

Torfaen Family Absence Policy

Introduction

1. Members are entitled to a period of family absence and in doing so to be absent from meetings of the authority, including executive meetings where applicable, during periods of family absence. The policy allows for an entitlement for 5 distinct types of family absence:
 - a. maternity absence,
 - b. new-born support absence,
 - c. adopter's absence,
 - d. adoption support absence, and
 - e. parental absence.
2. The Family Absence Policy provides members with entitlements to enable members who have babies or become responsible for looking after children to be able to continue as members with recognised, legitimate, absence, in an open fashion, rather than be potentially subject to criticism for not fulfilling their duties as members.
3. The Head of Democratic Services (HDS) will take the responsibility for dealing with notifications of family absence. Once notified that a member is taking a period of family absence, the HDS must inform each relevant person as soon as is reasonably practicable of that fact.
 - a. the presiding member,
 - b. the chair of the local authority's Democratic Services Committee; and
 - c. the leader of each political group of the local authority.
4. The HDS should take a flexible approach towards any request to vary the start or finish dates of absence, provided they are within the total allowance. With respect to actions which might result in the withdrawal of the entitlement, there should be a reasonable and evidenced rationale for doing so.
5. In most circumstances, the HDS must be notified in writing before any period of family absence. Notification by way of an e-mail or any other electronic format would satisfy the written requirement in respect of any notification required under the Regulations.

Maternity Absence

6. The HDS will **not** request evidence of pregnancy or the expected date of childbirth unless there are grounds for suspicion that the notice given by the member is questionable.
7. Members giving birth to a child are entitled to up to 26-weeks maternity absence.

New-Born Support Absence

8. New-born support absence is aimed to assist partners of mothers by enabling them to take a period of absence during the first 56 days after childbirth.
9. Members shall be entitled to take a maximum of 2 weeks new-born support absence if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

Shared Parental Leave

10. A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.
11. Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

Adopter's Absence

12. A Member who adopts a child through an approved adoption agency shall be entitled to take up to 26-weeks adopter's absence. The entitlement arises at the physical date of placement of the child with the member for adoption. It is the actual date of placement of the child which is important for the start of this absence, not the date of placement according to any legal document.
13. No evidence of adoption is required from the member in order to be entitled to a period of adopter's absence. Multiple children adopted at the same time would **not** enable a member to take multiple periods of adopter's absence.
14. The option exists to extend Adopter's Leave up to 52 weeks by agreement if required.

Adoption Support Absence

15. A member who is in a relationship with another person who is adopting a child may take two weeks adoption support absence.
16. A member is **not** entitled to take adopter's **and** adoption support absence in relation to the same child. Multiple children adopted at the same time would **not** enable a member to take multiple periods of new adoption absence.
17. If a member jointly adopts a child with another member, one member may elect to be the child's adopter and would be entitled to a period of adopter's absence. The other member would **not** be entitled to a period of adopter's absence but would be entitled to a period of adoption support absence.

Parental Absence

18. Parental absence is available in exceptional circumstances to members who become temporarily responsible for the care of a child under the age of 14 in addition to members who become the subject of more permanent responsibilities described above.
19. The member must notify the HDS of this responsibility and the HDS must be satisfied that such a responsibility is real and may require supporting evidence.
20. Although it may not always be possible, the member should seek to inform the HDS of the intended period(s) of absence. A member may decide to stage parental absence over a number of periods during the year from when the member became responsible for the child. The member must notify the HDS as to the staging of the periods of absence in advance.

Communicating an Absence

21. The HDS is required to inform the Presiding Member of the Council, the chair of the Democratic Services Committee (DSC) and, the leaders of each political group of the Council of any period of family absence in advance of it being taken or at the earliest possible date thereafter. The HDS is free also to inform any other persons felt necessary.

Withdrawing a Request for Family Absence

22. The HDS may decide to cancel or curtail a member's family absence if it believes that the permitted absence is fraudulent, has been abused or simply that the member is not entitled to a period of family absence. It would be open to the HDS in such a situation to decide whether the issue should be referred to the Ethics and Standards Committee for their consideration.

Appeals Process

23. A member may appeal against a decision to withdraw entitlement to family absence. Complaints must be in writing, however, as stated above a complaint in electronic form would satisfy this requirement. The HDS then places the appeal before the Presiding Member, who must then place it before a panel of three members appointed by the authority for the purpose (which cannot include the presiding member).
24. The panel will then determine the complaint. The panel will determine whether or not the member is entitled to a period of family absence under the Regulations.
25. Where the panel determines that the member is entitled to a period of family absence, that member will take a period of family absence in accordance with the Regulations.
26. A period of family absence may have been cancelled by the local authority mid-way through the period of family absence. Having been established to consider a complaint, the panel could then determine that the member is in fact entitled to a period of family absence. In those circumstances, the member will be entitled to the balance of their period of absence set out under the Regulations. Where a

panel determines that a member is not entitled to a period of family absence the member will not be eligible to a period of family absence under the Regulations and will be therefore expected to continue their duties as a member.

Duties whilst on Family Absence

27. Any period during which a member of a local authority in Wales is exercising a right to family absence will disregard their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six-month period.
28. Prior to the commencement of maternity, adopter's or parental absence (only), the Member in question should confirm in writing to the HOD of their intention to continue to perform any duty conferred on that member during the period of family absence. If agreed a member on such leave of absence will be permitted to attend, a particular meeting or type of meeting or perform a particular duty or type of duty on receipt of permission granted by the presiding member. This might be the case, for instance, where the member has a well-known particular interest in a matter of business or if urgent business affecting their local area is being considered. Before agreeing to such a request, the presiding member, must inform the leaders of all political groups on the council. Should there be a dispute, a panel established as above should make the final decision.
29. Prior to the commencement of family absence, the Member in question may be requested in writing during the period of family absence, to continue to perform any duty conferred on that member. The provision is to enable a member on family absence to be asked to attend a meeting if it might otherwise be inquorate. Arrangements will be agreed on a case-by-case basis, depending on what is believed to be reasonable and practicable. There might be a particular area of expertise possessed by a member which would be difficult to replace on a temporary basis, which might suggest a limited commitment could still be expected of a member if circumstances allow.

Remuneration

30. All Members shall continue to receive their Basic Allowance in full whilst on family absence.
31. Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in full whilst on family absence.
32. Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.
33. The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of family absence shall continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the member taking absence is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six-month period.
34. Should a Member appointed to replace the member on family absence already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances shall apply.

35. Unless the Member taking family absence is removed from their post at an Annual General Meeting of the Council whilst on family absence, or unless the Party to which they belong loses control of the Council during their absence period, they shall return at the end of their absence period to the same post, or to an alternative post with equivalent status and remuneration which they held before the absence began.

Impact on Political balance

36. It should be noted that the absence of a member for family absence reasons should **not** trigger any reallocation of representation in accord with political balance. For such calculations, the member should be treated as a full member of the council and therefore any substitution should be open only to a member of the same political group.

Resigning from Office and Elections

37. If a Member decides not to return at the end of their family absence, they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.
38. If an election is held during the Member's family absence and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.

Miscellaneous

39. The Torfaen Family Absence policy has been produced in accordance with: 'Section 30 of the Local Government (Wales) Measure 2011', the 'Family Absence for Members of Local Authorities (Wales) Regulations 2013' and the 'Absence from Local Authority Meetings: Family absence Statutory Guidance (March 2022)'. These documents should be referred to as a definitive guide for allowances under the 'Family Absence Policy' and in the eventuality of a dispute on the implementation of the agreed policy.