

REPORT

Human Resources and IT and Legislative Services

To: Mayor Cote and Members of Council, **Date:** July 11, 2022

From: Jacque Killawee **File:** 05.1035.10
City Clerk

Eva Yip **Item #:** 2022-542
Acting Director of HR

Subject: Council Maternity and Parental Leave Draft Policy

RECOMMENDATION

THAT Council adopt the draft maternity/parental leave policy, attachment 1 of this report

PURPOSE

To respond to a Council Motion and bring before Council a maternity/parental leave policy for approval.

BACKGROUND

At the evening Council meeting of January 21, 2022 Council passed the following motion:

Whereas the Local Government Act, Community Charter, and New Westminister Council Procedure Bylaw do not provide maternity and/or parental leave rights to elected officials; and

Whereas the absence of maternity and/or parental leave for local elected officials specifically disadvantages persons considering running for office and, hence, is a systemic barrier to attracting more diverse and representative candidates to local government; and

Whereas an elected official may want to take maternal and/or parental leave from their position and it is currently unclear as to this leave availability. It is unreasonable

to expect the Councillor to have to rely on Council deliberations or “hope” that their request for leave will be accepted officially;

THEREFORE BE IT RESOLVED THAT Council direct staff to report back on:

- Options that would include common entitlements for maternity and/or parental leave for elected officials in the City of New Westminster following the birth or adoption of a child;
- Additional supports for parents who sit on Council with young families in the City of New Westminster; and,
- Similar resolutions that have been submitted to the Lower Mainland Local Government Association (LMLGA) and the Union of BC Municipalities (UBCM) with a view to submitting a motion in 2022.

This reports seeks to respond to this motion by bring before Council a draft policy and reporting back on supports for Council members with young families and the opportunity to support a UBCM motion in September.

EXISTING POLICY AND PRACTICE

There are two area of existing policy and practice in this area.

The first is the section 125 of the Community Charter which states

(5) Subject to subsection (7), if a council member is absent from council meetings for

(a) a period of 60 consecutive days, or

(b) 4 consecutive regularly scheduled council meetings,

whichever is the longer time period, the council member is disqualified from holding office in accordance with subsection (6).

(7) The disqualification under subsection (5) does not apply if the absence is

(a) because of illness or injury,

(b) with leave of the council, or

(c) because the council member is on a leave of absence under section 109.3 [mandatory leave of absence].

This provides a mechanism at the discretion of the majority of Council to grant a leave to a member of Council. The discretionary nature of this leave as noted in the motion leaves the Council member in uncertainty. The policy attached to this report aims to address this.

The second area of policy that addresses this motion is the Council Expense Policy. This policy addresses supporting Council members with young families. The policy provides under section 4.3 Eligible Expenses the following:

Childcare (actual cost of child-minding expense) to a maximum of \$40.00/day, incurred by a Council member while attending an Event or Official Function. Events include the annual Federation of Canadian Municipalities (FCM), the Union of British Columbia Municipalities (UBCM) and the Lower Mainland Local Government Association (LMLGA) and any other local government related convention, conference, course or seminar approved by Council in advance. Official Functions include any function where municipal business is carried out, or is of a nature where municipal representation is required; and includes representation on an outside Committee, Board or similar entity.

This would allow a Council member to claim the cost of child-minding expense while attending events.

ANALYSIS

The analysis is presented in three sections to respond directly to Council's motion.

Maternity/Parental Leave

Municipalities have through UBCM called upon the Provincial government to make changes to the *Local Government Act* and *Community Charter* to provide Maternal/Parental leave to Councillors. The provincial government responded in 2016 stating they would require further analysis to determine the implications and highlighted that "local governments have full authority to grant leave for a wide variety of reasons to elections officials and establish policies for such leave". In response to the lack of action by the provincial government a few municipalities have implemented material/parental leave policies, most recently Coquitlam and others are in the process of developing them. In looking to create the draft policy found in Attachment 1, staff reviewed these policies and a summary of the provisions is located in Attachment 2. Each policy provides slightly different benefits.

The starting point for consideration of the New Westminster policy, was an understanding of the legal framework of the topic. Under the *Employment Standards Act* employees have the following benefits:

- 17 weeks' maternity leave for birth parent
- 61 weeks' parental leave if also taken maternity leave
- 62 weeks' parental leave if do not take maternity leave
- 62 weeks' parental leave for adopting parent

Further it states that

- Requests for leave must be made at least four weeks before the leave
- Maternity and parental leave are unpaid and
- The City is required to continue to pay its share of benefit premiums.

The City further provides exempt employees an additional salary top up for six weeks of maternity leave, and there is no top up for parental leave.

Employees are entitled to the following Employment Insurance Benefits:

- 55% of earnings to a maximum of \$638/week for standard parental benefits (within 52 weeks); or,
- 33% of earnings to a maximum of \$383/week for extended parental benefits (within 78 weeks).

While staff have provided the requirements of the *Employment Standards Act* and the benefits provided to exempt staff, there is no requirement to comply with these as the policy is entirely within the discretion of Council.

In proposing the policy before Council today, staff considered the principles that Council has affirmed in its mission statement, its strategic plan and in the recently adopted DEIAR Framework: That of wanting to support a diverse municipal government that is vibrant and compassionate. As the motion states, the lack of maternal and parental leave provisions for Council can deter candidates from office. Therefore, the policy in Attachment 1 mirrors the benefits a Councillor could expect to receive from an employer to provide an equal playing field. The Policy provides the following:

- 1) The same leave provision provided under employment insurance and the *Employment Standards Act*. There will be two leave provisions, both maternity and parental, with a maximum leave of 78 weeks through combining the two leaves. It is expected that a Councillor because of their commitment to public service and desire to steer this community would take a shorter leave.
- 2) In alignment with the *Employment Standards Act*, the City would continue to provide benefits to the Councillor.
- 3) The Councillor would continue to receive their Council salary. This differs from the legal requirements but reflects the different situation of Councillors. Councillors during the leave may not be able to collect EI because their Council salary is not eligible for EI. Councillors will also retain the right to attend Council and perform duties that they are able to during the leave. A per hour rate for this work would be complex and difficult to manage give the nature of the work of a Councillor. Unlike employees, Councillors are not replaced by another individual.
- 4) The same notice provisions as the *Employment Standards Act* are included in the policy, that of four weeks, with a requirement that a Councillor work with the Mayor and Chief Administrative Officer to outline the work they would undertake and the accommodations needed during the leave.
- 5) In alignment with the *Employment Standards Act*, that Councillor would return to all Committee assignments, unless the committee assignment has terminated during the leave.

In considering the leave, staff also considered if the Mayor was to request a leave of absence. This would be of a different nature as the Mayor has a full time role with the City and not every Council member may have the capacity or desire to take on this role during the leave. In the policy, it is proposed that the Mayor be replaced by an interested Council member selected by Council for the period of the leave with compensation to reflect the work required. If the attached policy is adopted, there will need to be an addition to Part 3 of the Procedure Bylaw to reflect this process.

The leave of any Council member would not affect quorum of Council. This would remain the same. There will need to be consideration of quorum in multiple leaves were to occur. Staff are aware of the issue and would provide guidance and support if this were to occur.

Support for Young Families

As noted, Council members have the ability to expense child care provisions to attend conferences and events that form part of Council business. This provision is not provided to staff at the City of New Westminster. To ensure that Council members are aware of this support provision, staff will ensure special mention is made of it during Council on-boarding.

UBCM Resolutions

There have been two previous UBCM motions in 2016 and 2021 (Attachment 3). Only the resolution in 2016 has a provincial response listed.

UBCM motions are normally provided to the Lower Mainland Local Government Association that then endorsed them for the UBCM. This process has been completed for 2022. A motion is on the agenda at UBCM sponsored by Squamish which calls on the UBCM to update its Council and Board Remuneration guide to include recommended minimum requirements for maternity and parental leave for elected officials in BC following the birth or adoption of a child. In light of timing, staff recommend that Council support this motion.

FINANCIAL IMPLICATIONS

The provision of maternity/parental leave will only impact the budget of the City if a Mayor requires this leave, otherwise the salaries and benefits for Council members already form part of the existing budget.

INTERDEPARTMENTAL LIAISON

This report was developed jointly by Human Resources and IT and Legislative Services.

OPTIONS

There are two options before Council:

1. THAT Council adopt the draft maternity/parental leave policy, attachment 1 of this report;
2. That Council provide other direction.

Staff recommend option 1.

CONCLUSION

This report provides the background information needed for Council to workshop a new maternity/parental benefits and provide advocacy on the topic.

ATTACHMENTS

Attachment 1 Draft Maternal / Parental Leave Policy

Attachment 2 Comparison Table of Municipal Maternal / Parental Leave Policies

Attachment 3 UBCM resolutions regarding Maternal / Parental Leave Policies

APPROVALS

This report was prepared by:
Jacque Killawee, City Clerk

This report was reviewed by:
Eva Yip, Acting Director of Human Resources and IT

This report was approved by:
Lisa Spitale, Chief Administrative Officer