

**Report To:** Democratic Services Committee

**Date of Meeting:** 28 November 2014

**Lead Member/Officer:** Gary Williams, Head of Legal, HR and Democratic Services

**Title:** The Family Absence for Members of Local Authorities (Wales) Regulations 2013

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**1. What is the report about?**

The report is about the Family Absence for Members of Local Authorities (Wales) Regulations 2013 which came into force on 5<sup>th</sup> December 2013 and accompanying Statutory Guidance. Under the Regulations, the Council is required to make Standing Orders to give effect to the prescribed conditions to be satisfied for a member to be entitled to a period of family absence.

**2. What is the reason for making this report?**

To inform the Committee on these changes and discuss the amendments to the Council's Standing Orders that are required prior to their agreement by Council.

**3. What are the recommendations?**

That the Democratic Services Committee endorses the following recommendations to be made to full Council:

- (i) That the Monitoring Officer be given delegated authority to make such changes to the Council's Constitution and Standing Orders as are necessary to give effect to the requirements of the Measure and Regulations (see appendix 1)
- (ii) That a politically balanced panel of 3 members be drawn from the membership of the Democratic Services Committee to determine any appeals or complaints regarding a refusal by the Head of Democratic Services to grant a period of family absence.

**4. Report details.**

4.1 Part 2 of the Local Government (Wales) Measure 2011 ("the Measure") introduces an entitlement to a period of family absence for members of county and county borough councils, during which a member is entitled to be absent from authority meetings. Regulations prescribe that the Head of Democratic Services (Denbighshire's Democratic Services Manager) will take the responsibility for dealing with notifications of family absence.

4.2 Section 23 allows members who are entitled to a period of family absence to be absent from meetings of the authority, including executive meetings where applicable, during periods of family absence, in accord with regulations made under this Part of the Measure.

The Measure creates an entitlement to five types of family absence:

- maternity absence
- newborn absence
- adopter's absence
- new adoption absence
- parental absence

Members are entitled to these types of absence provided they satisfy conditions prescribed in Regulations made under the Measure.

4.3 The Family Absence for Members of Local Authorities (Wales) Regulations 2013 are available at <http://www.legislation.gov.uk/wsi/2013/2901/contents/made?regulation-14-a> and prescribe the conditions which Members must satisfy in order to be entitled to a period of family absence. They also make provision about the extent of the various periods of absence, the cancellation of them and the bringing of an absence to an end. The Regulations are divided into six parts.

- Part 1 of the Regulations relates to maternity absence. This part provides for a Member to have up to 26 weeks maternity absence and sets out the conditions which must be satisfied in order that the Member qualifies for that period of absence.
- Part 2 relates to newborn absence and provides for a Member to be entitled to 2 consecutive weeks of newborn absence. Part 2 also sets out the conditions which must be satisfied in order that a Member be entitled to such absence.
- Part 3 of the Regulations provide for a Member to have adopter's absence. The extent of entitlement to adopter's absence is 2 consecutive weeks. Part 3 also sets out the conditions which must be satisfied in order for a Member to qualify for adopter's absence.
- Part 4 of the Regulations deals with new adoption absence. A Member is entitled to 2 consecutive weeks of new adoption absence. Part 4 also sets out the conditions which must be satisfied in order that a Member may qualify for new adoption absence.
- Part 5 of the Regulations provide for parental absence. Parental absence is available to a Member who becomes responsible for a child who was previously the responsibility of someone else. Parental absence is available for a period of up to 3 months. Part 5 of the Regulations set out the conditions to be satisfied for a Member to be entitled to a period of parental absence.
- Part 6 of the Regulations make provision for record keeping, duties to inform, cancellation of family absence by the local authority, complaints and Standing Orders relating to Members whilst taking a period of family absence.

4.4 The Welsh Government has issued Statutory Guidance in relation to the Regulations which is attached as Appendix 2.

- 4.5 The Council will need to consider the requirements of the Regulations and Guidance and review its Constitution accordingly to take account of these requirements.

#### Members' Salaries

- 4.6 The Independent Remuneration Panel for Wales produced a supplementary report in March 2014 in respect of family absence of elected members. The Panel's determinations which are relevant to Denbighshire are shown below.
- i) A member is entitled to retain a basic salary when taking family absence under the regulations irrespective of the attendance record immediately preceding the commencement of the family absence.
  - ii) When a senior salary holder is eligible for family absence, he/she will be able to continue to receive the salary for the duration of the absence. It is a matter for the authority to decide whether or not to make a substitute appointment.
  - iii) The member substituting for a senior salary holder taking family absence will be eligible to be paid a senior salary, if the authority so decides.
  - iv) If the paid substitution results in the authority exceeding the maximum number of senior salaries which relates to it, as set out in the Panel's Annual Report, an addition to the maximum will be allowed for the duration of the substitution.
  - v) When an authority agrees a paid 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 the substitution.
  - vi) The schedule of remuneration must be amended to reflect the implication of the family absence.

#### **5. How does the decision contribute to the Corporate Priorities?**

The contents of this report do not impact directly on the Corporate Priorities.

#### **6. What will it cost and how will it affect other services?**

There is no direct cost associated with this report unless substitutes for senior salary holders were paid a senior salary allowance.

#### **7. What consultations have been carried out and has an Equality Impact Assessment Screening been undertaken?**

There is no requirement for an Equalities Impact Assessment.

#### **8. Chief Finance Officer Statement**

Not obtained for this report.

#### **9. What risks are there and is there anything we can do to reduce them?**

If the Council does not introduce appropriate measures for recording periods of family absence and amending the Constitution to reflect the various entitlements to

family absence there is a risk that the Council will not be wholly compliant with Local Government Wales Measure 2011.

#### **10. Power to make the Decision**

The Local Government (Wales) Measure 2011

The Family Absence for Members of Local Authorities (Wales) Regulations 2013