

# The City of Edinburgh Council

10.00am, Thursday, 14 December 2017

## Maternity, Paternity and Adoption Leave for Councillors

Item number	8.2
Report number	
Executive/routine	
Wards	
Council Commitments	

### Executive Summary

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This report seeks Council approval for Council Officers, supported by Group Leaders, engaging directly with the COSLA to improve the clarity of the guidance in respect of maternity, paternity and adoption leave rights for elected members.

## Maternity, Paternity and Adoption Leave for Councillors

### 1. Recommendations

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- 1.1 That Council:
- 1.1.1 Instructs the Executive Director of Resources to work with Group Leaders to develop proposals which would put in place appropriate supporting practice and policy guidance in respect of maternity, paternity and adoption leave arrangements for Councillors; and
  - 1.1.2 Instructs the Executive Director of Resources to work with Group Leaders to make representations to COSLA and the Scottish Government to determine the possibility of putting in place proposals developed.

### 2. Background

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- 2.1 With regard to the Council's Equality and Diversity Policy, the Council values diversity and inclusion and is committed to supporting gender equality within Council functions including in relation to Officer Holders in terms of the Local Government (Scotland) Act 1973.
- 2.2 The Council may wish to consider the possible availability of maternity, paternity and adoption leave arrangements for Councillors and any potential impact of implementation of such arrangements.
- 2.3 On 7 November 2017, Midlothian Council approved a motion committed to fall into line with any steps which COSLA may recommend to introduce maternity, paternity and adoption leave arrangements concerning Councillors.

### 3. Main report

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#### Gender Equality

- 3.1 The City of Edinburgh Council values diversity and inclusion and is committed to supporting equality of opportunity within Council functions, roles and policies. In future, the Council may wish to consider the possible availability of maternity, paternity and adoption leave for Councillors.

## **Councillor Status**

- 3.2 Councillors are neither employees, nor workers and do not have employment status, rather Councillors are office holders whose duties are defined by the office held and exist independently of the person who fills it.
- 3.3 Section 31A(1) of the Local Government (Scotland) Act 1973 makes it clear that a person who holds any paid office or employment or other place of profit in the gift or disposal of the authority, must resign when they are elected as a Councillor. It is therefore clear that Councillors must act in their capacity as office holders only and it is not the intention of the 1973 Act that they have worker/ employee status.
- 3.4 Implementation of policies of this nature could be seen as the beginning of a change regarding the status of Councillors, away from their current status as 'office holders' and a move towards 'worker/employee status'. Any such change could well have far reaching consequences in relation to the statutory rights available to Councillors [compared to those originally intended as a consequence of the 1973 Act], akin to the rights of workers and employees and it would therefore be appropriate to ensure that such changes are endorsed by the Scottish Government.

## **Governmental Responsibility**

- 3.5 The Fawcett Report, which relates only to England and Wales, calls upon the [UK] Government to introduce a nationwide maternity, paternity, adoption or parental leave policy for Councillors in local government. Similarly, the introduction of any such arrangements may correctly, ultimately, fall within the remit of the Scottish Government [with prior requisite approval from COSLA].

## **4. Measures of success**

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- 4.1 To support values of diversity and inclusion with a commitment to continue to promote gender equality for all.

## **5. Financial impact**

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- 5.1 There are no immediate cost implications associated with this report.
- 5.2 Further consideration would require to be given to the financial impact in the event that the Council proceeded to implement maternity, paternity and adoption leave arrangements for Councillors.

## **6. Risk, policy, compliance and governance impact**

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- 6.1 There is no immediate impact as a result of this report.

- 6.2 A further decision to implement maternity, paternity and adoption leave arrangements would appear to be a move away from the position as originally intended in Section 31(A) of the Local Government (Scotland) 1973 Act, regarding the current status of Councillors as ‘office holders’ rather than as ‘workers/ employees’.
- 6.3 The Council should therefore seek clarification from both the Scottish Government and COSLA.

## **7. Equalities impact**

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- 7.1 Consideration of maternity and paternity arrangements for Councillors further supports a gender equality workplace.

## **8. Sustainability impact**

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- 8.1 Not applicable.

## **9. Consultation and engagement**

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- 9.1 Not applicable.

## **10. Background reading/external references**

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- 10.1 [Equality and Diversity Policy](#)
- 10.2 “[Does Local Government Work for Women?](#)” – Final Report of the Local Government Commission (9 July 2017).

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