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

1.3 In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52 week entitlement.

1.4 Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

1.5 A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

1.6 Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

1.7 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, with the option to extend up to 52 weeks by agreement if required.

1.8 Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.

1.9 Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

1.10 Any Member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

2. Basic Allowance

2.1 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

3. Special Responsibility Allowances

3.1 Members entitled to a Special Responsibility Allowance (SRA) shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

3.2 Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.

3.3 The payment of SRAs, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the Member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six month period.

3.4 Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one SRA shall apply.

3.5 Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

4. Resigning from Office and Elections

4.1 If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

4.2 If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.

5. Local Member responsibilities [ESCC addition]

5.1 Any Member intending to take maternity, paternity, shared parental or adoption leave should ensure that they make arrangements for an alternative Member point of contact to be available to local residents in their division for the purposes of casework and other local Member enquiries.