



Oifig an Runaí Aire
Office of the Minister of State

24 March 2021

Ms. Anne Maria Walsh
Kilkenny County Council
info@kilkennycoco.ie

Ref: HPLG-MoSB-00204-2021

Dear Ms. Walsh,

I refer to your correspondence regarding the resolution passed by members of Kilkenny County Council requesting the introduction of maternity and paternity leave for local elected representatives, which was forwarded by Minister Darragh O'Brien.

I wish to acknowledge fully your concerns regarding the matter. As you will be aware, Councillors, like members of the Oireachtas and the judiciary, are office holders rather than employees. As such, they are not covered by the statutory framework for employees on issues such as maternity leave, sick leave and annual leave.

The current situation for councillors is that, under section 18(4) of the Local Government Act 2001, a councillor shall be deemed to have automatically resigned from membership of a local authority if he or she is absent from meetings for a continuous period of 6 consecutive months.

However, where the absence is due to illness or "in good faith for another reason", then the other elected members may pass a resolution to allow the period of allowable absence to be extended to 12 months and then again to 18 months on foot of a further resolution.

A councillor who is absent for 6 months will continue to receive the full amount of his or her Representational Payment, currently worth €17,706 per annum. Thereafter, this payment will be reduced by 50% for absences of 6 to 12 months duration. A councillor who is absent for more than 12 months will not receive any further payments, regardless of the reason for the absence.

With effect from January 2017, the Social Welfare Acts were amended so that councillors gained access to the same benefits as self-employed contributors. Accordingly, councillors are now reckonable for the purposes of accessing Class S benefits, including Maternity Benefit.

Any change to the existing terms would require an amendment to the Local Government Act 2001 by the Houses of the Oireachtas. The Department has previously considered draft legislation to amend the 2001 Act to make specific provision for maternity leave absences, but



this did not proceed because further consideration was deemed necessary in relation to the status of councillors as office holders.

Earlier this year, Ms. Sara. Moorhead SC, as part of her Review of the Role and Remuneration of Local Authority Elected Members published in June 2020, included a comprehensive analysis of the councillor role, which takes account of views expressed and information provided by elected members themselves, their representative associations, Oireachtas members, political parties and local authorities, among others. One of the recommendations of the Review is that councillors who wish to take parental leave should be able to notify the elected council one month in advance, rather than be obliged to seek the council's approval to take time away from their role. This recommendation is being considered further to determine how it can be implemented.

In that regard, I recently approved the establishment of a working group to examine the non-pay recommendations set out in the Moorhead report. The first meeting of the group took place in February. The terms of reference for the group include examination of the aforementioned recommendation regarding parental and maternity leave, and this will be taken forward by the group, which will explore this matter further. I have also directed Department officials to liaise with their counterparts in the Department of Children, Equality, Disability, Integration and Youth Affairs to explore the matter further. It is hoped that there will be some developments in this area as soon as is practical. However, as set out above, there are legal and practical issues that must be comprehensively considered.

I am willing and committed to input constructively to wider consideration on this matter, which I feel is important in ensuring that local authority elected members are fully representative of the constituents they serve.

Yours sincerely,

Peter Burke T.D.
Minister for Planning and Local Government

Please note: I am a Designated Public Official under the Regulation of Lobbying Act, 2015