



Report of the Presiding Member, Monitoring Officer & Head of Democratic Services

Annual Council - 16 May 2024

Amendments to Council Constitution - Family Absence Procedure Rules

Purpose:	To make amendments to simplify, improve and / or add to the Council Constitution. A decision of Council is required to change the Council Constitution. To amend the Terms of Reference of the Constitution Working Group.
Policy Framework:	Council Constitution.
Consultation:	Access to Services, Finance, Legal.
Recommendation(s):	It is recommended that Council adopts: 1) The Family Absence Procedure Rules be added to the Council Constitution.
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1. Introduction

- 1.1 The Local Government Measure (Wales) 2011 introduced legislation allowing Family Absence for Members of Local Authorities. Statutory Guidance was issued in relation to this aspect of the Measure. The legislation was amended as part of the Local Government & Elections (Wales) Act 2021. There is also the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

- 1.2 This report proposes to add the Family Absence Procedure Rules to the Council Constitution.
- 1.3 The Constitution Working Group at its meeting on 1 May 2024 recommended that the report be supported.

2. Family Absence Procedure Rules

- 2.1 The draft Family Absence Procedure Rules are outlined in **Appendix 1** of this report. The Family Absence Procedure Rules sets out the:
 - i) Different types of family absence.
 - ii) Prescribed Conditions.
 - iii) Requirement for Member to give written notice.
 - iv) Records and notifications of family absence.
 - v) Cancellation of family absence by Council.
 - vi) Members' Right to Appeal against cancellation.
 - vii) Performance of duties - At Member's request.
 - viii) Continuing duties.
 - ix) Members Allowance.

3. Financial Implications

- 3.1 All financial impacts of this report are contained within existing budgets.

4. Legal Implications

- 4.1 There are no further legal implications other than those set out in the report.

5. Integrated Assessment Implications

- 5.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
 - Deliver better outcomes for those people who experience socio-economic disadvantage.
 - Consider opportunities for people to use the Welsh language.
 - Treat the Welsh language no less favourably than English.
 - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

- 5.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 5.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also considers other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 5.4 An IIA screening form has been completed and has determined that a full IIA report will not be required as this is a minor amendment to the Council Constitution.

Background Papers: None

Appendices: Appendix 1. Family Absence Procedure Rules.

Family Absence Procedure Rules

1. Different Types of Family Absence

- 1.1 A Councillor may be entitled to family absence pursuant to the Local Government (Wales) Measure 2011, subject to compliance with the [Family Absence for Members of Local Authorities \(Wales\) Regulations 2013](#) (“the Regulations”), as amended, as follows:
- i) **Maternity Absence** for the mother of a child, granted up to a maximum of 26 weeks.
 - ii) **Newborn Absence** for the parent of a child other than the mother, for a period of up to 2 weeks.
 - iii) **Adopter’s Absence** for the adopter of a child, for a period of up to 26.
 - iv) **New Adoption Absence** for the partner of an adopter, for a period of up to 2 weeks.
 - v) **Parental Absence** for a Councillor 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 3 months.

2. Prescribed Conditions as outlined in the Regulations

- 2.1 The [Regulations](#) prescribe the conditions that Councillors must satisfy to be entitled to each type of family absence, make provisions regarding the durations, start, cancellation and end of periods of family absence, and set out the administrative process for dealing with family absences. A copy of the Regulations can be obtained from the Council’s Head of Democratic Services and must be referred to by any Councillor considering taking family absence.

3. Requirement for Councillor to give Written Notice

- 3.1 A Councillor intending to take family absence is required to give written notice to the Head of Democratic Services, specifying the type of family absence the Councillor intends to take and the intended start date, as well as certain other specified information in respect of types of family absence. Any changes to, or cancellation of, family absence must similarly be notified to the Head of Democratic Services. Councillors should refer to the Regulations for the prescribed information which must be included in the notice, and advice is available in this respect from the Head of Democratic Services.

4. Records and Notification of Family Absence

- 4.1 The Head of Democratic Services will keep a record of all notifications and periods of family absence taken and will inform the Presiding Member (Chair of Council), the Chair of the Democratic Services Committee, and the Leaders of each Political Group, and other recognised Group, of the Authority. The Head of Democratic Services may also inform any other persons, as s/he considers necessary, for example, fellow Ward Councillors.

5. Cancellation of Family Absence by Council (Democratic Services Committee)

- 5.1 If the Head of Democratic Services reasonably suspects that a Councillor may not be entitled to the family absence notified, s/he shall inform the Democratic Services Committee. The Democratic Services Committee may cancel or end a Councillor's family absence if it is of the view that the Councillor is not entitled to such absence in accordance with the Regulations.
- 5.2 In the event of a decision to cancel family absence, the Head of Democratic Services will give written notice to the Councillor concerned setting out the decision to cancel or end the period of family absence, and the date from which the Councillor must return from family absence. If the Councillor then fails to resume duties, the Council may withhold the Councillor's remuneration and take any other appropriate action.

6. Councillors' Right to Appeal against Cancellation

- 6.1 A Councillor may, within 28 days from being notified of a cancellation of family absence, complain in writing to the Head of Democratic Services regarding the cancellation.
- 6.2 The Head of Democratic Services will refer any complaint duly made regarding cancellation to the Presiding Member.
- 6.3 The Councillor's complaint will be considered by the Family Absence Complaints Committee, which may either confirm the decision of the Democratic Services Committee or substitute its own decision as to the Councillor's entitlement to family absence in accordance with the Regulations.

Note: The Committee must consist of 3 Councillors appointed by the Local Authority. The Presiding Member (Chair of Council) may not be appointed to the Family Absence Complaints Committee. The Committee shall be politically balanced.

- 6.4 The decision of the Family Absence Complaints Committee is final.

7. Performance of Duties - At Councillor's request

- 7.1 A Councillor on Maternity Absence or Parental Absence may, subject to Paragraphs 7.2 to 7.5 (inclusive):
- i) Attend particular meetings.
 - ii) Attend particular descriptions of meetings.
 - iii) Perform particular duties.
 - iv) Perform duties of a particular description.
- 7.2 The Councillor must obtain the permission of the Presiding Member (Chair of Council) before attending any meeting or performing any duty.

- 7.3 The Presiding Member will inform the Political Group Leaders before granting permission under Paragraph 7.2.
- 7.4 A Councillor may complain in writing to the Head of Democratic Services regarding a refusal under Paragraph 7.2.
- 7.5 The Family Absence Complaints Committee will determine a complaint made under Paragraph 7.4.
- 7.6 The Family Absence Complaints Committee may:
- i) Confirm the decision of the Presiding Member under Paragraph 7.2; or
 - ii) Substitute its own decision as to the Councillor attending any meeting or performing any duty.

8. Continuing Duties

- 8.1 If a Councillor is on family absence leave and it would be difficult to replace that Councillor on a temporary basis, the Presiding Member (Chair of Council) can request that Councillor to attend a meeting if it might otherwise be inquorate.
- 8.2 A Councillor on family absence is expected to continue to observe and comply with any duties under the Members' Code of Conduct which remain applicable, including the duty to not bring the office of Member or the Council into disrepute (Members' Code, Rule 6(1)(a)), and the duty to not use their position or the resources of the authority improperly or for private advantage (Members' Code, Rule 7).

9. Councillors Allowances

- 9.1 In accordance with the determinations of the Independent Remuneration Panel for Wales, a Councillor on family absence is entitled, for the duration of the absence, to retain a basic salary and any senior salary for which the Councillor is eligible.