

Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Bill 2022

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Abstract

The main purpose of this Bill is to allow members of local authorities to take maternity leave, without the need for a council resolution. The Bill also gives councillors who take maternity leave, or are absent for other allowable reasons under the Local Government Act 2001, the option to have a temporary substitute co-opted to the council.



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1. Introduction

The [Local Government \(Maternity Protection and Other Measures for Members of Local Authorities\) Bill 2022](#) (the “Bill”) was published on 25 November 2022 by Mr Darragh O’Brien T.D., Minister for Housing, Local Government and Heritage.

A short Bill, with just three sections, it proposes to do three things:

1. Amend the [Maternity Protection Act 1994](#) to allow members of local authorities (councillors) to avail of maternity leave. An elected member will be deemed an employee of the local authority only for the purposes of the Maternity Protection Act 1994 (as amended).
2. Amend the [Local Government Act 2001](#) to allow members of local authorities to take maternity leave without the need for a council resolution.
3. It allows members of local authorities who are on maternity leave, or an extended absence due to illness or in good faith for another reason, approved by a council resolution to have a temporary substitute co-opted by the local authority.

Announcing Cabinet approval for the Bill on 22 November Mr. Peter Smith T.D., Minister for State with responsibility for Local Government and Planning said¹:

“While for years the system has called for maternity leave for Councillors, because members of our Local Authorities are office-holders rather than employees, it took some time to work out the best approach to take.”

The Minister stated that regulations are also being drafted which will enable councillors to engage someone to assist with secretarial work while they are on maternity leave, or if they have recently given birth (and are not availing of maternity leave).

The Minister believes that this measure will remove another obstacle (to the representation of women) and “make the role of a councillor more accessible to half of our population”.

The [General Scheme](#) of the Bill was published on 29 July 2022 and was scrutinised by the Joint Committee on Housing, Local Government and Heritage. While the Committee welcomed the legislation, its [Report on Pre-legislative Scrutiny](#) (25 October 2022) included eight recommendations. Appendix 1 sets out the Joint Committee’s recommendations and the Department’s response. We discuss the committee’s recommendations, and draw on the responses supplied by the Department, during our analysis of the Bill’s provisions below.

This Digest next sets out:

- The legislative and policy context for this Bill (Section 2), followed by the

¹ Government Press Release 22 November 2022 [Legislation to provide maternity leave for Councillors approved by Cabinet](#)

- The changes proposed by the key provisions of the Bill and some questions arising which members may wish to consider in their scrutiny of the bill (Section 3).
- A short analysis of the implications of the bill, if enacted, in particular how it may address the under-representation of women in local government (Section 4).

2. Legislative and policy context

The Bill aims to address the under-representation of women in Irish local government.

Women are under-represented in local government in all European states. At the 2019 local elections, 24% of those elected were women, this was an increase from 21% in 2014, but is well below the EU average of 32%.² In a global analysis by UN Women Ireland ranked 70th out of 133 countries.³

Figure 1 (over) sets out the percentage of women and men elected to city and county councils in the period 1999-2019⁴. Since the 2019 local elections at least 94 of those elected have either: stood down (28), been 'promoted' to the Dáil, Seanad or European elected office (61) or passed away (9). The gender breakdown of the co-options to replace them has been 53% women and 47% men, thus increasing the total number of women councillors from 225 to 243 (26%).⁵

The percentage of women candidates at local elections is also low and it closely reflects the percentage of women elected (Figure 2). This confirms the finding on voter behaviour in general elections that Irish voters have no problem voting for women candidates.⁶ The issue is that women are under-represented on the ballot paper.

² European Parliament (2020) [Women in local and regional government \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/infographic/infographic-women-in-local-and-regional-government-2020.pdf)

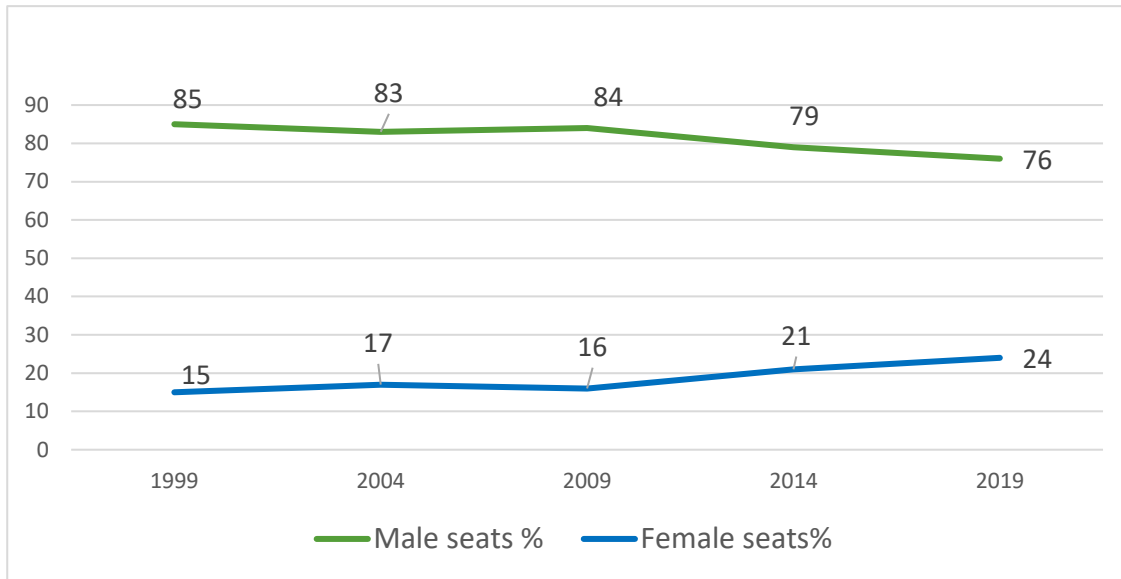
³ UN Women (2021) [Women's representation in local government: a global analysis](https://www.unwomen.org/en/news/stories/2021/04/women-s-representation-in-local-government-a-global-analysis)

⁴ It is worth noting that local government reforms saw a significant reduction in the number of seats in local government, from 1,627 to 949, primarily through the abolition of the Town Councils

⁵ Adrian Kavanagh (2022) [City and county council members co-options and changes since the 2019 local elections](https://www.irishtimes.com/news/politics/2022/05/10/city-and-county-council-members-co-options-and-changes-since-the-2019-local-elections/)

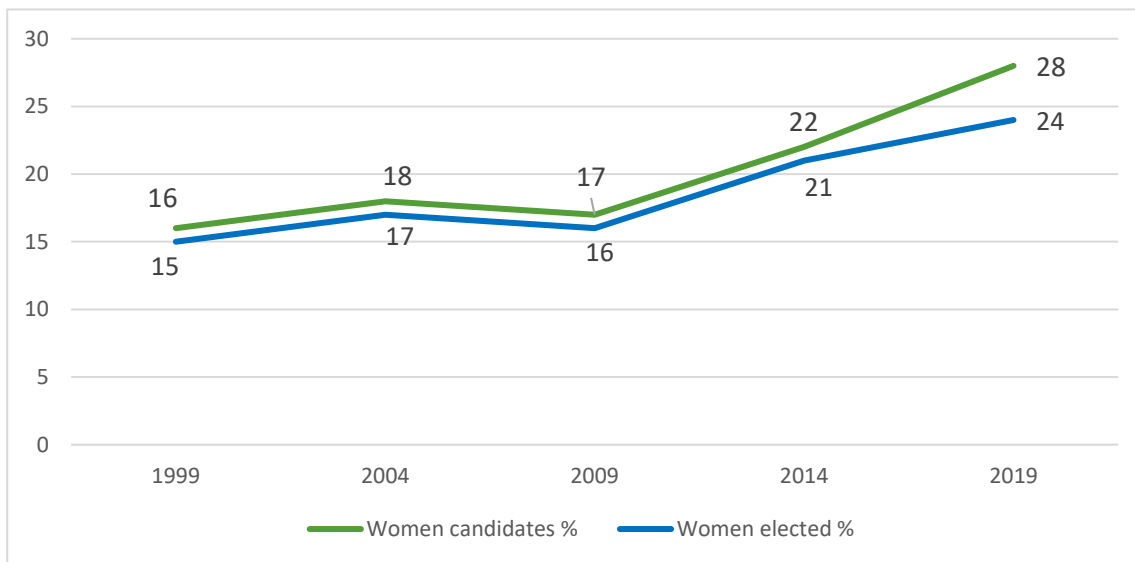
⁶ Gail McElroy & Michael Marsh (2011) Electing Women to the Dáil: Gender Cues and the Irish Voter, *Irish Political Studies*, 26:4, 521-534, DOI: [10.1080/07907184.2011.619746](https://doi.org/10.1080/07907184.2011.619746); Lisa Keenan & Mary Brennan (2021) Are Irish voters biased against female candidates? Evidence from the 2020 general election, *Irish Political Studies*, 36:4, 606-627, DOI: [10.1080/07907184.2021.1980651](https://doi.org/10.1080/07907184.2021.1980651)

Figure 1: % male and female representation on City and County Councils 1999-2019



Source: L&RS based on data from Adrian Kavanagh Irish Elections: [Geography, Facts and Analyses](#) ⁷

Figure 2: % women candidates and women elected at City and County Councils elections 1999-2019



Source: L&RS based on data in Adrian Kavanagh Irish Elections: [Geography, Facts and Analyses](#) and additional data provided by Adrian Kavanagh in communication with the L&RS.

⁷ Adrian Kavanagh [Female candidates contesting the 2014 Local Elections | Irish Elections: Geography, Facts and Analyses \(adriankavanaghelections.org\)](#); [Female candidates contesting the 2019 Local Elections | Irish Elections: Geography, Facts and Analyses \(adriankavanaghelections.org\)](#)

The representation of women in local government is directly connected to representation of women at a national level because local government provides a pipeline for political parties when selecting candidates for general elections. This pipeline is even more significant for the selection of women candidates than of men. Research in 2015 found that 76% of male candidates and 86% of female candidates selected for Dáil elections in 2007 and 2011 had previous experience as councillors.⁸ At the 2020 Dáil election only 20% of candidates had never run for an election before.⁹

2.1. Why are women less likely to present as a candidate in a local election?

Caring responsibilities are recognised as a key barrier to women putting themselves forward for election. The literature on representation describes how the culture and organisation of politics can present barriers to women seeking electoral office.¹⁰ A key ‘supply-side barrier’ (i.e. a barrier which deters one from being a candidate) is caused by the difficulties associated with combining caring responsibilities with the demands of public life which tend to require long and frequently unsociable working hours.¹¹ In a survey of the successful candidates after the 2019 local elections 79% of the women and 52% of the men elected agreed that women placing their family first was a factor in the low number of women in politics.¹² Kavanagh found that seven of twenty-eight councillors who have ‘stood down’ or resigned their seats for personal or career purposes were younger, first-time women councillors.¹³

Measures which make the role of a local representative more compatible with child-rearing responsibilities are proposed to address this barrier and thereby increase the number of women candidates. Policy instruments used to make child-rearing more compatible with elected office fall into two main categories. The first type aims to relieve pressure when a child is an infant and include the provision of statutory maternity leave, non-transferable paternity leave, parental leave and more flexible working conditions for councillors during this early-years period.

The second type focuses on altering the organisation and ultimately culture of politics. For example, by changing the times of meetings from the evenings to the day-time, and/or allowing remote voting during a period where a councillor is caring for young children and/or introducing a substitute or temporary replacement option for councillors who have caring duties.

⁸ Buckley, F., Mariani, M., McGing, C. and White, T. (2015) ‘Is local office a springboard for women to Dáil Éireann?’, *Journal of Women, Politics and Polity*, 36 (3), pp. 311-335

⁹ Theresa Reidy “Too many, too few: candidate selection 2020” in Michael Gallagher, Michael Marsh, Theresa Reidy. *How Ireland Voted 2020 : The End of an Era*. Palgrave Macmillan; 2021.

¹⁰ For example see Buckley and Brennan in ‘The Irish legislative quota: the first election’ *Administration*, vol. 65, no. 2 (2017), pp. 15–35 p.19; Sue Maguire “Barrier to women entering parliament and local government” University of Bath, Institute for Policy Research (2018) .

¹¹ Barriers (demand and supply-side) are often referred to as the ‘five Cs’: care, cash, confidence, culture, and candidate selection. The first – caring – is a supply side barrier.

¹² Pauline Cullen & Claire McGing (2019) [Women beyond the Dáil: More women in local government](#). NWCI

¹³ Kavanagh Adrian (2022) [City and county council members co-options and changes since the 2019 local elections](#)

The measures in this Bill primarily fall into the first category although the proposal to allow a temporary substitute, and the regulations which the Minister has suggested will accompany this bill, fall into the second.

2.2. What is the legal position for maternity leave for councillors?

Currently Irish councillors have no specific right to maternity leave. Like members of the Oireachtas, councillors are officeholders rather than employees and, as such, they do not come under the *Maternity Protection Act 1994*. Councillors, who are sometimes part-time and have other full-time or part-time employment, receive a Representational Payment rather than a salary.

If a councillor wishes to take maternity/paternity leave they do so under the absence provisions of Local Government Act 2001. Under section 18 of the Local Government Act 2001 (as amended), a councillor may be absent for up to six-months without being deemed to have resigned their seat; however, if a councillor is absent for more than six-months he or she will be deemed to have resigned his or her seat unless the Council, by resolution, approves this leave due to illness or in good faith for another reason (see section 18). As such, any leave up to six-months is an absence (but is not recognised as maternity leave) and any leave beyond six months is subject to the approval of the elected council (a resolution for up to 12 months and a further resolution for up to 18 months).

Regulations issued under the 2001 Act (see point 3.4 later in this Digest) set out that during the first six months absence there is no reduction in the remuneration payment received (which is €25,788 as of 1 July 2021), it is halved for the second six months and there is no payment after 12 months. A councillor who is absent in this way would not meet the attendance requirement in respect of the annual expenses allowance (also provided for by Regulations).

An independent review of the Role and Remuneration of Local Authority elected members (commissioned by the government and published in 2019) questioned whether a councillor's right to maternity leave should be subject to a Council resolution rather than being an automatic right.¹⁴ And the provision of maternity leave, as an element of childcare, has been recommended for councillors in a series of reports focused on increasing the number of women elected to local government. See Box 1.

¹⁴ Sara Moorhead (2019) [Independent review of the role and remuneration of local authority elected members](#)

Box 1. Recommendations to increase the number of women in local government

National Women's Council of Ireland (NWCI) report Women Beyond the Dáil- More Women in Local Government (2019) set out a number of recommendations to increase the representation by women in local government, including a candidate gender quota at local elections, entitlement to maternity/adoptive leave, more flexible working hours and meeting times to support councillors with caring responsibilities.

Citizens' Assembly (2021) Report on Gender Equality recommended improving family friendly practices for all elected representatives, and specifically maternity leave and flexible working options. The Citizens' Assembly also recommended an extension of the gender quota to local, Seanad and European Parliament elections to improve the participation of women in politics.

The **Association of Irish Local Government** (AILG) (2021) Pathway to the Provision of Maternity/Adoptive/Paternity leave for Local Authority Elected Members recommended amending the Local Government Act 2001, to provide for maternity Leave as an excused absence from a local authority and where Elected Members can take Maternity Leave without the necessity of a resolution from the elected council and therefore it will eliminate any risk of a councillor having deemed to have resigned their seat. It further recommended financial provisions to accompany maternity leave and measures to help councillors manage their workload during any period of maternity leave including remote attendance at council meetings, a substitute/replacement system, a voting pairing system, secretarial support and a review of meetings times.

2.3. Legislative initiatives aiming to address the issue

Recognising the policy issue, the Programme for Government (2020) committed to addressing it and specifically to considering the recommendations of the National Women's Council of Ireland. In March 2021, Minister for State with responsibility for Local Government, Peter Burke T.D. set up an all-female working group to examine the provision of maternity leave for county and city councillors. Answering a PQ on 11 November 2021, Minister Burke said it was his intention to 'bring forward a package of maternity-related measures, including proposals for legislative change, which councillors will be able to avail of'.

In June 2022, Government approved the drafting of a general scheme to provide maternity leave for councillors. The press release issued after the Cabinet meeting stated that councillors will be able to choose to appoint a temporary substitute or receive additional administrative support. The same options are to be provided to councillors who are absent due to illness.

The General Scheme of the Local Government (Maternity Protection for Local Authority Elected Members) Bill 2022 was published on 29 July 2022.

The General Scheme was scrutinised by the Joint Committee on Housing, Local Government and Heritage, which published its Report on Pre-Legislative Scrutiny in October 2022. Appendix 1 sets out the Department's response to the Committees recommendations which we discuss in our analysis of the key provisions.

Two Private Members' Bills designed to provide maternity leave for councillors have been debated in the Dáil:

1. The [Maternity Protection \(Local Government Members\) Bill 2017](#), sponsored by Anne Rabbitte lapsed with the dissolution of the Dáil in 2020.
2. In November 2021 Deputy Holly Cairns (Social Democrats) initiated the [Local Government \(Maternity and Family Leave for Elected Members\) Bill 2021 \[PMB\]](#). The Bill, which was not opposed by Government, seeks to provide for councillors to take maternity, adoptive or parental leave or force majeure leave without a council resolution. It is discussed below (section 4).

3.Provisions of this bill

The key changes proposed by the bill are discussed in five short sections.

3.1 Right of local councillor to maternity leave inserted into the *Maternity Protection Act 1994*

The [1994 Act](#) sets out the rights of employees who are pregnant or who have recently given birth and the obligations of employers towards this group of employees.¹⁵ It entitles the employee to a set amount of maternity leave (currently 26 weeks), which can be extended to 'additional maternity leave' by a further 16 weeks and sets out operational rules and procedures on how to apply for and take this leave¹⁶ (Part II).¹⁷ In both instances the right to leave depends on the employee giving notice to the employer (this is set out in s9 and s14 of the Act respectively). The Act ensures security of employment for the employee during that leave (i.e. the right to return as an employee) (Part IV)

This Bill¹⁸ amends the 1994 Act to the effect that a councillor is deemed as an employee of the local authority for the purposes of maternity leave. This is achieved by adding a fourth dimension – (d) - to the interpretation of an employee under the Act:

Section 2(2) of the Act sets out **that for the purposes of the Act:**

- (a) a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces) or otherwise as a civil servant, within the meaning

¹⁵ It restated rights and obligations set out in the Maternity Protection of Employees Act 1981 (which it repealed) and complied with an EU Directive on the Protection of pregnant workers, workers who have recently given birth and workers who are breastfeeding (1992).

¹⁶ The extended period is not covered by maternity benefit which is itself set out in a different Act (the Social Welfare Consolidation Act 2005 as amended, Chapter 9).

¹⁷ [Section 8](#) of the Act

¹⁸ Section 1a of this Bill.

of the Civil Service Regulation Act, 1956, shall be deemed to be an employee employed by the State or Government, as the case may be, under a contract of service;

(b) an officer or servant of a local authority for the purposes of the Local Government Act, 1941, a harbour authority, a health board or a member of staff of an education and training board shall be deemed to be an employee employed by the authority or board, as the case may be, under a contract of service

(c) in relation to an employee whose contract of employment falls (or, where the employment has ceased, fell) within *paragraph (b)* of the definition of “*contract of employment*” in *subsection (1)*, the person who is liable to pay the employee’s wages shall be deemed to be the employer; and.

This Bill inserts 2(d):

(d) “a member of a local authority shall be deemed to be an employee of the local authority employed under a contract of service for a fixed term.”

If a councillor intends to take maternity leave, the Bill¹⁹ requires that she notify the meeting’s administrator of this intention; this is in line with a requirement under section 9 of the Act that employees must notify employers of their intention to take maternity leave (Box 2). The Bill does not propose to similarly amend section 14 of the Act - which sets out a requirement that the employee provide notification to the employer when applying to take ‘additional maternity leave’.

Box 2: Insertion of s9(3) to section 9 of the 1994 Act

(1) Entitlement to the minimum period of maternity leave shall be subject to a pregnant employee—

(a) having, as soon as reasonably practicable but not later than four weeks before the commencement of maternity leave, notified in writing her employer (or caused her employer to be so notified) of her intention to take maternity leave; and

(b) having, at the time of the notification, given to her employer or produced for her employer’s inspection a medical or other appropriate certificate confirming the pregnancy and specifying the expected week of confinement.

(2) A notification under this section may be revoked by a further notification in writing by the employee concerned to her employer.

(3) A notification under this section required to be effected by a member of a local authority to the local authority shall be effected by giving the notification to the meetings administrator, referred to in section 46 of the Act of 2001, of the local authority.

¹⁹ Section 1b of this Bill inserts a new clause into Section 9 of the 1994 Act.

The implication of the proposed amendments is that for the purposes of maternity leave, a local councillor is treated like an employee (under a fixed term contract) of the local authority. Employees on fixed-term contracts in local authorities are entitled to maternity leave for up to 26 weeks or until the end of their contract (whichever date is first), and to extended maternity leave for up to 16 weeks or until the end of their contract, whichever comes first, and those on fixed-term contracts are to be treated as favourably as permanent employees.²⁰ For local councillors, the end of their term as a councillor is akin to the end of a fixed-term contract. The Minister has noted that if the period of leave overlaps with the dissolution of the council and a local election, where the councillor is re-elected, the councillor would not experience a break in protection (maternity leave).²¹

The Bill²² explicitly sets out that certain provisions of the 1994 Act (sections 23-28 and Part V) do not apply to local councillors. These provisions are not relevant to local councillors who, except for during the maternity leave period proposed in this Bill, are not in an employee-employer relationship with the council. Sections 23-28 concern matters such as the termination of employment, periods of probation, training and apprenticeship, and the general right to return to one's job, or a similar job, on expiry of maternity leave. Part V concerns the resolution of disputes between employers and employees with respect to these provisions.

It is important to note that eligibility for maternity leave, and eligibility for maternity benefit, have different statutory bases. The 1994 Act concerns the right to maternity leave. Maternity benefit, on the other hand, is provided for by the *Social Welfare Consolidation Act 2005* (as amended) and is available for those who are eligible for maternity leave under the 1994 Act and who meet other eligibility requirements related to PRSI contributions. This is further discussed below (3.4).

3.2 Absence occurring because of maternity leave will not give rise to a casual vacancy

As noted above, under section 18(4) of the [Local Government Act 2001](#) (as amended) if a councillor is absent from attendance at council for six consecutive months he or she will be deemed to have resigned and a casual vacancy will arise (18(4)(a)) (this is unless the absence is (i) due to illness or (ii) in good faith, for another reason and the absence is approved as such by the Council by resolution (18(4)(b))). This Bill²³ inserts a new subsection 18(4A) which provides that an absence taken under the new provision for maternity leave is not subject to section 18(4)(a) or (b). In other words, such an absence will not give rise to a casual vacancy if it extends beyond six

²⁰ See Citizens Information, Rights of fixed-term workers [Rights of fixed-term workers \(citizensinformation.ie\)](#) [accessed 25th November 2022]

²¹ Department of Housing, Planning and Local Government, 2022 response to Joint Committee's Report on Pre-legislative scrutiny of General Scheme, Table 1 Appendix. This is because under s17 of the Local Government Act a councillor remains a member of the elected Council until seven days after a local election.

²² Section 1(c) and 1(d) of this Bill respectively.

²³ Section 2(a) of this Bill.

months, neither does it require a council resolution for extension beyond six months. The intention of this amendment is to give councillors an explicit right to be absent on maternity leave without any requirement for council approval.

The implications of these provisions for matters related to pay and/or eligibility for maternity benefit are covered in 3.4 below.

3.3 Temporary absence

This Bill²⁴ creates a new type of absence a ‘temporary absence’ during which time it is possible to have a temporary substitute appointed.

Under the Bill a “temporary absence” occurs when a councillor is/will be absent:

- (i) Due to illness, or in good faith for another reason (i.e. is not a casual vacancy), or
- (ii) Because she is taking maternity leave under the new provisions

and the councillor notifies the meetings administrator that he or she wishes to have a temporary substitute.

The procedure for co-opting a temporary substitute is set out in clauses (2) – (7) of the proposed new section 19A (which the Bill inserts into the 2001 Act). The procedure, which is almost identical to that provided for in section 19 for when causal vacancies arise, is set out in Figure 3.

²⁴ Section 2 (b) inserts section 19A after Section 19 (Casual Vacancies) of the 2001 Act.

Figure 3: Procedure for co-option under proposed section 19A

The co-option of temporary substitutes has both advantages and disadvantages for representational democracy. On the one hand, representation is enhanced if a substitute is appointed in that the people are represented at council meetings. This is arguably preferable to a situation where the council meets and makes decisions over a pro-longed period without representation from the relevant councillor. The closer the substitute's position is to the councillor who is elected, the more democratic the co-option process is. In countries with list PR electoral systems, the substitute provision is easier to operate as the candidate who was next on the list for that party is the substitute (see International experience – Appendix 2). While the Bill allows the councillor a say in who is proposed for co-option, it is ultimately the councillor's party and the council itself which decides.

Irish local government is familiar with the co-option process as it is used to fill casual vacancies. Since the 2019 elections, at least 94 casual vacancies have arisen.²⁵

3.4 Remuneration: maternity leave, maternity benefit and representational payment and other allowances

The system of remuneration and of allowances owing to local councillors has undergone reform since the publication of the Moorhead Review of the Role and Remuneration of Councillors (2019). The representative payment received by councillors has increased in value and the allowances and expenses system is now largely a 'vouched' system.

Remuneration of local authority members is provided for by the [Local Government \(Remuneration of Local Authority Members\) Regulations 2021 \(SI 312/2021\)](#) which are issued under sections 4²⁶ and 142 (Members' expenses, remuneration etc)²⁷ of the 2001 Act.²⁸ Section 142 empowers the Minister to issue regulations, subject to the approval of the Minister, for payment of expenses and remuneration. Under the Regulations, the representational payment (since 2021 referred to as the 'payment of an annual amount in respect of remuneration') is an annual payment which was linked to Senator's pay but, since 2021, is linked to the pay of a Local Authority Grade 4 Operative. It is currently at €25,788 per year (as of July 2021). Other allowances received by councillors are directly dependent on their performance of specific duties, including attendance at meetings or conferences, and would not be payable when a councillor is absent. Allowances are now provided for by the [Local Government \(Expenses of Local Authority Members\) Regulations 2021 \(S.I. No. 313 of 2021\)](#).

Significantly, given the focus of this Digest, councillors who are absent (under s.18 of the 2001 Act) continue to receive the annual payment for up to six months and, thereafter (if for specific allowance reasons and with council approved) may receive 50% of the allowance for a further 6 months (s4 of the 2021 Regulations – this had also been the case in s5 of the revoked regulations) (see Box 3). The Bill does not propose to amend s142 of the 2001 Act and the Minister has not indicated that there will be amendments to section 4 of the 2021 regulations.

²⁵ Adrian Kavanagh, NUI Maynooth notes that at least 94 of the successful candidates have either stood down (28), been 'promoted' to the Dáil, Seanad or European elected office (61) or passed away (9). Seven (25%) of the group who stood down for personal/career purposes were younger, first time women Councillors.

²⁶ [Revised Acts \(lawreform.ie\) Section 4](#)

²⁷ [Revised Acts \(lawreform.ie\) Section 142](#)

²⁸ This SI 312/2021 revoked the [Local Government \(Representational payment for Members\) Regulations 2001](#) which had provided for remuneration up until this date while some provisions of the earlier SI were retained.

Box 3: The regulation of remuneration when there are absences under SI 312(2021)

(4) (a) Where a member is absent from attendance at any meeting of his or her local authority for a continuous period of 6 consecutive months from the date of his or her last attendance at a meeting of the local authority then **payments under these Regulations shall continue to be made by the local authority to that member for that period.**

(b) Where a member is absent from attendance at any meeting of the local authority for a continuous period of more than 6 consecutive months but continues to be a member of the local authority under section 18(4) of the Act of 2001 then **payments under these Regulations shall continue to be made by the local authority to that member at half the applicable annual rate** for the next succeeding 6 months following the initial 6 consecutive months of absence under paragraph (a).

(c) No further payments shall be made under these Regulations where a member is absent from attendance at any meeting of the local authority for a continuous period of more than 12 months for so long as such uninterrupted absence continues.

The Bill does not mention maternity benefit. As noted above, the 1994 Act concerns maternity leave and not maternity benefit. Maternity benefit is provided for in the [Social Welfare Consolidation Act 2005 \(as amended\)](#). Under Chapter 9 of this 2005 Act, an “employed contributor” is entitled to maternity benefit where:

(b) it is certified by the woman’s employer that she is entitled to maternity leave under section 8 of the *Maternity Protection Act 1994*, and

(c) subject to subsection (2)²⁹, she satisfies the contribution conditions in section 48.

Section 48 sets out the contribution conditions for maternity benefit for employees and for self-employed

Box 4: Contribution conditions for maternity benefit under the 2005 Act section 48.

48. The contribution conditions for maternity benefit are—

(a) in the case of an employed contributor—

(i) (I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with her entry into insurance and ending immediately before the relevant day, and

(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

²⁹ Subsection 2 applies to the when a claim for maternity benefit is made by a woman who was in receipt of health and safety benefit under section 52 of the same Act.

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs, or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment, she satisfies the contribution conditions in paragraph (b),

(b) in the case of a person in insurable self-employment—

(i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or

(ii) where the claimant was previously an employed contributor, that she satisfies the contribution conditions in paragraph (a)(i) or that she has employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

As the Bill seems to allow councillors to apply for maternity benefit (under the 2005 Act) if they take maternity leave, and the 2021 Regulations allow payment of the representative payment during absences, a number of questions arise as to how councillors who avail of the new maternity leave provision will receive payment. These questions are set out below.

First, is it the case that when a councillor takes maternity leave, the councillor must apply to receive maternity benefit under the 2005 Act for the duration of maternity leave? Or is it possible for councillors to notify the council administrator that they are taking maternity leave, and opt to continue to receive the representational payment for six months, and half of the payment for a further six months, as is permitted by the current regulations (Box 3) for councillors who are absent (under section 18)?

According to the Department, a councillor who has taken maternity leave under this Bill should not continue to perform his or her role as an elected member as this would be grounds for disqualification for maternity benefit.³⁰ However, if a councillor takes maternity leave under the new provisions, and does not apply for maternity benefit under the 2005 Act, it would appear that the legislation allows her to continue to receive the representational (annual) payment (the same as other councillors who are absent under section 18 of the Act).

Secondly, if it is indeed possible for a councillor to take maternity leave and to continue to receive the representative payment while on maternity leave (as per the above), could the councillor simultaneously apply to have a temporary substitute co-opted? And, if the answer is yes, does this

³⁰ Department response to Joint Committee Report on Pre-legislative Scrutiny of the General Scheme Appendix 1.

mean that two representational allowances would be paid – one to the absent councillor and one to the temporary substitute – at the same time?

The Minister's opening statement to the Joint Committee on pre-legislative scrutiny implied that a councillor on maternity leave would, if they avail of a temporary substitute, have a clean break from their role as local councillor:

“the Bill also provides for an elected member, should they so wish, to nominate a temporary substitute to undertake the role and duties of the elected member who will be absent for the period of the maternity leave. • This will allow for the elected member to undertake a “clean break” from her role as a councillor for the period of absence and ensure that councillors are facilitated in taking maternity leave and are under no unnecessary pressure to return to work ahead of time.”

However, as noted above, the 2021 Regulations (Box 4) suggest that a councillor could still be in receipt of the annual payment (representational payment) during this period.

Thirdly, there are questions about how a councillor's eligibility for maternity benefit would be assessed. At present (and since 2017) councillors are insured for maternity benefit because they contribute under PRSI Class S (self-employed category of PRSI). But the Bill proposes to deem councillors as employees of the local authority for maternity leave which suggests that the terms for employees under the 2005 Act would be relevant. As Box 3 sets out, the conditions for eligibility differ depending on whether an applicant is employed or in insured self-employment; applicants **under Class S need not less than 52 stamps while an employee need not less than 39 stamps. If a councillor takes maternity leave, and applies for maternity benefit, it is not clear whether** their application will be assessed based on Class A (employee) or Class S (self-employed) PRSI contributions?

Finally, the 2005 Act allows, but does not require, employers to top-up the maternity benefit received by employees to the equivalent of their salary. Employers of civil and public servants, including employees of local authorities, do top up maternity benefit.³¹ Does this mean that a local councillor on maternity leave, who is in receipt of maternity benefit, would be entitled to have maternity benefit topped up to the level of the annual (representational) payment? While the payment is not a salary, the Bill proposes to make a councillor equivalent to an employee for the purposes of maternity leave.

The answers to these questions would provide important clarity about the impact these proposals will have on local councillors and the impact it will have on the public finances.

3.5 Additional regulations – maternity administrative support

The Minister has indicated that he will bring forward new regulations under s142 of the 2001 Act which will provide for maternity administrative support for councillors who are:

- availing of maternity leave or

³¹ See DPER (2020) [Focused Policy Assessment \(2020\), Paid Parents' Leave Scheme](#)

- who have recently given birth and choose not to avail of maternity leave.

In the response to the Joint Committee's Recommendations on Pre-Legislative Scrutiny of the General Scheme (2022), the Department stated that it is intended that the maternity administrative support allowance would be linked to the latest salary scale for Administrative Assistants provided to members of the Houses of the Oireachtas (one-third of the first point of the salary scale). This amount would at present be €253.43 per week (payable to the councillor).

The Joint Committee in its Report on Pre-Legislative Scrutiny recommended that the salary for administrative support should meet the requirements of a living wage. The Minister agreed to refer the draft regulation to the Joint Committee for consideration.³²

4. Implications of the Bill and key issues for Members' consideration

Will the Bill's provisions contribute to addressing the policy issue?

The Bill aims to address the under-representation of women in local government, in particular their under-representation as candidates for local election, by introducing measures designed to make the role of local representative more compatible with child-bearing and child-rearing responsibilities. If implemented, a councillor with caring duties who is pregnant or has just given birth will have more options for support.

The Bill gives councillors an explicit right to take maternity leave akin to employees under the *Maternity Protection Act 1994*, and a consequential right to apply for maternity benefit under the *Consolidated Social Welfare Act 2005* (provided certain conditions are met). Secondly, councillors who are absent for maternity leave may opt to have a temporary substitute co-opted by the council who will perform their duties for the duration of the leave. And while they are separate to this Bill, the Minister is drafting regulations which will provide for secretarial assistance to councillors who are on maternity leave or, who are entitled to be on maternity leave (but have opted not to be). It appears that taking an absence of up to six months without a council resolution, and of up to 12 months with council approval, under section 18 of the *Local Government Act 2001*, remains an option for councillors who are pregnant, have just given birth or are caring for infants and the option to have a substitute co-opted also applies in this case.

The options which would appear to be available to a councillor who is embarking on a period of maternal care are set out in the summary table below. However, as highlighted in 3.4 above, **there is a need for greater clarity on the payment/benefit which may be received by councillors who are absent for maternity purposes depending on the option taken** and, for example, on whether it is permissible for the annual (representational) payment to be received by two persons – a councillor who is absent and a councillor's temporary substitute – at the same time. Given the range of options, it is not certain that councillors will always perceive the new provision to apply for maternity leave under the 1994 Act as the most advantageous one.

³² Department's response to the Joint Committee Report on Pre-Legislative Scrutiny, Appendix 1.

Summary Table: Maternity and family-friendly options for councillors if the Bill is enacted

	Options for councillor	Financial implications
1	<p>Apply for maternity leave under the 1994 Act (as amended by this Bill)</p> <p><u>and</u></p> <p>Cause the co-option of a temporary substitute for the duration of the absence who will carry out her representative duties.</p> <p><u>and</u></p> <p>Apply for maternity administrative assistance under the new regulations.</p>	<p>Councillor may apply for, and receive, maternity benefit.</p> <p>Under s4 of the Regulations (2021) it appears that the 'absent' councillor would be eligible to continue to receive the annual payment.</p> <p>Substitute would receive annual allowance (pro rata)</p> <p>Councillor would receive payment at €253.43 per week for up to 42 weeks.</p>
2	<p>Apply for maternity leave under the 1994 Act</p> <p><u>and</u></p> <p>Does not cause a temporary absence and does not have a temporary substitute co-opted.</p> <p>In this case there is no public representative in the role for the duration of the leave as neither the councillor nor a temporary substitute is actively playing a representative role³³ (although secretarial support may enable the councillor to perform some duties)</p> <p>May apply for maternity administrative support for the duration of the leave.</p>	<p>Councillor could apply for maternity leave and/or</p> <p>Would appear to continue to receive the annual payment (under absence provisions in the 2021 Regulations).</p> <p>No additional payment as no substitute is co-opted</p> <p>Councillor would receive payment at €253.43 per week for up to 42 weeks.</p>

³³ In its response to the Joint Committee's Report on PLS, the Department indicated that a councillor who is on maternity leave is not expected to turn up and vote at council meetings (this was in response to a suggestion that councillors on mat leave should be able to vote via electronic voting).

<p>3</p>	<p>Does not apply for maternity leave under the new provisions <u>and</u></p> <p>Is absent, instead, under section 18 of the 2001 Act extending beyond 6 months to 12 months by way of a resolution of the Council</p> <p>Applies for a temporary absence (under the new provision) thereby prompting the council to co-opt a temporary substitute</p> <p>May apply for maternity administrative support as provided in the forthcoming regulations</p>	<p>No maternity benefit</p> <p>Continues to receive the annual (representational) payment</p> <p>Temporary substitute would receive the annual (representational) payment</p> <p>Councillor would receive payment at €253.43 per week for up to 42 weeks.</p>
<p>4</p>	<p>Does not apply for maternity leave under the new provisions</p> <p>Is absent, instead, under section 18 as per option 3</p> <p>Does not apply for a temporary absence and, therefore, no substitute is co-opted to perform the representational role.</p> <p>May apply for maternity administrative support as provided in the forthcoming regulations</p>	<p>No maternity benefit</p> <p>Continues to receive the annual (representational) payment</p> <p>Temporary substitute not in place so no further representational payment</p> <p>Councillor would receive payment at €253.43 per week for up to 42 weeks.</p>
<p>5</p>	<p>Does not apply for maternity leave</p> <p>Is not absent under s18 of the 2001 Act</p> <p>Continues to perform duties perhaps availing of the right to vote remotely at council meetings (which was stated in regulations issue under the <i>Civil Law and Criminal Law (Miscellaneous Provision) Act 2020</i> (SI 445(2020)).</p> <p>May apply for maternity administrative support as provided in the forthcoming regulations</p>	<p>Continues to receive full annual (representational) payment</p> <p>Receives other allowances (under SI 313(2021))</p> <p>Councillor would receive payment at €253.43 per week for up to 42 weeks.</p>

We conclude with two further observations on the Bill and its capacity to address the policy issue.

First, the Bill does not provide councillors with a similar right to take adoptive leave (under the *Adoptive Leave Act 1995*). Nor does it set out a councillor's right to paternity leave or to parent's leave which was introduced by the *Parent's Leave and Benefits Act 2019* (and enhanced by the *Family Leave and Miscellaneous Provisions Act 2021*). The former entitles an adoptive parent to 24 weeks adoptive leave with the same protections as those offered by the *Maternity Protection Act 1994*.³⁴ Parent's leave entitles either parent to take up to five weeks leave, with benefits, during the child's first two years of life (or first two years after placement with adoptive parents).

The *Local Government (Maternity and Family Leave for Elected Members) Bill 2021*, a Private Member's Bill sponsored by Deputy Holly Cairns (Social Democrats), sought to insert a right to maternity leave, adoptive leave, parental leave and force majeure leave into the *Local Government Act 2001*. It aimed, in so far as is practicable, that 'the application for this leave' would 'be made in a manner similar to an application by a member of the staff of that local authority for leave of absence under the relevant provisions of the *Maternity Protection Acts 1994 and 2004*, the *Adoptive Leave Acts 1995 and 2005* or the *Parental Leave Acts 1998 to 2019*.'³⁵

Secondly, both the *Local Government (Maternity and Family Leave for Elected Members) Bill 2021* and the AILG's proposals in 2021³⁶ proposed alternative legislative routes to providing the right to maternity leave. Deputy Cairn's bill does not propose to amend the Acts which provide for maternity, adoptive leave etc but instead insert a new Section 18(A) into the *Local Government Act 2001*. It sets out a councillor's right to take the leave which is provided for in these Acts in the same way as if they were a member of the staff of that local authority. Deputy Cairns clarified during the debate on first stage in the Dáil that the bill concerned maternity and family leave and not benefit and that this was because a councillor's pay was moved in 2017 from being subject to class K to class S PRSI and confers benefits, including adoptive and maternity benefit.³⁷

³⁴ The 2021 Act amended the 1995 Act (as amended) to enable any couple that jointly adopts a child to choose which of the parents will take adoptive leave (prior to this the leave was assumed to be taken by the adoptive mother (unless the adoptive mother died)).

³⁵ This quotes from the long title of the 2021 PMB.

³⁶ AILG (2021) Pathway to the Provision of maternity/Adoptive/Paternity leave for Local Authority Elected Members (referenced in Box 1 of this Digest)

³⁷ Dáil Éireann 17th November [2021 Local Government \(Maternity and Family Leave for Elected Members\) Bill 2021: First Stage](#).

Appendix 1. Department response to Committee recommendations in Pre-Legislative Scrutiny

Committee PLS Recommendation	Departments Response
<p>1. The Committee recommends that where an elected member avails of administrative support, the salary for such support should be commensurate with the experience of the candidate and the responsibility of the role and should meet the requirements of a living wage</p>	<p>Regulations, to be made under Section 142 of the Local Government Act 2001 (as amended) by the Minister with the consent of the Minister for Public Expenditure and Reform, are currently being drafted which will provide for an allowance payable to councillors who are availing of maternity leave (but not a temporary substitute) or who have recently given birth (and who choose not to avail of maternity leave). This latter scenario is intended as a family friendly measure enabling a councillor who has recently given birth to engage a person to provide additional administrative or secretarial support to assist them in their representational role. It is proposed that such an allowance would be paid on a vouched basis.</p> <p>In the case of Oireachtas Members, under Statutory Instrument, the Houses of the Oireachtas Commission provides additional supports to Members taking maternity and adoptive leave in the form of an additional full-time administrative assistant.</p> <p>It is intended that the amount of the maternity administrative support allowance payable to councillors will be linked to the latest salary scale for Administrative Assistants currently provided to members of the Houses of the Oireachtas.</p> <p>For the purposes of the administrative support allowance payable to councillors under the Regulations, it is envisaged that the amount of the allowance payable to an elected member will be up to an amount of €235.43 per week (i.e. one-third of the first point of the salary scale for Oireachtas Administrative Assistant).</p> <p>Where the rates of pay of within the Scheme for the Provision of Secretarial Assistance for Members of the Houses of the Oireachtas and Qualifying Parties is amended in accordance with Government pay policy, then the amount payable to members by way of an administrative support allowance shall be altered on and from that day by a proportionate amount.</p>
<p>2. The Committee recommends that where an elected member decides not to avail of a temporary substitute, a</p>	<p>1. Section 29 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 provides for State Bodies to hold meetings remotely, with the supporting S.I. No. 445/2020 - Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 (Section 29) (Local Authorities)</p>

<p>mechanism is put in place to enable the elected member to vote remotely.</p>	<p>(Designation) Order 2020 specifically allowing local authority meetings to be held remotely.</p> <p>In accordance with the 2020 Act, any decision made or vote taken or other act done at such a meeting shall be as good and effectual as a decision made or vote taken or other act done by the members concerned would have been if such a meeting had been held in person.</p> <p>2. It should be noted that irrespective of whether an elected member avails of a temporary substitute or not, eligibility for the payment of maternity benefit is dependent on satisfying the qualifying conditions for the maternity benefit scheme. Section 50 of the Social Welfare Consolidated Act 2005 allows the Minister to make Regulations¹ to provide for disqualification from receiving maternity benefit in certain circumstances (including where such an elected member engages in insurable self-employment / undertaking her duties as a councillor).</p> <p>To this end, elected members who have decided to take maternity leave and have not availed of a temporary substitute should not continue to perform their role as an elected member for the duration of the period of their maternity leave, as this could be deemed as grounds for disqualification from maternity benefit.</p>
<p>3. The Committee recommends that the Department engage with the Committee, AILG, and LAMA, in making and reviewing proposed regulations.</p>	<p>Regulations are currently being drafted to support the Bill. The Minister commits that the draft Regulations will be submitted to the Joint Oireachtas Committee on Housing, Local Government and Heritage for consideration and will engage further with the Committee in the matter, as requested.</p> <p>The Department undertakes that it will also engage again with the AILG and LAMA as drafting of the Regulations progresses.</p> <p>In the main, the Regulations will be set out the treatment of different scenarios of absence, including where:-</p> <ul style="list-style-type: none"> • elected members are absent due to their availing of maternity leave, or • elected members are entitled to maternity leave but choose to continue undertaking her roles/duties as an elected member <p>In both instances, the elected member is provided an allowance which would let them engage a person to carry out administrative support for up to 42 weeks. This is intended as</p>

	a support to women councillors who have a child, while in the councillor role.
4. The Committee recommends that the Department extend the definition of the end of a term of office of a local authority elected member to include circumstances where the elected member resigns their seat.	<p>The Department is of the view that section 17 of the Local Government Act 2001 (as amended), already defines the term of office for an elected member and sets out the scenarios where a term of office ceases (which includes resignation). The Department does not believe it necessary therefore to introduce further clarifying provisions in this draft Bill.</p> <p>Section 17(4) reads: (4) The term of office of a member of a local authority continues until the next ordinary day of retirement of members of the local authority, unless such member sooner dies, resigns, becomes disqualified, is removed from office or otherwise ceases to be a member of the local authority.</p>
5. The Committee recommends that the Department consider the status of a local authority elected member's maternity leave entitlement where such leave coincides with a local election period, and the member is re-elected to their local authority.	<p>Section 17 of the Local Government Act 2001 (as amended), defines the term of office for an elected member.</p> <p>An existing member of a local authority remains as a member for 7 days following a local election ("the ordinary day of retirement"). On this day, each person elected at the election comes into office as a member of the local authority.</p> <p>Consequently, a member who is re-elected to the local authority will not experience any "break in service" and can continue to avail of the protections afforded by the Maternity Protection Act 1994 (as amended) after their re-election.</p>
6. The Committee recommends that the Department make provision for safeguards such as a review mechanism of the implementation of this legislation to guarantee a cultural change in local authorities.	It is intended that the supporting Regulations will provide that, not later than 5 years after their commencement, each local authority will review the operation and effectiveness of the Regulations and on completion of the review, submit a report of the findings of the review and of the conclusions drawn from those findings to the Minister.
7. The Committee recommends that the Department issue best practice guidance to local authorities regarding the provision of facilities and supports for elected members returning to work from a period of maternity leave. Such guidance should be issued to the CCMA for briefing to Chief Executives.	The Department will examine the issues arising and support facilities required by elected members on their return to work as a councillor. Any guidance in this respect will only issue following consultation with relevant stakeholders, including councillor representative bodies and the CCMA.

<p>8. The Committee recommends that the Department consider measures which give the elected member who is creating the temporary absence greater control over the decision-making process in selecting their temporary substitute. This may include the ratification of a substitute not being subject to a vote of the full Council.</p>	<p>The draft Bill provides for the inclusion of a new section 19A into the Local Government Act 2001 (as amended). This sets out the instances where a temporary absence occurs and the protocols for a temporary substitute to be put in place (should the member causing the absence wish to nominate a temporary substitute).</p> <p>In drafting these provisions for the co-option of a temporary substitute, the Department has mirrored (as far as possible), but also strengthened, the existing provisions of Section 19 of the Local Government Act 2001, relating to co-options following casual vacancies.</p> <p>In this regard, the influence which an elected member can exert over the nomination of his or her temporary substitute is strengthened by the inclusion at Subsection 19A(3)(a)(ii) and 19A(3)(b)(ii) (of the Local Government Act 2001) of provisions that the local authority must have regard to the preferred choice (if any) of the member causing the temporary absence as to the person who should be the temporary substitute. This applies whether or not the elected member causing the temporary absence is aligned to a political party.</p>
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Appendix 2. Maternity leave for councillors in Europe

Women are under-represented in local government in all EU states, the EU average 32%. Maternity leave is not automatic in most European states, because, as in Ireland, local councillors are not employees of the councils.

It is important to be aware of the variety of local government systems across Europe; in some states a subset of elected councillors is elected to the local government executive; in others, members of the local government executive are separately elected (e.g. directly-elected mayors). 'Executive councillors' often have different terms and conditions to 'ordinary councillors'.

Three factors are important in determining how a local councillor experiences maternity leave and benefit, and whether they can be substituted or not.

1. The legal status of the remuneration or compensation received by councillors. Whether a councillor is treated by law as a 'paid employee' or receives a representative or compensatory allowance determines their entitlement to maternity leave/benefit. Executive councillors, mayors, deputy mayors etc. tend to have employment status and an automatic entitlement to maternity leave and benefit.
2. The extent to which 'leave' for an absence or special arrangements for maternity or paternity leave are a 'right' by law (and only require that the councillor notify) or are at the discretion of the council or a mayor.

3. Whether councillors may be formally 'substituted' for the duration of leave depends on the law of the state, the electoral system and, sometimes, on the relevant council itself.

The Table below is based on information gleaned from an unpublished survey of parliaments in Europe in 2021.³⁸

Table - Maternity leave entitlements for local councillors in Europe

Country	Maternity benefit/leave entitlements	Substitution
Belgium	<ul style="list-style-type: none"> Executive councillors (Mayors and Aldermen) are full time paid employees entitled to paid maternity leave like other employees. Ordinary councillors may take maternity leave but they are dependent on external employment for maternity benefit entitlement. For those with no other job there is a supplementary social regime for "Unprotected local representatives " 	Both executive and ordinary councillors are substituted
Cyprus	<ul style="list-style-type: none"> No specific maternity leave. Absence with pay permitted for 'justifiable reason' which includes maternity leave. Councillors are entitled to maternity benefit from external employment. Council approval is required for leave beyond 3 months 	No substitution
Czech Republic	<ul style="list-style-type: none"> Executive councillors are employees and entitled to maternity leave and benefit. Ordinary councillors' entitlements depend on other employment and they have no formal right to be absent 	No substitution
Estonia	<ul style="list-style-type: none"> Executive positions are employees and entitled to maternity leave etc. Ordinary councillors are dependent on other employment for maternity benefit. They can apply to have their mandate temporarily suspended – it does not require Council approval. 	<ul style="list-style-type: none"> Substitution is a right for executive positions Other councillors who apply for a suspension of their mandate are also substituted.

³⁸ European Centre for Parliamentary Research and Documentation (ECPRD) Request No. 4763 Maternity and other family leave for Local Councillors/locally elected representatives

Finland	<ul style="list-style-type: none"> Executive councillors are employees and are entitled to maternity leave and benefit based on that salary. Other councillors are dependent on other employment for maternity benefit. They have the right to be absent for maternity leave. 	All councillors have a deputy councillor, the first unelected councillor from the party list, who substitutes for the elected councillor when they cannot attend.
Greece	<p>There is no formal right to maternity leave and/or benefit by virtue of position as a councillor; councillors may receive benefit and leave from another employment.</p> <p>Councillors, including Mayors and other executive positions, require permission of the council to be absent for more than 30 days.</p>	No substitution
Lithuania	<p>Executive councillors are entitled to maternity leave and benefit as full-time employees – it must be authorised by the council.</p> <p>Ordinary members are dependent on other employment for maternity benefit. Leave/non-attendance is possible with council approval.</p>	No substitution
Luxembourg	<p>Benefit received depends on councillors' other professional activity/employment.</p> <p>Councillors cannot miss three consecutive meetings <i>without legitimate reason</i>.</p>	<p>For executive councillors, replacement is automatic and mandatory in case of absences of over 1 month.</p> <p>No substitution for ordinary councillors.</p>
Poland	<p>Executive councillors are entitled to maternity leave as full-time employees.</p> <p>Ordinary members are dependent on other employment. A councillor with no other occupation can apply for unemployment benefit. Ordinary councillors have no right to be absent.</p>	<p>Executive councillors are replaced when on maternity leave.</p> <p>Ordinary councillors cannot be replaced</p>
Portugal	Executive councillors, and other councillors who work exclusively as councillors (or half-time as councillors), are entitled maternity leave and benefits.	Councillors can request a suspension of their mandate and if granted they are replaced by the next person on the party list.

	<p>Ordinary councillors with other employment will receive maternity benefits under the social security system depending on their other employment.</p>	
Slovakia	<p>Mayors are considered to be in employment and entitled to maternity leave and benefit.</p> <p>Ordinary members are dependent on other employment and have no right to be absent.</p>	<p>A mayor selects his/her deputy from elected local councillors and, failing this, the municipal council will select the deputy.</p> <p>Councillors are not substituted while on maternity leave.</p>
Slovenia	<p>Some executive councillors, including some mayors and deputy mayors, are treated as employees and are entitled to maternity leave and benefit.</p> <p>Other councillors (including some mayors) are also entitled to maternity and other family leave but the level of compensation depends on their other or previous employment. If a councillor does not have other employment he or she will qualify for a basic payment.</p>	<p>Replacement of mayors is regulated locally.</p> <p>Ordinary councillors are not substituted.</p>
UK	<p>England: Councillors are officeholders rather than employees. If a local councillor is absent, allowances will continue to be received for up to six months and for longer if approved by the council. Maternity benefit is paid to members and the rate of payment depends on their employment status; where members have other employment the payment is based on these earnings; where they have no other employment, they are entitled to a base statutory maternity benefit.</p> <p>Wales: Although councillors are office holders, Welsh legislation provides a legal right to family absence for members of local authorities without council approval.</p> <p>Scotland: Councillors are office holders and have no express right to maternity leave. Allowances are paid</p>	<p>Only in Scotland can councillors in leadership positions be substituted.</p>

	for up to six months and longer if the councillor has permission to be absent.	
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