

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	14 December 2020
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Family Leave for Elected Members – Updated Guidance
REPORT NUMBER	COM/20/234
DIRECTOR	N/A
CHIEF OFFICER	Fraser Bell (Chief Officer – Governance)
REPORT AUTHOR	Mark Masson
TERMS OF REFERENCE	Introduction 6

1. PURPOSE OF REPORT

- 1.1 This report seeks adoption of COSLA’s updated “Family Leave Guidance for Councils” which is intended to support Elected Members during periods of maternity, paternity, shared parental and adoption leave.

2. RECOMMENDATION(S)

That Council:-

- 2.1 agrees to adopt COSLA’s updated “Family Leave Guidance for Councils”, as appended to this report.

3. BACKGROUND

- 3.1 The Council at their meeting on 9 December 2019 agreed to adopt COSLA’s (Convention of Scottish Local Authorities) “Family Leave Guidance for Councils”.
- 3.2 CoSLA has since updated the guidance due to the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2020 which amended the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007. It is proposed that Council agrees to adopt the updated Guidance which reflects this legislative change.
- 3.3 The above legislative amendment makes provision for councillors granted a period of leave of absence (for any reason) by their local authority – by disapplying such councillors from (i) the limits on the numbers of councillors who can receive remuneration as Leader, Lord Provost or Senior Councillor and (ii) the maximum total yearly amount of remuneration payable for all Senior Councillors. In effect – in cases of leave - this would permit two individuals to be paid Leader’s or Lord Provost’s remuneration, and would allow the statutory limits on the number of Senior Councillors, and the total payable to them, to be exceeded.

- 3.4 So, for example, if the Council agrees that its Leader, Lord Provost or a Senior Councillor can be absent from official duties for a period (for example, for maternity or paternity reasons), the Council can continue to remunerate the one on leave whilst also paying that type of remuneration to another councillor for acting-up - without being subject to the limits mentioned in section 3.3 above. However, it remains the case that one councillor cannot be paid more than one type of remuneration at the same time.
- 3.5 Appended is the updated COSLA Guidance showing as highlighted any additions (other than minor typographical corrections) made to the previous version. The only other change to the Guidance is the deletion of the following wording from the end of paragraph 3.1: “*where this is possible within the constraints of the Local Governance (Scotland) Act 2004 (Remuneration) and amendments thereto. Where this is not possible local arrangements should be made that best support both the Elected Member on leave and their replacement*”. This deletion is of a caveat which no longer applies, in that the legislation now permits payment of the relevant remuneration to both the member on leave and the one acting-up – without being subject to the limits mentioned in section 3.3 above.

4. FINANCIAL IMPLICATIONS

- 4.1 The 2007 Regulations provide for the grading of councillors for remuneration purposes as either the Leader of the Council, the Lord Provost, Senior Councillor or Councillor. A Senior Councillor in this Council is a councillor who holds a significant position of responsibility in the Council’s political management structure.
- 4.2 For 2020/21, the statutory salary of the Leader of this Council is £41,662. The Lord Provost is paid the statutory maximum of £31,248.
- 4.3 The maximum yearly amount payable to a Senior Councillor is 75% of that payable to the Leader. Council policy is to pay the principal Committee Conveners 75% of the total yearly amount payable to the Leader (i.e. £31,248) with the remaining Senior Councillors receiving 75% of that sum (i.e. £23,436).
- 4.4 All other councillors receive a yearly salary of £17,854.
- 4.5 The following table shows the cost to the Council in various scenarios. All assume that the maximum leave is taken and that there are no elections held during this time. All salaries have been based on the 2020/21 amounts quoted above:

Councillor acting up as	Senior Councillor	Senior Councillor with SRA or Lord Provost	Leader
	£	£	£
Maternity/Adoption Leave (6 months)	3,726	8,940	15,892
Paternity Leave (2 weeks)	287	688	1,222

Senior Councillor acting up as	Senior Councillor with SRA or Lord Provost	Leader
	£	£
Maternity/Adoption Leave (6 months)	5,215	12,166
Paternity Leave (2 weeks)	401	936

	Senior Councillor with SRA or Lord Provost acting up as Leader
	£
Maternity/Adoption Leave (6 months)	6,951
Paternity Leave (2 weeks)	535

- 4.6 Ordinarily the Council can pay Leader's remuneration to one individual only and Lord Provost's remuneration to one individual only. Ordinarily the Council could pay a maximum total of £466,455 to a maximum of 19 Senior Councillors. At present there are 16 Senior Councillors being paid a total of £437,472. However, to reiterate – where Members are granted a period of leave of absence - the legislative amendment mentioned above would permit two individuals to be paid Leader's or Lord Provost's remuneration, and would allow those limits on the number of Senior Councillors, and the total payable to them, to be exceeded.
- 4.7 By adopting the updated Guidance, the Council would be permitting such additional payments of remuneration (beyond the statutory limits which ordinarily apply) to be made in cases of Members taking maternity, paternity, shared parental or adoption leave. In adopting the previous Guidance last year, the Council was effectively only permitting additional Senior Councillor payments – and that only within the statutory limits on the number of Senior Councillors and the total payable to them.
- 4.8 Any additional financial impact on the Council, as a result of any cover (acting-up) arrangements, will need to be managed in line with existing budgets.

5. LEGAL IMPLICATIONS

- 5.1 Elected Members have no statutory right to take family leave. This updated Guidance is recommended for voluntary adoption by the Council. It does not replace the statutory basis of the Elected Member's role and it does not confer any contractual, worker or employment status.
- 5.2 Accordingly any Elected Member on family leave will remain in the same legal position as any other Elected Member. In particular they will remain subject to the Councillor's Code of Conduct and the following provision in section 35 of the Local Government (Scotland) Act 1973:

“if a member of a local authority fails throughout a period of six consecutive months to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority, cease to be a member of the authority”

6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
Strategic	No risk	N/A	
Compliance	Non-compliance with the legislation on councillor remuneration	M	Monitoring and implementing any new legislation
Operational	No risk	N/A	
Financial	The main financial risk from adopting this updated Guidance would be the potential for increased cost pressure on budgets.	M	Ongoing monitoring of budgets to ensure all costs are known and can be met from existing budgets.
Reputational	No significant or unusual risks	N/A	
Environmental/ Climate	No risk	N/A	

7. OUTCOMES

7.1 The proposals in this report have no impact on the Council Delivery Plan.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	EHRIA required
Data Protection Impact Assessment	not required

Duty of Due Regard / Fairer Scotland Duty	not applicable
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9. BACKGROUND PAPERS

9.1 [Council Report: GOV/19/429 - 9 December 2019](#)

10. APPENDICES

10.1 COSLA's updated "Family Leave Guidance for Councils"

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