

<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>Thursday 28 February 2019</b>
<b>Title of report:</b>	<b>Revised Special Guardianship Order (SGO) financial support policy</b>
<b>Report by:</b>	<b>Cabinet member children and families</b>

## **Classification**

Open

## **Decision type**

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## **Wards affected**

(All Wards);

## **Purpose and summary**

To approve a change to the policy for Special Guardianship financial support so that foster carers who decide to apply for a Special Guardianship Order (SGO) for a looked after child continue to receive financial allowances at the rate equivalent to fostering allowances and fees for the duration of the SGO arrangement.

Under the current policy carers are required to complete a means test two years after the SGO is made and their allowances are adjusted based on this. Consequently many foster carers are reluctant to apply for an SGO where this has been assessed to be in the child's best interests as they are concerned about the financial impact of this decision.

## Recommendation(s)

That:

- (a) **The revised financial policy for special guardianship orders at appendix 1 is approved; and**
- (b) **the policy is implemented from 1<sup>st</sup> April 2019.**

## Alternative options

1. Do nothing. Looked after children who could be cared for outside of the looked after system without the intrusion of state intervention continue to be looked after because their foster carers are concerned about levels of financial support. Herefordshire will continue to have higher numbers of looked after children than statistical neighbours and caseloads will be higher for social workers than is necessary.
2. Implement revised policy for SGOs made following implementation of the new policy only. This could be seen as unfair and result in complaints and legal challenge from existing SGO carers.
3. Apply the new policy to all new and existing SGOs from 1 April 2019. This is the proposed option as it will maintain a fair and transparent approach to financial support whilst also promoting the opportunity for children to be cared for outside of the looked after system where this is assessed to be in their best interests.

## Key considerations

4. A Special Guardianship Order (SGO) is an order of the court under the Children Act 1989 which grants the holder(s) parental responsibility over a child until they reach the age of 18. This enables the special guardian(s) to make day-to-day decisions on behalf of the child but does not end the legal relationship between a child and their parents as an adoption order does.
5. Looked after children who live with extended family members or with foster carers who are committed to caring for them long-term would usually benefit from being cared for under an SGO. A looked after child is required to have regular visits from a Social Worker, looked after children review meetings, personal educational plan meetings and health assessments. These mechanisms are in place to ensure a child's needs are understood and met but are intrusive and are unnecessary where someone with parental responsibility is able to advocate and support a child – as parents do in most families.
6. It is detrimental to the welfare of children to remain looked after when there is a viable alternative. Many looked after children report that they dislike the difference that being a looked after child brings for them and the intrusion into their lives.
7. The resource required for each looked after child from professionals is high – an allocated social worker, virtual school officer, LAC health nurse, independent reviewing officer and a supervising social worker for their foster carer. A reduction in Herefordshire's numbers of looked after children will make it easier for those children who do need to be looked after to have the focussed support from these professionals that they require

8. The number of looked after children in Herefordshire is very high in comparison with statistical neighbours. One of the reasons for the high numbers is because Herefordshire has not been successful at enabling children to leave the looked after system when this could be achieved. In autumn 2017 approximately 60 looked after children were identified that may have been able to be cared for under an SGO. Assessments to decide this are being completed and so far 39 out of 47 have concluded that these children's needs would be best met if their foster carer had an SGO. However as at 31 December 2018 only 7 of these children have had SGO's granted. Foster carers have told us that the main reason they are reluctant to apply for an SGO is concern that the financial support that they receive will be significantly lower than what they receive as foster carers.
9. The SGO financial support policy was agreed in 2016 and implemented from 1 October 2016. At this time the main driver was to introduce a fair and transparent approach to assessing and paying SGO allowances and to achieve financial savings. The policy commits to maintaining foster carers allowances at the same level that they receive as foster carers for a period of two years after which time the allowance is means tested. For many foster carers this results in a significant reduction in the allowance that they receive and therefore they are not prepared to apply for an SGO. This has been the case for at least 32 children assessed to date.
10. If the new policy is agreed then it will be actively promoted by social workers during their assessments and Independent Reviewing officers at LAC reviews to ensure carers understand that finances no longer need to be a barrier to applying for an SGO. The effectiveness of the policy will be monitored through the ongoing work to reduce the LAC population which is reported quarterly through the Children's Services performance scorecard.

## **Community impact**

11. It is a council priority to "keep children and young people safe and give them a great start in life". Enabling looked after children to be cared for safely outside of the looked after system and to benefit from family life without the need for intervention for children's social care is part of giving them a great start in life.
12. A key priority within the corporate parenting strategy is to reduce the numbers of looked after children so that children are supported to live in permanent arrangements outside of the looked after system where this is in their best interests.

## **Equality duty**

13. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

14. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. We do not believe that it will have an impact on our equality duty because it will not impact on equality issues for the child.

## **Resource implications**

15. **Option 1 – use revised policy for new SGOs made following implementation of the new policy only**

No change in cost for existing SGOs. There is the potential for a reduction in costs of £2,600 per annum per child due to the deduction of child tax credits and child benefit payments from their allowances. This does not affect the overall level of financial support received by the carer.

16. **Option 2 – apply the new policy to all new and existing SGOs from 1<sup>st</sup> April 2019 This includes refreshing the weekly allowance value to reflect the current age of the child (no retrospective payments to be made, uplift will be from when the policy is implemented), removing means tested deductions and applying annual inflation and age related uplifts**

Additional cost in 2019/20 - £164k (inflation in future years will add about £2k each year).

17. Option 2 is the preferred option. The additional cost can be met from a reduction in expected spend on our current residential placements in 2019/20 and will be built into the budget for 2020-21 forward.
18. It is anticipated that implementing the new policy would encourage existing carers to apply for SGO's. There would be some savings compared to foster/kinship allowances due to the deduction of child benefit and child tax/universal credit as well as a saving for the cost of clothing, holiday, Christmas and birthday allowances. This equates to about £1k per year per child. In addition savings in staff time would be approximately £5k per annum per child. There are up to 32 children who are currently looked after where an SGO has been assessed to be in their best interests where financial support has been a significant factor in the SGO application not progressing. If carers progressed to SGO for all of these children then this would result in a potential saving of £32,000 immediately from reductions in allowances with the potential for staff savings as pressures on caseloads reduce.

## **Legal implications**

19. Section 22(3) Children Act 1989 provides the general duty of the council in relation to children looked after by them including the following:-
  - a) To safeguard and promote his welfare and
  - b) To make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case
20. This duty underpins all activity by the council in relation to looked after children. This duty has become known as 'corporate parenting', which means the collective responsibility of

the council, elected members, employees, and partner agencies, for providing the best possible care and safeguarding for the children who are looked after by the council.

21. The statutory responsibilities are set out in the Children Act 1989, including through amendments made by the Children (Leaving Care) Act 2000, the Children and Families Act 2014 and the Children and Social Work Act 2017.
22. The Children and Social Work Act 2017 made additional provisions for care leavers, extending support until the age of 25 and further clarified the role of corporate parents, including seven corporate parenting principles that councils must have regard to when looking after children in care as follows:-
  - To act in the best interests, and promote the physical and mental health and wellbeing of those children and young people
  - To encourage those children and young people to express their views, wishes and feelings
  - Take into account the views, wishes and feelings of those children and young people
  - To help those young children and young people gain access to, and make the best use of, services provided by the council and its relevant partners
  - To promote high aspirations, and seek to secure the best outcomes, for those children and young people
  - For those children and young people to be safe, and for stability in their home lives, relationships and education or work; and
  - To prepare those children and young people for adulthood and independent living

*Article 8 of the Human Rights Act 1998 provides*

*Right to respect for private and family life*

- Everyone has the right to respect for his private and family life, his home and his correspondence.
  - There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
23. The proposal would improve the council's performance of its corporate parenting by enabling children to achieve permanency with reduced interference with their right to family life.

## **Risk management**

24. If the proposed financial policy is not approved then the risk is that children who would benefit from being cared for under a SGO outside of the looked after system will not have this opportunity. They will continue to have a level of intervention in their family life which can be stigmatising and is unnecessary.
25. The numbers of looked after children in Herefordshire will be more difficult to reduce and will continue to place stress on the capacity of social workers, independent reviewing officers, the virtual school and LAC health team.
26. If the new policy is only applied to carers applying for an SGO after 1 April 2019 then there is risk of complaints and legal challenge from existing SGO carers that could impact upon the council's reputation. The solution to mitigating this risk is to apply the new policy to all SGO carers. The additional financial cost has been calculated and the resources identified to meet this cost from within existing budgets.

## **Consultees**

27. The proposals have been circulated to political group leaders. No responses were received.
28. No formal consultation on this policy has been completed with foster carers or SGO carers however the proposed policy change is in response to feedback from foster carers over the last year regarding their reluctance to apply for an SGO.

## **Appendices**

Appendix 1 – Revised Special Guardianship Order allowance policy

Appendix 2 – Special Guardianship Order allowance policy with tracked changes

## **Background papers**

None