



**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**REPORT COVER SHEET**

<b>Title of Report:</b>	Parental Leave for Councillors	To be marked with an 'X' by Democratic Services after report has been presented
<b>Meeting of:</b>	Corporate Management Team [18 <sup>th</sup> January 2023]	X
	Leader and Deputy Leaders [24 <sup>th</sup> January 2023]	X
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group [1 <sup>st</sup> & 2 <sup>nd</sup> February 2023]	X
	Full Council [20 <sup>th</sup> February 2023]	
	Audit Committee [DATE] / Scrutiny Community Regeneration Committee [DATE] / Scrutiny Environment and Health and Well Being Committee [DATE] / Scrutiny Value for Money Council Services Committee [DATE]	N/A



<b>Is this an Executive Decision:</b>	NO	<b>Is this a Key Decision:</b>	NO
<b>Is this in the Forward Plan:</b>	[YES/ <u>NO</u> ]	<b>Is the Report Confidential:</b>  <b>If so, please state relevant paragraph from Schedule 12A LGA 1972:</b>	NO  N/A

**Essential Signatories:**

**ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE**

Monitoring Officer: **John Teasdale**

Date ..... Signature .....

Chief Finance Officer: **Sal Khan**

Date ..... Signature .....

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Council**

**Date: 20th February 2023**

**REPORT TITLE: Parental Leave for Councillors**

**PORTFOLIO: Legal and Assets – Leader of the Council**

**HEAD OF SERVICE: Andy O’Brien**

**CONTACT OFFICER: John Teasdale Ext. No. x1267**

**WARD(S) AFFECTED: N/A**

**1. Purpose of the Report**

- 1.1. At a meeting of Full Council on 12<sup>th</sup> December 2022 it was requested by Councillor Adam Clarke that consideration was given to creating a policy for Councillors on parental/maternity/adoption/surrogacy leave.
- 1.2. This was considered by the Constitution Working Group in January 2023 and it has been agreed that the Council’s approach towards parental leave for Members be incorporated into the Constitution for consideration by Full Council at the next appropriate meeting.

**2. Executive Summary**

- 2.1. As of the date of this report, there is no legal right to parental leave for Members of a Council (maternity, paternity, adoption or surrogacy). Nevertheless, Councils are separately able to consider their approach to parental leave for Councillors independent of legal provision, and decide whether the Council should grant such rights on a voluntary basis.
- 2.2. Ultimately, adopting parental leave rights will have an overall positive impact. The entitlement of parent Members will be set down in a clear and transparent way within the Constitution whilst ensuring that they retain their elected office and receive their allowances.

- 2.3. This will have the inherent effect of improving the diversity of election candidates whilst improving the long term retention of Members.

### 3. **Background**

- 3.1. Whilst this amendment to the Constitution is aimed at the issue of Parental leave, this is a step that can be taken to enable people of varying ages / backgrounds to become Councillors and to aid in the retention of experienced Councillors who might otherwise feel they have to give up their position upon becoming a parent.
- 3.2. There have been discussions across local government groups in respect of parental rights for Councillors as something which should be protected by law. Whilst there are now suggested policies and approaches for local authorities to adopt, there is no legislation currently being advanced by central government. Consequently it might take several years before any law on the subject actually comes to fruition.
- 3.3. The draft document appended to this report is based on the Local Government Association (LGA) promoted policies for Councils but it has been modified to include, for example, provisions for antenatal appointments and stillbirths whilst also reflecting the constitutional arrangements of this Council.
- 3.4. The key provisions of the document are that Members will continue to receive their allowances. They are responsible for identifying an appropriate Member to cover their work whilst providing notification of leave. Furthermore, any Councillor who takes parental leave retains their legal right under the Local Government Act 1972 to attend a meeting of the Council within a six month period.

### 4. **Contribution to Corporate Priorities**

- 4.1. This report links to the Corporate Priority of Environment and Health and Wellbeing. The changes proposed will contribute to this priority.

### 5. **Financial Considerations**

*This section has been approved by the following member of the Financial Management Unit: Lisa Turner*

- 5.1. The adoption of the parental leave rights set out within this proposed amendment to the Constitution would increase costs to the Council in respect of those members receiving special responsibility allowances and making use of the leave provisions. This is by virtue of the need for the appointment of a replacement who is also entitled to receive an allowance (as per section 4 of

the draft document).

## **6. Risk Assessment and Management**

- 6.1. The main risks to this Report and the Council achieving its objectives are as follows:
- 6.2. **Positive** (Opportunities/Benefits):
- 6.2.1. Promotion of equality, diversity and wellbeing amongst the Council's Members, and the removal of (what may be considered) a potential barrier when candidates stand for election.
- 6.2.2. This addition to the Constitution will enshrine parental rights for Councillors and potentially assist with the retention of any Councillor who decides to become a parent.
- 6.2.3. A more diverse pool of candidates standing for election.
- 6.3. **Negative** (Threats):
- 6.3.1. Possible reputational harm to the Council. Although these rights are not yet stipulated by law, it could be viewed that not voluntarily adopting these rights does not align with modern practices and the Council's equality duties.
- 6.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

## **7. Legal Considerations**

*This section has been approved by the following member of the Legal Team:  
John Teasdale*

- 7.1. The main legal issues arising from this Report are as follows:
- 7.2. Section 85 Local Government Act 1972 provides that a Councillor will have vacated their elected office (automatically by operation of law) if they fail to attend any meetings of the authority for a consecutive period of 6 months. This is unless the reason for the non-attendance is for an approved reason. The draft document would make parental leave an approved reason.
- 7.3. In approving this amendment Full Council is, in essence, providing pre-approval for a possible extension of up to a maximum 52 weeks in the case of maternity (or adoption) leave, (or slightly longer in exceptional cases of prematurity).

7.4. In respect of payments of allowances, the Local Authorities (Members' Allowances) (England) Regulations 2003/1021 sets out categories of allowances that can be paid and circumstances under which they would cease. In approving this amendment however, the Council acknowledges and confirms that during periods of Parental Leave, that no Basic or Special Responsibility Allowance (SRA) would end.

## **8. Equalities and Health**

8.1. **Equality impacts:** This aligns with the Public Sector Equality Duty and can only be seen as a positive step to take towards eliminating discriminatory conditions in local government, and improving the accessibility of being a Councillor for people of varying backgrounds, ages and genders.

8.2. An impact assessment has been completed and is attached to this report.

## **9. Data Protection Implications – Data Protection Impact Assessment (DPIA)**

10.1. A DPIA must be completed where there are plans to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale
- use new technologies;
- use profiling or special category data to decide on access to services;
- profile individuals on a large scale;
- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or
- process data that might endanger the individual's physical health or safety in the event of a security breach

10.2 Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

## **10. Human Rights**

10.1. There are no Human Rights issues arising from this Report.

## **11. Sustainability (including climate change and change adaptation measures)**

11.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures)

11.2. N/A

12. **Recommendation(s)**

12.1. That the Council approves the amendment to the Constitution.

12.2. That the Monitoring Officer be authorised to make any necessary further changes to the draft document in relation to formatting, numbering or such other changes consequential to or incidental to the intentions of Full Council.

13. **Background Papers**

13.1. N/A

14. **Appendices**

14.1. Draft Part 5H of the Constitution