

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2013-2014

**CORPORATE GOVERNANCE AND
CONSTITUTION COMMITTEE**

14TH FEBRUARY, 2014

**REPORT OF THE DIRECTOR OF LEGAL
AND DEMOCRATIC SERVICES**

Agenda Item No. 2

**Proposed Amendments to
the Council's Constitution –
(1) The Family Absence
for Members of Local
Authorities (Wales)
Regulations 2013
(2) Terms of Reference of
the Service Scrutiny
Committees**

**Author: Ms.Karyl May, Democratic Services Manager
Tel.No.01443-424045**

1. PURPOSE OF THE REPORT

To seek approval for amendments to various parts of the Council's Constitution, to take account of The Family Absence for Members of Local Authorities (Wales) Regulations 2013, which came into force in December, 2013 and amendments to the Terms of Reference of the Service Scrutiny Committees.

2. RECOMMENDATIONS

To approve the following amendments/insertions to the various parts of the Council's Constitution, as shown, to take account of The Family Absence for Members of Local Authorities (Wales) Regulations 2013, which came into force in December, 2013 and the Terms of Reference of the Service Scrutiny Committees:

2.1 (1) Part 2 – Articles of the Constitution

Article 5 – Chairing the Council (b) Responsibilities of the Mayor

(vii) To carry out duties as required under The Family Absence for Members of Local Authorities (Wales) Regulations 2013.

(2) **Part 3 – Responsibility for Functions**

Section 2 – Responsibility for Council Functions

Council or Name of Committee	Membership	Non-Executive Functions	Delegation of Functions
<ul style="list-style-type: none"> N/A 	The Mayor	In accordance with The Family Absence for Members of Local Authorities (Wales) Regulations 2013 (Regulation 34), the Mayor to consider whether to cancel a Member's period of absence that he/she has been given notification of and on reasonable grounds by the Head of Democratic Services.	Head of Democratic Services
<ul style="list-style-type: none"> Appeals Committee – Family Absence 	3 Members of the Democratic Services Committee (must not include the Mayor)	<p>In accordance with The Family Absence for Members of Local Authorities (Wales) Regulations 2013 (Regulations 35 and 36):</p> <p>To hear appeals from Members against a decision to withdraw entitlement to family absence.</p> <p>To settle disputes, where a Member, who is on leave of</p>	Head of Democratic Services

		absence would like to attend a particular meeting, type of meeting, or perform a particular duty or type of duty and the Mayor of the Council refuses this request.	
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(3) **Part 4 – Rules of Procedure – Council Rules of Procedure**

(7) Quorum

If a Member is on Family Absence and it would be difficult to replace that Member on a temporary basis, the Mayor can request that Member to attend a meeting if it might otherwise be inquorate.

(25) Family Absence for Members

25.1 A Member on maternity absence or parental absence may, subject to paragraph 25(2) and (6) below:

- Attend particular meetings
- Attend particular descriptions of meetings
- Perform particular duties; or
- Perform duties of a particular description

25.2 The Member must obtain the permission of the Mayor before attending any meeting or performing any duty.

25.3 The Mayor must inform the Leaders of each political group of the Local Authority before granting permission under paragraph 25.2 above.

25.4 A Member may complain in writing to the Head of Democratic Services regarding a refusal under paragraph 25.2 above.

25.5 The Head of Democratic Services must refer a complaint under paragraph 25.4 above to the Mayor.

25.6 A Panel constituted in accordance with The Family Absence for Members of Local Authorities (Wales) Regulation 2013 must determine a complaint made under paragraph 25.4 above.

25.7 The Panel May:

- Confirm the decision of the Mayor of the Council; or

- Substitute its own decision as to the Member attending any meeting or performing any duty.

(4) Section 4 - Head of Democratic Services

- (t) To carry out duties as required under The Family Absence for Members of Local Authorities (Wales) Regulations, 2013.

- 2.2 To note the contents of the letter of the Independent Remuneration Panel for Wales in respect of the entitlement of Members to receive allowances during family absence.
- 2.3 To recommend to Council that Article 6 paragraph 6.01 of the Terms of Reference of the Scrutiny Committees be amended so that the Museums be removed from within the terms of reference of the Education and Lifelong Learning Scrutiny Committee and that Tourism be removed from within the terms of reference of the Environmental Services Scrutiny Committee and both come within the remit of the Corporate Services Scrutiny Committee.
- 2.4 To recommend to Council that Development Control be deleted from within the terms of reference of the Environmental Services Scrutiny Committee as it already sits within the Corporate Services Scrutiny Committee.
- 2.5 To recommend to Council that the Director, Legal and Democratic Services be given delegated authority to amend the terms of reference of the Service Scrutiny Committees consequent upon changes in Officer responsibilities for functions, and report back such changes to this Committee for information.

3. BACKGROUND

The Family Absence for Members of Local Authorities (Wales) Regulations 2013

- 3.1 Members will recall that at the Council meeting held on the 15th January, 2014, it was agreed that the proposed amendments to the Council's Constitution, to take account of The Family Absence for Members of Local Authorities (Wales) Regulations 2013, be considered by this Committee prior to submission to Council for approval.
- 3.2 The Local Government (Wales) Measure 2011 makes available to Members of local authorities entitlement to five types of family absence:-
- Maternity Absence – 26 weeks
 - New Born Absence – 2 consecutive weeks
 - Adopter's Absence – 2 consecutive weeks
 - New Adoption Absence – 2 consecutive weeks; and
 - Parental Absence – 3 months
- 3.3 It is worthy of noting that the provision in the Local Government Act 1972 whereby a Member ceases to be a Member if no meetings are attended for

six months (unless absence approved by Council) does not apply to any period of family absence.

3.4 At the Council meeting on the 15th January, 2014, Members were reminded of the response that was made to the Welsh Government by the deadline of the 14th June, 2013 in respect of the consultation document – The Family Absence for Members of Local Authorities (Wales) Regulations 2013 as agreed by Council on the 8th May, 2013.

3.5 The final version of the regulations has now been published and took effect as from the 5th December, 2013. The final version contains only minor differences from the consultation draft and attached at Appendix 1 is a copy of the regulations.

3.6 For ease of reference and to assist Members in acknowledging the need to amend the Council's Constitution as outlined in the recommendations contained in paragraph 2 of this report, the Regulations are explained in more detail below:

- Regulation 32 requires records of periods of family absence to be maintained by the Authority's Head of Democratic Services for at least 10 years.
- Regulation 33 provides that once the Head of Democratic Services has been informed by a Member that they are taking a period of family absence, the Head of Democratic Services must inform the Mayor, the Chair of the Democratic Services Committee and the Leader of each political group. One change to the Regulations since the draft is that where a Council has a Presiding Member, the Presiding Member must also be informed.
- Regulation 34 places a requirement on the Head of Democratic Services to inform the local authority and provide all relevant information where he/she has reasonable grounds to suspect a Member is not entitled to the family absence they have given notification of. The local authority may then cancel that Member's period of family absence. **It is suggested that for Rhondda Cynon Taf, the Member decision is delegated to the Mayor rather than full Council (as shown in recommendation 2.1(2) above).**
- Regulations 35 and 36 contains provisions where if a family absence is cancelled by the authority, the Member affected may complain and a Panel of Members must then be formed to consider that complaint. **It is suggested that for Rhondda Cynon the Panel is to comprise 3 Members of the Democratic Services Committee (not to include the Mayor) (as shown in recommendation 2.1(2) above).**
- Regulations 37 and 39 require local authorities as soon as is reasonably practicable after the coming into force of the regulations to make standing orders covering the matters in Regulations 38 and 39.
- Regulation 38 requires a Member on maternity absence or parental absence to obtain the permission of the Mayor before attending any meeting or performing any duty. **It is suggested that for Rhondda**

Cynon Taf the Council's Constitution be amended as shown at recommendation 2.1(3) (25.1-25.7).

- 3.7 For information, attached at Appendix 2 is a copy of a letter from the Independent Remuneration Panel for Wales, relating to remuneration in respect of Family Absence, which unfortunately was received too late for the Council to make a formal response by the deadline of the 7th February, 2014.

Amendments to the Terms of Reference of the Service Scrutiny Committees

- 3.8 Article 6 of the Council's Constitution relates to the terms of reference of the Overview and Scrutiny Committee and the Service Scrutiny Committees.
- 3.9 The principle behind the terms of reference of the four Service Scrutiny Committees is that they `mirror` the Group Director Officer structure, to ensure optimum use of Officer time and remove the need to attend more than one Committee.
- 3.10 Since the drafting of the article, reconfiguration of the responsibilities for functions have not been reflected in the terms of reference of the appropriate Scrutiny Committees e.g. Development Control now sits within the Remit of the Corporate Services Scrutiny Committee, having previously fallen within the remit of the Environmental Services Scrutiny Committee. Similarly, Museums and Tourism now fall within the remit of the Corporate Services Scrutiny Committee.
- 3.11 It is proposed that I be given delegated powers to amend the terms of reference of the Service Scrutiny Committees, consequent upon changes in Officer responsibility for functions and report back such changes to this Committee for information.

4. CONCLUSION

Taking into consideration the information contained within this report, Members are asked to make recommendations to Council at its meeting on the 26th February, 2014 in relation to the amendments to be made to the Council's Constitution in respect of The Family Absence for Members of Local Authorities (Wales) Regulations 2013 and the terms of reference of the Services Scrutiny Committees.



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2013 Rhif 2902 (Cy. 281)

2013 No. 2902 (W. 281)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

Rheoliadau Awdurdodau Lleol
(Trefniadau Gweithrediaeth)
(Swyddogaethau a Chyfrifoldebau)
(Cymru) (Diwygio Rhif 2) 2013

The Local Authorities (Executive
Arrangements) (Functions and
Responsibilities) (Wales)
(Amendment No. 2) Regulations
2013

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae Rhan II o Ddeddf Llywodraeth Leol 2000 yn darparu i swyddogaethau awdurdod lleol gael eu cyflawni gan weithrediaeth awdurdod (y mae rhaid iddi fod ar un o'r ffurfiau a bennir yn adran 11 o'r Ddeddf honno) onid yw'r swyddogaethau hynny i beidio â bod yn gyfrifoldeb i weithrediaeth yr awdurdod. Mae Rheoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Swyddogaethau a Chyfrifoldebau) (Cymru) 2007 (O.S. 2007/399 (Cy.45)) ("y Prif Reoliadau") yn pennu'r swyddogaethau hynny nad ydynt i fod yn gyfrifoldeb i weithrediaeth awdurdod neu sydd i fod yn gyfrifoldeb i weithrediaeth o'r fath i raddau cyfyngedig yn unig neu o dan amgylchiadau penodedig yn unig.

Part II of the Local Government Act 2000 provides for the discharge of a local authority's functions by an executive of an authority (which must take one of the forms specified in section 11 of that Act) unless those functions are not to be the responsibility of the authority's executive. The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (S.I. 2007/399 (W.45)) ("the Principal Regulations") specify those functions that are not to be the responsibility of an authority's executive or are to be the responsibility of such an executive only to a limited extent or only in specified circumstances.

Mae'r Rheoliadau hyn yn diwygio'r Prif Reoliadau.

These Regulations amend the Principal Regulations.

Mae Atodlen 1 i'r Prif Reoliadau yn rhestru'r swyddogaethau hynny nad ydynt yn gyfrifoldeb gweithrediaeth awdurdod. Mae rheoliad 3 o'r Rheoliadau hyn yn diwygio'r rhestr hon drwy ychwanegu swyddogaethau mewn perthynas â phwerau i hyrwyddo neu wrthwynebu biliau preifat yn unol ag adran 52 ac adran 53 o Ddeddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013. Mae rheoliad 3 o'r Rheoliadau hyn hefyd yn diwygio'r rhestr hon drwy ychwanegu swyddogaethau mewn perthynas â Rheoliadau Absenoldeb Teuluol ar gyfer Aelodau Awdurdodau Lleol (Cymru) 2013.

Schedule 1 to the Principal Regulations lists those functions which are not to be the responsibility of an authority's executive. Regulation 3 of these Regulations amends this list by adding functions in respect of powers to promote or oppose private bills pursuant to sections 52 and 53 of the Local Government (Democracy) (Wales) Act 2013. Regulation 3 of these Regulations also amends this list by adding functions in respect of the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

Effaith y diwygiadau hyn yw na all y swyddogaethau dan sylw fod yn gyfrifoldeb gweithrediaeth yr awdurdod.

The effect of these amendments is that the functions in question cannot be the responsibility of an authority's executive.

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(Swyddogaethau a Chyfrifoldebau)
(Cymru) (Diwygio Rhif 2) 2013

The Local Authorities (Executive
Arrangements) (Functions and
Responsibilities) (Wales)
(Amendment No. 2) Regulations
2013

Gwnaed 13 Tachwedd 2013

Made 13 November 2013

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 14 Tachwedd 2013

Laid before the National Assembly for Wales
14 November 2013

Yn dod i rym 5 Rhagfyr 2013

Coming into force 5 December 2013

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd iddynt gan adrannau 13 a 105 o Ddeddf Llywodraeth Leol 2000(1), yn gwneud y Rheoliadau canlynol.

The Welsh Ministers, in exercise of the powers conferred on them by sections 13 and 105 of the Local Government Act 2000(1), make the following Regulations.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Swyddogaethau a Chyfrifoldebau) (Cymru) (Diwygio Rhif 2) 2013 a deuant i rym ar 5 Rhagfyr 2013.

Title and commencement

1. The title of these Regulations is the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment No. 2) Regulations 2013 and they come into force on 5 December 2013.

**Diwygio Rheoliadau Awdurdodau Lleol
(Trefniadau Gweithrediaeth) (Swyddogaethau a
Chyfrifoldebau) (Cymru) 2007**

2. Mae Rheoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Swyddogaethau a Chyfrifoldebau) (Cymru) 2007(2) wedi eu diwygio fel a ganlyn.

**Amendment to the Local Authorities (Executive
Arrangements) (Functions and Responsibilities)
(Wales) Regulations 2007**

2. The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007(2) are amended as follows.

(1) 2000 p.22. Diwygiwyd adran 13 o Ddeddf Llywodraeth Leol 2000 gan Ddeddf Lleoliaeth 2011 ac amnewidiwyd cyfeiriadau at Weiniogion Cymru yn adran 13 o Ddeddf Llywodraeth Leol 2000 gan adran 22, Atodlen 3, paragraffau 8, 13(1) a (3) o'r Ddeddf honno.

(2) O.S. 2007/399 (Cy.45).

(1) 2000 c.22. Section 13 of the Local Government Act 2000 was amended by the Localism Act 2011 and references to the Welsh Ministers in section 13 of the Local Government Act 2000 were substituted by section 22 of, and paragraphs 8, 13(1) and (3) of Schedule 3 to, that Act.

(2) S.I. 2007/399 (W.45).

3. Yn Atodlen 1 (swyddogaethau nad ydynt i fod yn gyfrifoldeb i weithrediaeth awdurdod)—

(a) yn lle Rhan E rhodder—

(i) yng ngholofn 1—

“**E. Y pŵer i hyrwyddo neu i wrthwynebu Biliau preifat**”; a

(ii) yng ngholofn 2—

“Adrannau 52 a 53 o Ddeddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013(1).”; a

(b) yn Rhan Ff (swyddogaethau amrywiol) ar ôl paragraff 17—

(i) yng ngholofn 1, mewnosoder—

“**18.** Swyddogaethau sy’n ymwneud ag absenoldeb teuluol aelodau awdurdod lleol”; a

(ii) yng ngholofn 2 mewnosoder—

“Rheoliadau Absenoldeb Teuluol ar gyfer Aelodau Awdurdodau Lleol (Cymru) 2013(2).”.

3. In Schedule 1 (functions not to be the responsibility of an authority’s executive)—

(a) for Part G substitute—

(i) in column 1—

“**G. Power to promote or oppose private Bills**”; and

(ii) in column 2—

“Sections 52 and 53 of the Local Government (Democracy) (Wales) Act 2013(1).”; and

(b) in Part I (miscellaneous functions) after paragraph 17—

(i) in column 1, insert—

“**18.** Functions relating to family absence of local authority members”; and

(ii) in column 2 insert—

“The Family Absence for Members of Local Authorities (Wales) Regulations 2013 (2).”.

Lesley Griffiths

Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth, un o Weinidogion Cymru

13 Tachwedd 2013

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Minister for Local Government and Government Business, one of the Welsh Ministers

13 November 2013

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(1) 2013 decc 4.
(2) O.S. 2013/2901 (Cy.280).

(1) 2013 anaw 4.
(2) S.I. 2013/2901 (W.280).

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(Amendment No. 2) Regulations
2013

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DRAFT SUPPLEMENTARY REPORT – FAMILY ABSENCE

To:

Leaders and Chief Executives of County and County Borough Councils

Heads of Democratic/Member Services of County and County Borough Councils

Chief Executive of the Welsh Local Government Association

Dear colleague

Supplementary Report relating to remuneration in respect of Family Absence

1. This constitutes a Supplementary Report of the Independent Remuneration Panel for Wales (the Panel) in accordance with Section 147 of the Local Government Measure (Wales) 2011 (the Measure). It relates to payments made to elected members of County and County Borough Councils who have been granted Family Absence by their respective local authority.

2. In November 2013 the National Assembly for Wales approved the regulations relating to Family Absence for elected members of principal authorities in Wales. The Panel has considered the implications of these regulations on the remuneration of such members who are taking absence from their role as a member under the terms contained therein and has concluded:

3. Generally, a decision taken by a local authority under these regulations which relates to a member who is a basic salary holder is not a matter for the Panel, as the Panel takes the view that the current statutory position relating to the absence of a member (the “six month rule”) coincides with the maximum period of absence set out in the regulations. Therefore a member taking Family Absence would be entitled to retain the basic salary. However, there could be instances where the member concerned has already accumulated absences prior to the commencement of an agreed family absence. The determinations set out below take account of such situations.

4. However, the Panel considers that senior salary holders potentially would be affected by absence taken under the regulations and proposes the following determinations.

Determinations

a) A member is entitled to retain a basic salary when taking family absence under the regulations irrespective of the attendance record prior to the commencement of the family absence.

b) when a senior salary holder is eligible for family absence, he/she will be able to continue to receive the senior salary for the duration of the absence if the authority so decides whether or not it makes a substitute appointment.

c) The member substituting for a senior salary holder taking family absence will be eligible for a senior salary.

d) If the paid substitution results in the authority exceeding the maximum number of senior salaries as set out in the Panel's Annual Report, an addition to the maximum will be allowed for the duration of the substitution. However, this cannot apply to the Isle of Anglesey and Merthyr Tydfil Councils if it would result in the number of senior salaries exceeding fifty percent of the Council's membership as specific Welsh ministerial approval would have to be obtained.

e) When an authority agrees a substitution for family absence, the Panel must be informed, within 14 days of the date of the decision, of the details including the particular post and the duration of the substitution.

f) The schedule of remuneration must be amended to reflect the implication of the family absence.

5. Responses to this draft Supplementary Report are required by Friday 7th February 2014.

Yours sincerely,



Richard Penn
Chair