

From: Andrew Ireland, Corporate Director, Social Care Health and Wellbeing

To: Peter Oakford, Cabinet Member for Specialist Children's Services

Decision No: 14/00090

Subject: Revised Policy on Financial Allowances for Children's Arrangements

Classification: Unrestricted

Past Pathway: Children Social Care & Health Cabinet Committee, 23 Sep 2014

Electoral Division: All

Summary: Local authority responsibilities for safeguarding and promoting the welfare of children are set out in legislation and key statutory guidance. Child Arrangements Orders (formerly Residence Orders), Special Guardianship Orders, Adoption Orders and looked after children have related allowances set out under specific statutory provisions and/or statutory guidance. The policy has been updated to reflect changes in guidance as well as evolving case law.

Recommendation(s):

The Cabinet Member for Specialist Children's Services is asked to AGREE:

To the revised policy on financial allowances for children's arrangements for the provision of support for children, their families and carers as they relate to Child Arrangements Orders, Special Guardianship Orders, Adoption Orders and looked after children.

The policy is set out in sections 4.1 and 4.2 of this report.

1. Introduction

- 1.1 Kent County Council (KCC) is required to fulfil specified duties in relation to the assessment of need and conduct of financial assessment. These obligations are set out in relevant primary and secondary legislation as well as in statutory guidance which deal with Child Arrangements Orders, Special Guardianship Orders, Adoption Orders and looked after children.
- 1.2 The legal framework also sets out a range of discretionary powers which governs the arrangements that local authorities may choose to exercise when making decisions in relation to the provision of support for children and by extension, their families and carers that fall within distinctive categories.
- 1.3 In discharging the duties placed on KCC (including where discretionary powers exist) the authority would also reflect its strategic objectives and seek

to the make best use of resources and give priority to supporting children and families where the child is or has been looked after. In exceptional cases it may also provide on-going financial support in other circumstances where permitted by the law.

- 1.4 The proposed revised policy on financial allowances for children's arrangements takes into consideration the statutory guidance issued by the Secretary of State for Education and landmark case law.

2. Financial Implications

- 2.1 Steps have been taken to calculate the cost of the annual impact of the proposed changes as they relate to the applicable allowances.
- 2.2 It should be noted that the financial impact of the proposed changes which is estimated to be in the region of £1.183m would be managed within the Directorate budget. This is a correction from the estimated £1.83m that was reported at the 23 Sept Cabinet Committee.

3. Facing the Challenge and Policy Framework

- 3.1 As stated above, this policy reflects the current legislation and regulatory requirement as well as case law derived from precedents set in individual court cases. The revised processes and procedures for implementation of the changes in policy will require amendment of financial procedure and delegations. These will be aligned with the current transformation programme.
- 3.2 Policy Context
 - a) All local authorities have a general duty to safeguard and promote the welfare of 'Children In Need' living within their area and to promote the upbringing of such children by their families. A Child in Need is defined in Section 17(10) of the Children Act 1989, as a child who is disabled or who is unlikely to achieve or maintain a reasonable standard of health or development without the provision of services by the Local Authority. The way in which Kent County Council fulfils this duty is by providing a range and level of services appropriate to those children's assessed needs, which can include financial, practical or other support.
 - b) It is important to note that local authorities do not have a general duty to assess all arrangements where children are living with their wider family or friends network rather than their parents but it does have a duty to assess where it appears that services may be necessary to safeguard or promote the welfare of a Child in Need.
 - c) Informal Family and Friends Care Arrangements - where a child cannot be cared for within his or her immediate family, the family may make their own arrangements to care for the child within the family and friends network.
 - d) Family and Friends Foster Carers "Connected Persons" - where a child is looked after by the local authority, there is a responsibility wherever possible to make arrangements for the child to live with a member of the family.
 - e) Special Guardianship Orders - offers a further option for children needing permanent care outside their birth family. It can offer greater security without absolute severance from the birth family as in adoption. Relatives may apply

for a Special Guardianship Order after caring for the child for one year. As Special Guardians, they will have Parental Responsibility for the child which can be exercised with greater autonomy on day-to-day matters than where there is a Child Arrangements Order.

- f) Child Arrangements Orders - (NB: from April 2014, Residence Orders and Contact Orders were replaced by Child Arrangements Orders) - A Child Arrangements Order is a Court Order regulating any of the following arrangements about:
- With whom and when a child is to spend time or otherwise have contact; and
 - With whom and when a child is to live.
- g) Adoption Order - the process by which all parental rights and responsibilities for a child are permanently transferred to an adoptive parent by a Court. As a result the child legally becomes part of the adoptive family.

4. Proposed Revised Policy on Financial Allowances for Children's Arrangements

4.1 The key points of the revised policy in regard to:

- a) Informal Kinship payments - the applications of clear eligibility criteria for financial support and formula for calculations and taking in to account the following:
- Any financial support should be based on an assessment of need and be time limited;
 - Should be agreed via the Access to Resources Panel;
 - Should be exceptional.
- b) Connected Persons:
- Carers will receive the maximum fostering age related maintenance allowance and will be eligible to receive the professional fee in the same way as professional foster carers if they complete the foster carer training and are approved at fostering panel;
 - These allowances will be available to the carers until the child reaches the age of 18 years, unless the child remains in full time education, when the allowance should continue to be offered until the end of the course the child is completing.
- c) Special Guardianship Orders:
- The local authority has a duty to carry out an assessment for financial support in those situations where the child was looked after immediately prior to the making of the Special Guardianship Order;
 - Any allowance paid will be in line with the maximum fostering age related maintenance allowance (means tested) and paid until the child reaches 18, unless in full time education when allowance should continue to be offered until the end of the course they are completing;
 - Any allowance will be reviewed annually.
- d) Child Arrangements Orders (excluding placements with parents and step parents (by marriage/civil partnerships) :

- The local authority has no duty to make any payments to carers with Child Arrangements Orders and it does not routinely make such payments unless a child has been in local authority care immediately before the Order is made;
- However, even when the child has not been looked after the local authority should consider whether there is a need for a financial contribution to be paid in order to support the placement;
- Any allowance agreed prior to May 2013, will continue to be paid at existing rates based on the arrangement in place at the time of the agreement;
- Any allowance agreed after May 2013 will be paid in line with the maximum fostering age related maintenance allowance (means tested) and paid until the child reaches 18, unless in full time education when allowance should continue to be offered until the end of the course they are completing;
- Any allowance will be reviewed annually.

e) Agency Adoption Orders:

- Any allowance paid will be in line with the maximum fostering age related maintenance allowance (means tested) and paid until the child reaches 18, unless in full time education when allowance should continue to be offered until the end of the course they are completing;
- The local authority is required to advise prospective adopters of the availability of types of support;

4.2 The payments in line with the fostering maintenance rates – the weekly amounts for Adoption, Special Guardianship Orders and Child Arrangements Orders would be as follows:

| Age Band | | | | | | |
|-------------------------|-------------------|-------------------|--------------------|---------------------|---------------------|-------------------|
| <u>Under 2's</u> | <u>2-4</u> | <u>5-8</u> | <u>9-10</u> | <u>11-15</u> | <u>16-17</u> | <u>18+</u> |
| £ | £ | £ | £ | £ | £ | £ |
| 141.12 | 145.39 | 162.68 | 162.68 | 184.17 | 216.51 | 216.51 |

Means testing will continue to be applied.

5. Legal implications

5.1 The specific duties in relation to the assessment of need and conduct of financial assessment that are placed on the local authority are defined in relevant primary and secondary legislation as well as in statutory guidance. These deal with Child Arrangements Orders, Special Guardianship Orders, Adoption Orders and looked after children. The legal framework also sets out a range of discretionary powers which governs the arrangements that local authorities may choose to exercise, when making decisions in relation to the provision of support for children, their families and carers.

5.2 In line with the KCC policy an equality impact assessment is being drafted with the proposed changes in mind. This would be considered as part of the decision making.

5.3 In respect of the implications for the council's property portfolio, none have been identified.

6. Cabinet Committee Input

6.1 The 23 September 2014 Children's Social Care & Health Cabinet Committee considered the proposed decision and the recommendation report. Officers introduced the report and explained that the current change was being proposed to regulate and bring in line the payment levels with recent case law judgements and to introduce appropriate uplifts.

6.2 The Committee then resolved that the decision proposed to be taken by the Cabinet Member for Specialist Children's Services, to revise the policy on financial allowances for children's arrangements, as set out in the report, be endorsed.

7. Conclusion

7.1 This paper sets out the key elements of the proposed revised policy on financial allowances for children's arrangement.

8. Recommendation(s)

Recommendation(s):

The Cabinet Member for Specialist Children's Services is asked to AGREE:

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The policy is set out in sections 4.1 and 4.2 of this report.

9. Background Documents - None

10. Contact details

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