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Date: **10 June 2021**
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CONSTITUTIONAL REVIEW WORKING PARTY

15 JUNE 2021

A meeting of the Constitutional Review Working Party will be held at **5.30 pm on Tuesday, 15 June 2021** in the Council Chamber, Cecil Street, Margate, Kent.

Membership:

Independent Members: Peter Tucker (Chair) and Lee Wellbrook (Vice-Chair);

Councillors: Ashbee, Hopkinson, Rusiecki and Hart

SUPPLEMENTARY AGENDA

Item

Subject

No

4. **DRAFT MEMBER PARENTAL LEAVE POLICY** (Pages 3 - 12)

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Draft Member Parental Leave Policy

Constitutional Review Working Party 15 June 2021

Report Author	Committee Service Manager
Portfolio Holder	Councillor Ashbee, Leader of Council
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Ward:	Thanet Wide

Executive Summary:

Members are being requested to consider and recommend for adoption a parental leave policy for Members. The agreement to have this policy in place would be on a voluntary basis as currently there were no legal obligations for the council to have such a policy.

Recommendation(s):

Members are being asked the following:

1. To discuss and agree the draft Member Parental Policy and recommend the draft policy to the Standards Committee for onward submission to Full Council.

Corporate Implications

Financial and Value for Money

Adoption of Member Parental Leave Policy by the council could lead to additional costs that would have to be met from the Council's annual budget for Member Allowances. This is with particular reference to the Special Responsibility Allowance (SRA) budget, which would need to be flexible enough to accommodate parental leave uptake by councillors who occupy roles that attract an SRA. In this instance additional costs would be incurred when members in receipt of an SRA receive parental leave pay equivalent to the SRA for a limited time as per the policy, whilst an SRA payment is also made to Cllr(s) covering the role during the period of parental leave.

Legal

Adoption of a Member Parental Leave Policy would be in keeping with the Public Sector Equality Duty (section 149 of the Equality Act 2010) requirement to eliminate unlawful discrimination and in this case would promote equality of opportunity towards Members who have parental responsibilities which require them to take time off.

Corporate

In adopting this policy proposal, the Council would need to make provisions in the annual budget for any expenditure that would fall under parental leave.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

This policy proposal has positive implications on the Council's approach to fulfilling its Public Sector Equality Duty under Section 149 of the Equality Act 2010. This is because these proposals would afford Members who have parental responsibility to continue to perform their roles as elected Members of the Council without the fear that they would lose their roles as lead councillors and the allowances that go with those roles when the need arises for them to take up parental leave. This policy would provide equal treatment of councillors with parental responsibilities and those Members without such responsibilities.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- Communities

1.0 Introduction and Background

1.1 In line with an emerging local government policy trend that has seen some local councils develop and adopt parental leave policies for Members, this report proposes a similar approach for consideration by Thanet District Council.

1.2 Whilst there is no legal legislative requirement for the council to adopt the parental leave policy, having such a policy would be a progressive approach and would mean Thanet District Council would be at the forefront of councils to adopt such a policy.

- 1.3 The purpose of this policy is to confirm Thanet District Council's commitment to creating an environment that encourages any individual eligible to stand for election to feel that they are able to do so irrespective of their family commitments. Having such a policy would remove a perceived barrier and promote equality of opportunity among those people with parenting responsibilities. It would encourage a wider range of people to choose to become district councillors.
- 1.4 The policy would also ensure that those who are in their current roles as councillors do not feel constrained by the Section 85 of the Local Government Act 1972 (As amended) which requires that councillors attend at least one meeting of the council in any six month period. As currently implemented, this requirement applies to all councillors, including during times of parental leave.
- 1.5 According to an analysis done by the Fawcett Society (2017 report):
- Just 4% of local councils in England currently have a formal Parental Leave policy in place for elected representatives. This had improved to 7% in 2019;
 - 20 councils (8%) have a maternity policy in place for their senior cabinet level councillors;
 - It identified that one third of female councillors of child-bearing age found a lack of maternity leave to be a barrier to fulfilling their role;
 - Fewer than 1 in 5 council leaders are women;
 - From 1997 to 2017 female councillor representation only rose by from 27 per cent to 32 percent whilst the female proportion of the House of Commons rose 14 percentage points to 32 per cent. (Fawcett Society, 10 March 2017, <https://www.fawcettsociety.org.uk/local-government-commission>)

2.0 The Current Situation

- 2.1 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.
- 2.2 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.
- 2.3 There is at present no legal right to parental leave of any kind for people in elected public office. This applies to councillors as well as Members of Parliament, and the issue has been the subject of lengthy debates. These policies can therefore only currently be implemented on a voluntary basis.
- 2.4 However it is worth noting that some councils across the country are being encouraged to adopt and implement a parental leave policy. Discussions are ongoing about changing the law to enable compulsory provision, but until then the Local Government Association guide remains what constitutes best practice. Councils are being strongly advised to consider adopting a Member parental leave policy.

- 2.5 Councils that have introduced Parental Leave Policy for Members include Birmingham City Council in 2018, Sunderland City Council (November 2018) and Newcastle City Council (January 2019).

3.0 Main Aspects of the Draft Policy

- 3.1 In the proposed policy Members who are expecting a child would automatically be entitled to parental leave on the conditions set out in the draft parental leave policy document at Annex 1 to the report.
- 3.2 The Member would continue to receive their Basic Member Allowance and where applicable a Special Responsibility Allowance on the terms spelt out at para 4.1 in the Policy document (Annex 1 to the report). Any replacement (or substitute) post holder whose role attracts an SRA, would be paid on a pro rata basis.
- 3.3 The provisions of the policy would also mean that the Member could be absent from Council meetings for up to six months or a longer period if agreed without triggering the legal obligation to attend a council meeting or risk being disqualified from being a councillor as required under the Local Government Act 1972 (as amended).
- 3.4 There are three options for payment of members' allowances and special responsibility allowances during the period of parental leave, which members are asked to consider.

4.0 Options

- 4.1 Members could agree the draft Member Parental Policy with any amendments as they consider necessary or;
- 4.2 Members could reject the draft proposal.

5.0 Next Steps

- 5.1 Once agreed by the Constitutional Review Working Party, the draft policy would be recommended to Standards for consideration and onward submission to Full Council.
- 5.2 If agreed by Council the Member Parental Policy will be added to the Council's Constitution and would become effective from the date of the Full council decision.

Contact Officer: *(Charles Hungwe, Senior Democratic Services Officer, Tel: 01843 577186)*
Reporting to: *(Nick Hughes, Committee Services Manager)*

Annex List

Annex 1: Draft Member Parental Leave Policy

Background Papers

None

Corporate Consultation

Finance: *Chris Blundell (Director of Finance)*

Legal: *Estelle Culligan (Director of Law and Democracy)*

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DRAFT MEMBER PARENTAL LEAVE POLICY

1.0 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. *Council agreed on XX XX 2021 that any Member on maternity, paternity, shared parental or adoption leave can have an extended leave of absence during the period of their maternity, shared parental or adoption leave. This council resolution enables the Member to remain compliant to the legal duty to attend meetings under the Local Government Act 1972 (as amended) when on any types of the parental leave stated above of up to six months or more as is appropriate.*

Agenda Item 4

Annex 1

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.

2.0 Basic Allowance

2.1 All Members shall continue to receive their Basic Allowance in accordance with the rules on Payment in section 4 below whilst on maternity, paternity or adoption leave.

3.0 Special Responsibility Allowances

3.1 Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in accordance with section 4 below, 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.

4.0 Parental Leave Pay

To be discussed:

Options include:

Option 1 (This mirrors the provision for staff, but NB that members are not currently entitled to statutory maternity pay)

4.1 Members are entitled on a sliding scale to:

- 10 weeks at 90% of average weekly earnings (Member Allowances and SRAs where applicable), followed by:
- 16 weeks at 50% of normal earnings, followed by unpaid leave for any additional leave agreed up to 52 weeks.
- This is a payment on a sliding scale for 6 months.

Option 2 (This is in line with the current policy for MPs)

4.1 6 months full pay of Member Allowance and SRA where applicable, with any remaining leave being unpaid

Option 3 (This is in line with the model policy for local government councillors provided on the LGA website)

4.2 Receipt of full pay of Members Allowance and SRA where applicable throughout the whole of the leave, whether 6 months or any additional leave up to 52 weeks. NB that this is more generous than the arrangements for employees.

5.0 Resigning from Office and Elections

5.1 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.

5.2 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.

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