

**Report to:**

**COUNCIL**

**Relevant Officer:**

Mark Towers, Director of Governance and Partnerships

**Date of Meeting:**

31 January 2024

## **COUNCIL'S POLICY IN RESPECT OF MATERNITY, PATERNITY AND ADOPTION PAY**

### **1.0 Purpose of the report:**

- 1.1 To note that Councillors Sarah Smith and Cllr Portia Webb will both be commencing maternity leave under the Council's Policy in respect of maternity, paternity and adoption pay.
- 1.2 To consider as a consequence the appointment to the Chair of Levelling Up Scrutiny Committee position and to agree dispensation from the requirement to attend meetings for Councillors Sarah Smith and Portia Webb (i.e. an extension to the period of six consecutive months for non-attendance at formal council / committee meetings).

### **2.0 Recommendation(s):**

- 2.1 To note that both Councillor Portia Webb and Councillor Sarah Smith will be going on maternity absence and under the Council's Policy in respect of maternity, paternity and adoption pay, will have their special responsibility allowances protected for a six month period as set out in the report.
- 2.2 To approve the dispensation from the requirement to attend meetings under Section 85 (1) of the Local Government Act 1972 and in doing so extend the period of non-attendance at formal Council/committee meetings to 31 October 2024.
- 2.3 To delegate to the Monitoring Officer the authority to agree mechanisms as to how ward enquiries are allocated and councillor funding is applied for whilst on maternity leave in line with paragraph 6.5 of this report and to agree the extension of the protected special responsibility allowances beyond the six months in line with the policy.
- 2.4 That following the completion of the maternity leave of absence the Monitoring Officer, in consultation with the two members, reviews the Council's Policy in respect of maternity, paternity and adoption pay and reports back to Council accordingly.

2.5 To consider the appointment of a replacement Chair of Levelling Up Scrutiny Committee and the nomination of Councillor Matthew Thomas for the role.

**3.0 Reasons for recommendation(s):**

3.1 Councillors Sarah Smith and Portia Webb are due to start maternity leave from February 2024 for an expected period of six months. The Council is required to agree in advance any dispensation from non-attendance at meetings beyond a period of six months. Retrospective approval cannot be given when the six-month period has expired.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

**4.0 Other alternative options to be considered:**

4.1 Alternative dispensation may be considered.

**5.0 Council priority:**

5.1 All Council priorities are addressed.

**6.0 Background information**

6.1 Under the Council's Policy in respect of maternity, paternity and adoption pay agreed by Council on 26 June 2019, all pregnant members shall be entitled to take up to one year's (52 weeks) maternity leave, or as much of that period as they wish to take (reviewable at six-months in accordance with the policy and a dispensation granted by Council for non-attendance at meetings). The objective of the policy is that insofar as possible the position of Members is comparable with employees of the Council, noting that councillors are public office holders and not employees and do not benefit from forms of entitled leave which employees do nor employment law rights.

6.2 Two elected members - Councillors Sarah Smith and Portia Webb - have notified the Head of Democratic Governance of their intention to have a maternity leave of absence under this policy for a period of six months. Both are in receipt of Special Responsibility Allowances (SRAs) - Councillor S Smith as Chair of Levelling Up Scrutiny Committee appointed by Annual Council in May 2023 and Councillor Webb as a Cabinet Assistant.

- 6.3 A six month leave of absence for Cllr S Smith would mean a replacement Chair of Scrutiny would need to be appointed now and then again at the Annual Meeting. This is a matter for Council but the rationale in developing the policy is that any leave of absence under the policy would have minimal impact on the working arrangements of council and therefore it is suggested that a replacement is appointed from the same group as Councillor Smith. As such, the Leader of the Council has nominated Councillor Matthew Thomas for the role.
- 6.4 On Councillor Smith's and Councillor Webb's return to Council business (i.e. on the return date notified by them or earlier), then their SRA protection would cease and it would be up to the relevant appointing individuals or bodies as to whether they return to their previous SRA roles.
- 6.5 Under the policy, at paragraph 2.6 there is a reference to the annual meeting as a possible end date to any protection of a SRA. This would be applied where there are any changes to a political management structure – in this case it is anticipated that the Levelling Up Scrutiny Committee would continue and therefore protection of the SRA would be in place for a six month period (or beyond if this is extended).
- 6.6 Under the maternity leave of absence to maintain the SRA protection and protect their leave of absence then councillors would not be able to attend formal council and committee meetings nor take a proactive role in council business. There are notably some 'grey' areas with this such as reallocating ward enquiries or spending ward councillor budgets amongst others that may arise. It is recommended that authority be delegated to the Monitoring Officer to agree mechanisms as to how these would work so as not to disadvantage the councillor on a maternity leave of absence (e.g. they may nominate another councillor to spend their ward councillor budget on their behalf but only after consultation with them). Both Councillors will also be able to have "keeping in touch" days with their group leader and other relevant individuals.
- 6.7 The law states that where a Council member fails throughout a period of six consecutive months from the date of their last attendance at a Council related meeting to attend any meeting of the authority then, subject to certain provisions, he/she ceases to be a member unless the failure was due to some reason approved before the expiry of that period.
- 6.8 As the last attendance at a formal Council/committee meeting is likely to be end January 2024 for Councillors S Smith and Webb, the six-month period for attendance would expire at the end of July 2024 while both councillors would still be on maternity leave. The Council is therefore asked to extend the period to 31 October 2024.
- 6.9 Does the information submitted include any exempt information? No

**7.0 List of Appendices:**

7.1 None.

**8.0 Financial considerations:**

8.1 Under the Policy in respect of maternity, paternity and adoption pay for councillors agreed by Council as part of the Members' Allowances Scheme, councillors are entitled to continue to receive their basic allowance and special responsibility allowance for a period of six months. This will be met from the budget for Members Allowances.

**9.0 Legal considerations:**

9.1 Section 85 of the Local Government Act 1972 sets out that if a member fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the authority, they shall cease to be a member of the authority, unless the failure was due to some reason approved by the authority before the expiry of that period.

**10.0 Risk management considerations:**

10.1 Agreeing dispensation at this juncture will ensure that Councillors S Smith and Webb will resume their Council position when the period of maternity leave has finished, subject to the appointing individuals / bodies. The ability to appoint replacement members to special responsibility positions ensures business continuity in these areas.

**11.0 Equalities considerations and the impact of this decision for our children and young people:**

11.1 Agreeing dispensation from meetings in line with the policy allows as much as possible the position of Members to be comparable with employees of the Council, noting that councillors are public office holders and not employees and do not benefit from forms of entitled leave which employees do nor employment law rights.

**12.0 Sustainability, climate change and environmental considerations:**

12.1 None associated with this report.

**13.0 Internal/external consultation undertaken:**

13.1 None.

**14.0 Background papers:**

14.1 None.