

Parental Leave Policies (Councillors) – Notice of Motion

Report of the County Solicitor

1. Introduction

1.1 The Notice of Motion submitted to the County Council by the Councillor shown below have been referred to this Committee in accordance with Standing Order 8(2) - for consideration and to make a recommendation back to the Council.

1.2 A factual 'Briefing Note/Position Statement' prepared by the County Solicitor is included below to facilitate the Committees discussion of the Notice of Motion.

2. Notice of Motion on Parental Leave Policies (Councillors) (Councillor Atkinson)

This Council notes:

- *That analysis of the 2018 Local Election results by the Fawcett Society found that only 34% of councillors in England are women, up 1% since 2017.*
- *That across England, Labour has improved its representation of women, with 45% women compared with 40% in 2014, and the Liberal Democrat's representation is up from 34% to 36% whilst the Conservative Party saw a fall from 31% to 29% in the share of its councillors who are female;*
- *That as of the 2017 DCC elections, only 18 out of 60 county councillors are women. Only three women were under 45 years of age*
- *As of summer 2017, only 4% of councils in England and Wales have parental leave policies, according to research by the Fawcett Society;*
- *That the role of a councillor should be open to all, regardless of their age or background, and that introducing a parental leave policy is a step towards encouraging a wider range of people to become councillors, and is also a step to encourage existing councillors who may want to have more children to remain as councillors;*
- *That parental leave must apply to parents regardless of their gender, and that it should also cover adoption and fostering leave to support those who choose to adopt and foster.*
- *As there are County Council elections in 2021 the Council needs to review its policies with a view to encouraging prospective people who may be interested in standing for the County with a view to improving a wider range of people of younger age and gender to better reflect the Devon Community*

This Council resolves:

- *To refer to the Procedures Committee this motion to consider whether to recommend the adoption of the attached parental leave policy (see below) to give all councillors an entitlement to parental leave after giving birth or adopting and fostering;*
- *To ensure that councillors with children and other caring commitments are supported as appropriate;*

Parental Leave Policy for Councils **Introduction**

This Policy sets out Members' entitlement to maternity, paternity, shared parental and adoption leave and relevant allowances.

The objective of the policy is to ensure that insofar as possible Members are able 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 provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

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.

There is at present no legal right to parental leave of any kind for people in elected public office. This applies to MPs as well as Councillors, and has been the subject of lengthy debate. Legal advice has been taken on these policies, and they conform with current requirements.

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 fostering/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 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 Special Responsibility Allowances, 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 Special Responsibility Allowances 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.

3. Briefing Note / Position Statement from the County Solicitor

There is currently no legal right to parental leave of any kind for people elected to public office and Devon County Council doesn't currently have a policy to support Parental Leave for Councillors. There are, of course, policies in place for staff but employees hold a very different position within the organisation to that of elected Members.

Members might be aware that in Spring 2018, the Local Government Association (LGA) Labour Women's Taskforce was established to look at the challenges faced by women in Local Government, and what could be done to support women who wanted to become Councillors and those who are already Councillors. They drafted a model policy and also a Motion to take through Council's urging them to adopt the policy as soon as possible.

In addition, the Council has recently had sight of a letter from the Right Hon. Brandon Lewis MP (Chair of the Conservative Party) regarding the involvement of women both within the party and in Local Government and the importance of breaking down barriers where possible. In that vein, they asked that in order to progress equality and opportunity in public life, that a parental leave policy for Councillors be introduced in Council's.

Nationally, the position is that in 2017, 4% of local authorities had a parental leave policy in place for Councillors (Fawcett Society), and in all other Councils, arrangements for leave after the birth of a child is discretionary, based on arrangements with the Leader at the time.

There are a number of issues to consider as part of this debate and of course any potential changes to the scheme of allowances, which of course would require Council endorsement.

One of the issues raised at times of elections and in exit interviews and nationally is the importance of attracting and retaining Councillors. In Devon, the Council's Independent Remuneration Panel has been concerned over the gender / age split of the Councils elected Member profile and feel the profile demonstrates the need for a scheme of allowances to attract a more diverse Council for the future, to represent the diversity of communities that make up Devon both now and also into the future.

On that basis, their review of the scheme in 2018 recommended changes to the dependent carers allowances to change the way in which carers allowances were paid so they better reflected the charging practices of many nursery's and child minders. Members of the Procedures Committee were supportive of the aims of the Panel's recommendations to support those who had carer responsibilities.

The Independent Remuneration Panel may well wish to be involved in any debate or consideration of a parental leave policy in view their key role in assessing the allowances scheme for being an elected Councillor. For example, the Panel considered the national publication, the 'Voice of the Councillor 2017' that considered barriers to standing for public office for women, ethnic minority and young candidates.

There will be financial implications relating to the adoption of a parental leave policy, particular if the policy allows any Members taking parental leave to receive not only their basic allowance (as would always be the case), but also their Special Responsibility Allowance (SRA) in full whilst on their period of leave. Provision would have to be made for a replacement Member be appointed to cover a period of leave who would also be entitled to receive an SRA on a pro-rata basis for the period of the temporary appointment.

The Council would also need to consider the legal duty under Section 85 of the Local Government Act 1972 and whether Elected Members taking maternity, shared parental or adoption leave retain their legal duty to attend a meeting of Full Council within a consecutive six month period unless the reason for the failure to attend is due to some reason approved by Full Council before the expiration of that six month period. The model policy however suggests that Councillors will of course have to adhere to this legal requirement.

As part of any work going forward, it could be helpful to benchmark with other Authorities who have implemented this policy and of course ask the Independent Remuneration Panel for their views on this.

This Report has no specific equality, environmental, legal or public health implications that will not be assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements in relation to the matters referred to herein.

JAN SHADBOLT

[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

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<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
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Nil