

Meeting of:	<b>Democratic Services Committee</b>
Date of Meeting:	<b>Monday, 25 July 2022</b>
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	<b>Appointment of Democratic Services Sub-Committee: Family Absence for Elected Members</b>
Purpose of Report:	To apprise the Committee of the role of the Democratic Services Sub-Committee
Report Owner:	Head of Democratic Services
Responsible Officer:	J. Rees, Head of Democratic Services
Elected Member and Officer Consultation:	This is an internal matter and, as such, no consultation has been necessary
Policy Framework:	This is a matter for Full Council
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>To ensure the Council meets the requirements of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 as amended by the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021.</li> </ul>	

## **Recommendations**

1. That the Democratic Services Sub-Committee, with the following membership and Terms of Reference, be appointed:
  - Members (3) – one Member from each of the Labour, Conservative and Plaid Cymru Groups;
  - Terms of Reference

To hear and determine any complaints from Members regarding a refusal by the Head of Democratic Services to grant family absence under the Family Absence for Elected Members of Local Authorities (Wales) Regulations 2013 as amended by the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021.

2. That the Committee note the provisions of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 as amended by the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021 and the statutory obligations imposed on the Council.

## **Reasons for Recommendations**

- 1&2. To ensure the Council meets the requirements of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 as amended by the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021.

### **1. Background**

- 1.1 Part 2 of the Local Government (Wales) Measure 2011 (“the Measure”) introduced an entitlement to a period of family absence for Members of Local Authorities, during which a Member is entitled to be absent from Authority meetings. The entitlement created by the Measure is subject to Members satisfying conditions prescribed by the Welsh Ministers in Regulations. These Regulations were amended from April 2021 to increase the adoption absence period for Local Authority Members from two to twenty six weeks.

### **2. Key Issues for Consideration**

- 2.1 The Family Absence for Members of Local Authorities (Wales) Regulations 2013 (“the Regulations”), drawn up under the powers conferred by Part 2 of the Measure, came into force on 5<sup>th</sup> December, 2013. The Regulations were subsequently amended as indicated above.
- 2.2 There are five types of family absence to which a Member may be entitled under the Measure, subject to compliance with the Regulations:
  - (i) Maternity Absence – for the mother of a child, granted up to a maximum of twenty six weeks;

- (ii) Newborn Absence – for a Member who is either the father of the child or who is married to, the civil partner or the partner of, the child’s mother, but is not the child’s father, for a period of up to two consecutive weeks (N.B. in each case, the Member must have or expect to have, responsibility for the upbringing of the child);
- (iii) Adopter’s Absence (Revised Provision) – for the adopter of a child, for a period of up to twenty six consecutive weeks;
- (iv) New Adoption Absence – for the husband or wife, civil partner or partner from an adopter (and who has, or expects to have, the main responsibility [apart from the responsibility of the adopter] for the upbringing of the child), for a period of up to two consecutive weeks; and
- (v) Parental Absence – for a Member who becomes responsible for a child (and does not meet the conditions for Newborn Absence, Adopter’s Absence or New Adoption Absence), for a period of up to three months.

**2.3** The Regulations prescribe the conditions that Members must satisfy to be entitled to a period of family absence, make provisions regarding the duration, start, cancellation and end of a period of family absence, and set out an administrative process for dealing with family absence. Statutory Guidance on Family Absence (“the Guidance” was also issued under section 30 of the Measure), to which the Council is required to have regard.

**2.4** The Council has granted delegated powers to the Head of Democratic Services to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013 as amended by the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021 (“the 2021 Regulations”).

**2.5** The role and function of the Chair of the Council in these matters is as set out in Section 4.31 of the Council’s Constitution.

**2.6** The administrative process set by the Regulations provide:

- (i) That the Member must give written notice to the Head of Democratic Services of his/her intention to take family absence and the intended start date (and any change or cancellation of the period of absence);
- (ii) That the Head of Democratic Services must maintain a record (for at least 10 years) of all notifications and periods of family absence taken and must inform the Chair of the Council, the Chair of the Democratic Services Committee, and the Leaders of each political group of the Authority (the Guidance indicates that the Head of Democratic Services is also free to inform any other persons felt necessary, e.g. fellow Ward Members);
- (iii) If the Head of Democratic Services informs the Authority that he/she has reasonable grounds to suspect that a Member may not be entitled to the family absence notified, the Local Authority may cancel or end the family absence (and if the Member then fails to resume duties, the Local Authority may withhold the Member’s remuneration);

- (iv) For the option of a Member to continue to attend particular meetings or perform particular duties during a period of maternity or parental absence, subject to permission from the Chair of the Council (who must inform political Group Leaders before granting permission). This might include, for example, where the Member has a well-known particular interest in a matter of business or if urgent business affecting their local area is being considered;
  - (v) A requirement for the Council to make provisions regarding the extent of any duties which Members may still be required to perform during a period of family absence;
  - (vi) A Member may complain in writing to the Head of Democratic Services regarding a refusal to grant family absence. Any complaints received must be forwarded by the Head of Democratic Services to the Chair of the Council;
  - (vii) For a requirement for the Council to appoint a Panel (comprising three Members [which cannot include the Chair of the Council]) to hear and determine complaints from Members, the Panel's determination being final; and
  - (viii) For the right for a Member to complain to the Panel against a decision of the Authority that the Member is not entitled to a family absence; and / or against a refusal by the Chair of the Council to grant permission for the Member to continue to attend particular meetings or perform particular duties whilst on family absence.
- 2.7** Council has established a sub-committee of the Democratic Services Committee to hear and determine any complaints from Members regarding a refusal by the Head of Democratic Services to grant family absence. The Regulations require a membership of 3, which in terms of political balance, means a sub-committee comprising 1 Labour, 1 Conservative and 1 Plaid Cymru Member.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Family Absence provisions apply to all Members of the Council, subject to the requirement of the legislation being met.
- 3.2** The provisions contained within the Regulations are intended to reduce any obstacle which might otherwise deter an individual from seeking elected office and enables equal status of Elected Members with employees of the Council.
- 3.3** The Council, at its meeting on 25<sup>th</sup> July, 2021, made the Vale of Glamorgan "Diverse Council" Declaration.

### **4. Climate Change and Nature Implications**

- 4.1** There are no direct implications arising from the report.

## **5. Resources and Legal Considerations**

### **Financial**

**5.1** There are no direct implications arising from the report.

### **Employment**

**5.2** There are no direct implications arising from this report.

### **Legal (Including Equalities)**

**5.3** The Council is required to comply with the provisions of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 and the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021.

## **6. Background Papers**

Local Government (Wales) Measure 2011

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

Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021