

CONSTITUTION COMMITTEE

Report from the meeting held on 30 January 2020

1. MOTION 837 - PARENTAL LEAVE FOR COUNCILLORS

The Committee was reminded that the item related to a motion that was passed by full Council in October 2019 and after consideration at the last Committee meeting, officers were asked to draft a policy that was as close as possible to the existing employee arrangements at Gloucestershire County Council.

It was pointed out that 2.1 and 2.3 of the report, which stated 'by agreement with the relevant Group Leader' would need to be amended to take account of the Group Leader being the member requesting the parental leave or councillors who did not have a Group Leader.

The suggested amendment was as follows:

- 2.1 *Members giving birth are entitled to up to six months' maternity leave from the due date, with the option to extend up to 52 weeks by agreement with the relevant Group Leader or, where a member is a Group Leader or is not a member of a political group, the Chair of Council in consultation with the Monitoring Officer.*
- 2.3 *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 with the relevant Group Leader or, where a member is a Group Leader or is not a member of a political group, the Chair of Council in consultation with the Monitoring Officer.*

A third amendment was requested as follows:

- 1.2 *The objective of the policy is to ensure that members are able to take appropriate leave at the time of the child's birth or adoption, 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.*

RESOLVED TO RECOMMEND TO THE COUNCIL to adopt the Parental Leave Policy for Councillors (as amended) at Appendix A to the report.

2. HEALTH AND WELLBEING BOARD TERMS OF REFERENCE

The Chair invited Cllr Iain Dobie to address the Committee on this item. The Committee heard that the Health and Wellbeing Board's decisions had a large impact on the communities it served and it influenced a considerable amount of money through its decision making. In light of this, it was suggested that the Council should have appropriate democratic oversight in the form of scrutiny over the Board's decision making.

Members were referred to a draft form of words on the Committee's agenda and officers confirmed that this proposal would not be prevented by the Board's legislative provisions.

The Chair believed that a sensible approach would be to request feedback from the Board and the relevant Scrutiny Committees on the principle and practicalities of this proposal before bringing it back to the Constitution Committee.

The Committee agreed this approach, with the added request that it be considered before the annual meeting of full Council on 12 May 2020.

3. CRITERIA FOR SUBMITTING MOTIONS

The Committee were informed that the report outlined findings from other county council's on their approach to submitting motions. The research showed that GCC's existing approach was not out of kilter with others but it allowed a wider scope than some.

As the original proposer of this item at the last Constitution Committee, the Chair also invited Cllr Stowe to put forward their proposal. Members were given a print out of the proposed amendment to the existing Constitution shown in Appendix B.

Following a discussion it was agreed that wording would be added under the list of implications to ensure that all accompanying notes take account of the Council's agreed policy framework.

Through discussions it was noted that there may be some teething issues on implementation and therefore, it would be sensible to have a six month bedding in period to understand any implications. Members requested that this was added as a recommendation.

RESOLVED TO RECOMMEND TO THE COUNCIL that the proposed amendment outlined in Appendix B be implemented and reviewed after 6 months.

4. PROCEDURE FOR MOTIONS WITHOUT NOTICE

The Committee were reminded that this item was as a result of a request during a full Council meeting to make the process for motions without notice clearer in the Constitution. The flow diagram being presented captured the current procedure included in the Constitution.

As the Constitution was silent on who should be selected to speak against a procedural motion, the Committee felt it would be clearer to state who it should be. The Chair believed that the fairest approach would be to provide the proposer of the original motion an opportunity to respond.

The Monitoring Officer was requested to draft a suitable form of words which could be ratified by full Council.

RESOLVED TO RECOMMEND TO THE COUNCIL that the changes to the Constitution in respect of Motions without Notice be ratified, subject to the amended wording.

5. REVIEW OF THE CONSTITUTION

Members were advised that officers intended to carry out an end to end review of the Constitution to make sure that it is up to date with legislation, check for any anomalies or contradictions and also update financial procedures.

Any changes made would be brought back to this Committee for members to understand and request amendments to before recommending ratification to Council.

Cllr Mark Hawthorne MBE
Chair of the Constitution Committee

Constitution Committee – 30 January 2020

Parental leave for councillors

A Background

A1 At the last meeting of the Constitution Committee members considered the motion passed by the Council in May 2019:

This Council notes

- a) *The under-representation of women at all levels of politics*
- b) *Nationally only 4% of councils have a policy on parental leave for councillors.*
- c) *Whilst proper parental leave is important to all parents, it has been particularly highlighted as an issue affecting women's participation in local government.*

Consequently this Council resolves to task the Constitution Committee to develop policies and, if necessary, constitutional amendments, to give councillors similar rights to parental and adoptive leave as members of staff.

A2 There is no legal right to parental leave for people in elected public office. This applies to MPs as well as councillors and has been the subject of lengthy debate. Policies can therefore only currently be implemented on a voluntary basis.

A3 The Council's Independent Remuneration Panel (IRP) has indicated support for the development of a local scheme for elected members.

A4 At the meeting on 14 October 2019, members requested that officers develop a policy that was as close as possible to the arrangements in place for GCC staff. The proposed policy follows the provisions of the staff scheme but recognises that members are not employees and have no entitlement to statutory maternity pay.

B Proposed policy

1 Introduction

1.1 This policy sets out members' entitlement to maternity and adoption leave allowances.

- 1.2 The objective of the policy is to ensure that members are able to take appropriate leave at the time of **the child's** birth or adoption, 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.
- 1.3 Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of councillors. It will also assist with retaining experienced councillors, particularly women, and making public office more accessible to individuals who might otherwise feel excluded.

2 Leave periods

- 2.1 Members giving birth are entitled to up to six months' maternity leave from the due date, with the option to extend up to 52 weeks by agreement with the relevant Group Leader or, where a member is a Group Leader or is not a member of a political group, the Chair of Council in consultation with the Monitoring Officer.
- 2.2 Members are entitled to take two weeks' paternity leave if they are the biological father or nominated carer of their partner/spouse following birth.
- 2.3 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 with the relevant Group Leader or, where a member is a Group Leader or is not a member of a political group, the Chair of Council in consultation with the Monitoring Officer.
- 2.4 Any member who takes leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless Council agrees to an extended leave of absence prior to the expiration of that six month period. The normal expectation is that Council will approve an absence period of more than six months.
- 2.5 Any member intending to take 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.
- 2.6 Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

3 Basic Allowance

- 3.1 All Members shall continue to receive their Basic Allowance in full whilst on leave.

4 Special Responsibility Allowances

- 4.1 In line with the GCC staff scheme, members entitled to a Special Responsibility Allowance (SRA) shall receive the following:
- Weeks 1 to 6 – 90% of SRA
 - Weeks 7 to 18 – 50% of SRA
 - Weeks 19 to 52 – no payment but retain the right to return to same position or an alternative position with equivalent status and remuneration.
- 4.2 SRA for up to two weeks' paternity leave will be paid at the full rate.
- 4.3 In the event of the political control of the Council changing and a member no longer holds the same position, the member's leave will end at that time.
- 4.4 Where a replacement is appointed to cover the period of absence that member shall receive an SRA for the period of the temporary appointment.

5 Resigning from office and elections

- 5.1 If a member decides not to return at the end of their leave they must notify the Council at the earliest opportunity. All allowances will cease from the effective resignation date.
- 5.2 If an election is held during the member's 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 have left office.

6 Representative role

- 6.1 Wherever possible, political groups will put arrangements in place to help with casework and related issues.
- 6.2 Democratic Services will provide help and advice where appropriate, and arrange for officers in service areas to respond to enquiries. For example, highways officers will be able to deal with enquiries relating to the condition of local roads or safety concerns.

7 Review

- 7.1 This policy will be reviewed to ensure that it continues to reflect the provisions in the relevant policies for Council staff.
- 7.2 Should any dispute arise over the interpretation of this policy, reference will be to the relevant GCC staff policies and the Monitoring Officer, in consultation with the Section 151 Chief Finance Officer, will determine the position.

C Recommendation

- C1 To recommend that the Council adopt the proposed scheme and include it in Part 5 of the Council Constitution.

Simon Harper
Head of Democratic Services

10. NOTICES OF MOTION

10.1 Notice

Except for motions which can be moved without notice under these Procedural Standing Orders and unless the Chair is of the opinion that the motion should be considered as a matter of urgency, written notice of motions for discussion at full Council meetings must be delivered to the Chief Executive not later than 10 a.m. five eight clear working days before the date of the meeting. Motions are not considered at the first annual meeting of a new Council. The Chief Executive will maintain a record of all motions submitted and the public may inspect that record except in respect of motions considered in the absence of the press and public.

10.2 Where the Chief Executive receives a motion, they will, where practicable, prepare a short accompanying note in respect of the proposals it contains setting out:

- a) Any implications for climate change
- b) Any financial or resource implications
- c) Any implications for human rights
- d) Any other pertinent factors the Chief Executive might wish to include in accordance with the Council's agreed policy framework.

| 10.23 Motion set out in the agenda for a meeting

10.23.1 Motions for which proper notice has been given under this Procedural Standing Order will be listed on the agenda in the order in which they are received;

10.23.2 Unless the Chair, in consultation with Group Leaders, decides otherwise, subject to Procedural Standing Order 10.8, there will be no time restrictions on motions from each political group (for the purposes of this Procedural Standing Order 10.2.2 only, all independent Councillors are considered as a political group);

10.23.3 If the Chief Executive considers that such a motion qualifies to be considered by the full Council in the absence of the press and public, the Chief Executive may decide appropriate agenda wording to avoid public disclosure of confidential or exempt information.

| 10.34 Scope

Motions must be about matters which are related to the responsibilities of the Council or which affect the County. The Chair's decision on whether or not a motion is relevant to the responsibilities of Council will be final.

| 10.45 Subject to Procedural Standing Order 10.9, unless the Chair, in consultation with Group Leaders, decides otherwise a motion that has been properly notified and

which has been moved and seconded will be discussed by full Council at the meeting for which notice has been given (excluding the first annual meeting of a new Council).

- | 10.56 If the motion relates to an executive function and whether or not it is discussed at full Council at that time, full Council may:
 - | 10.56.1 Refer the motion to Cabinet who will consider the matter in the light of any views expressed by the full Council and advise the full Council of its decision; or
 - | 10.56.2 Refer the motion to the relevant Scrutiny Committee who will consider the matter in the light of any views expressed by the full Council. Following consideration, the Scrutiny Committee will refer the motion to Cabinet, Leader of the Council or Cabinet Member who will consider the matter in the light of any views expressed by full Council and the Scrutiny Committee and advise the full Council of its or their decision.
- | 10.67 If a motion is referred by full Council to the Cabinet or another Council body (or both under Procedural Standing Order 10.5.2) the proposer and seconder of the motion may attend the meeting of the Cabinet or other Council body (or both) and speak to the motion but not vote unless a Member of the Cabinet or other Council body.
- | 10.78 If a motion is referred by full Council to the Leader of the Council or Cabinet Member (either directly or via a Scrutiny Committee under Procedural Standing Order 10.5.2) the proposer and seconder of the motion may attend the meeting of the Scrutiny meeting and speak to the motion but not vote (unless a Member of the Scrutiny meeting) and/or submit in writing to the Leader of the Council or Cabinet Member, their views on the motion.
- | 10.89 The total period of time spent on motions on the day of a meeting shall not exceed two hours. However, debate on motions may be extended beyond the two hour limit to allow those members who have indicated to the Chair, before the end of the two hour period, their intention to speak on the motion being debated at that time. The mover of the motion will then have the opportunity to sum up and the vote will take place. This Procedural Standing Order may not be suspended.
- | 10.910 In the event a motion has not been discussed at the meeting for which notice has been given, that notice of motion shall then be void.