

ANGUS COUNCIL

5 DECEMBER 2019

COSLA GUIDANCE ON FAMILY LEAVE FOR COUNCILLORS

REPORT BY SHARON FAULKNER, DIRECTOR OF HR, DIGITAL ENABLEMENT, IT & BUSINESS SUPPORT

ABSTRACT

This report provides details of the terms of the COSLA Guidance on Family Leave for Elected Members; highlights the financial, legal or other implications to the Council of adopting the Guidance; and recommends that the Council should adopt the COSLA Guidance.

1. RECOMMENDATIONS

It is recommended that the Council:

- (i) notes the terms of the COSLA Guidance on Family Leave for Elected Members;
- (ii) notes the financial, legal or other implications to the Council of adopting the Guidance;
- (iii) agree that the Council should adopt the COSLA Guidance;
- (iv) agree that the Special Responsibility Payment is transferred to the individual taking on the associated functions during a Councillor's absence on family leave insofar as this is permitted in accordance with the Local Governance (Scotland) Act 2004 and associated regulations; and
- (v) that HR investigates the extent to which other policies which apply to Council employees may be considered for Elected Members (recognising Elected Members are not employees or workers).

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

2.1 This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Angus is a great place to live, work and visit
- Tackling inequalities

2.2 This report contributes to the following Council priorities:

- We want to maximise inclusion and reduce inequalities

3. BACKGROUND

3.1 Elected Members have no legal right to family leave of any kind. This may discourage people from standing for election or prevent existing Councillors who wish to start a family from continuing in office. On 27 September 2019 the COSLA Leaders' meeting endorsed Guidance for circulation to Scottish local authorities for adoption on a voluntary basis. The Guidance is attached as Appendix 1.

3.2 This Guidance has been created as part of the work being undertaken by COSLA's Barriers to Elected Office Special Interest Group on Family Leave. The aim of this work has been to

remove a barrier to standing or re-standing for elected office for those who may wish to start a family and, as a result, to increase the diversity of elected members. The Guidance has been issued by COSLA for Scottish local authorities to adopt on a voluntary basis

3.3 At the meeting of Council on 17 October 2019, Councillor Davy, seconded by Councillor Lawrie, moved that:-

- (i) the Council asks that the Director of HR, Digital Enablement, IT and Business Support bring a formal report to full Council on 5 December 2019 on the Family Leave Guidance that has been created as part of the work undertaken by COSLA's Barriers to Elected Office Special Interest Group on Family Leave, outlining any financial, legal or other implications;
- (ii) the Council notes that currently elected members have no legal right to parental leave, and notes the guidance is optional across Scottish Local Authorities and aims to reduce barriers for members of the public to stand or re-stand for election;
- (iii) the Council notes the objective of this policy is to ensure that, insofar as possible, elected members can take appropriate leave at the time of birth or adoption, and that both parents are able to take leave and that reasonable and adequate arrangements are in place; and
- (iv) the motion believes Angus Council should be a welcoming local authority for all, and commit to removing barriers for members of the public to stand for election and for elected members to re-stand in the future.

3.4 Having heard from Councillors Davy, Lawrie, Hands, Bell, Boyd and Speed, and the Chief Executive giving an assurance that she would look in to the question of how many Council policies applying to staff would also be applicable to Elected Members, the Council approved the motion and it was resolved accordingly.

4. CURRENT POSITION

4.1 Whilst there is no specific maternity or family leave for Councillors, they currently continue to receive their Basic Allowance during periods of absence of up to six months, and for such longer periods as the Council may determine.

4.2 Councillors are not employees of the Council and are not legally entitled to any family leave. In terms of the Local Government (Scotland) Act 1973, a Councillor must attend at least one meeting in a six month period or they will be deemed to have vacated their role. If a longer period of absence is required, this can be granted by the Council.

5. PROPOSALS

It is proposed that the Council:

- (i) adopt the COSLA Guidance on Family Leave for Elected Members;
- (ii) transfer the payment of the Special Responsibility Allowance to the Councillor taking on the associated functions during a colleague's absence on family leave: and
- (iii) asks HR to investigate the extent to which other policies which apply to Council employees may be considered for Elected Members (recognising Elected Members are not employees or workers) and report in due course.

It should be noted that in order to comply with the Local Governance (Scotland) Act 2004 and associated regulations, it would require Council formally to appoint to the relevant body the individual taking on the associated functions during the time the Councillor is taking family leave and then, if desired and agreed, change that appointment back the original Councillor previously appointed.

6. FINANCIAL IMPLICATIONS

- 6.1 Councillors currently continue to receive their Basic Allowance during periods of absence of up to six months, and for such longer periods as the Council may determine. This position will not change following adoption of the Guidance. The Guidance gives discretion to the Council to manage payment of any Special Responsibility Allowance (SRA) during a period of absence within the terms of the Local Governance (Scotland) Act 2004. Accordingly, it appears that there are no direct resource implications arising as a result of adopting the Guidance.

7. OTHER IMPLICATIONS

- 7.1 There may be a perception that councillors are becoming employees of the Council. However, the COSLA Guidance specifically states that it is “to be implemented on a voluntary basis and confers no contractual, nor worker / employment status”; and “nothing in this Guidance shall render Elected Members as employees or workers.”
- 7.2 There may be a perception that Councillors are receiving preferential treatment to employees as employees are not entitled to as favourable maternity/family leave as the Guidance supports.

8. CONSULTATION

The Chief Executive, Depute Chief Executive, Director of Legal and Democratic Services and the Director of Finance have been consulted in the preparation of this report.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Appendix 1 – COSLA Guidance

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List of Appendices: Appendix 1 – COSLA Guidance