



LEAD MEMBER FOR CHILDREN AND FAMILIES

DECISIONS to be made by the Lead Member for Children and Families, Councillor Sylvia Tidy

MONDAY 12 OCTOBER 2015

10.00 AM CC2, COUNTY HALL, LEWES

A G E N D A

- 1 Disclosures of interests
Disclosure by all Members present of personal interests in matters on the Agenda, the nature of any interest and whether the Member regards the interest as prejudicial under the terms of the Code of Conduct
- 2 Urgent items
Notification of items which the Lead Member considers to be urgent and proposes to take at the end of the appropriate part of the Agenda
- 3 Ongoing Financial Support to Foster Carers who apply for a Special Guardianship Order or an Adoption Order (*Pages 3 - 6*)

Report by Director of Children's Services
- 4 Any urgent items previously notified under agenda item 2

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2 October 2015

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Report to: **Lead Member for Children and Families**

Date: **12 October 2015**

By: **Director of Children's Services**

Title of report: **Ongoing Financial Support to Foster Carers who apply for a Special Guardianship Order (SGO) or for an Adoption Order.**

Purpose of report: **To consider proposed changes to the financial support for foster carers who apply for a SGO or for an Adoption Order**

RECOMMENDATION

The Lead Member is recommended to agree the changes to financial support to foster carers who apply for a Special Guardianship Order or for an Adoption Order as set out in paragraph 2.2.2 of the report.

1. Background

1.1 Currently payments to foster carers are comprised of two elements: a maintenance payment and a professional fee payment.

1.2 In 2002 a new order, Special Guardianship Order (SGO), was introduced. SGOs offer a further option for children needing permanent care outside of their birth family and an alternative for achieving permanence in families where adoption is not an option, often because of the age of the child. A Special Guardian can (with some exceptions) override birth parents' exercise of parental responsibility and, where a child was previously Looked After, the child and the prospective Special Guardians are entitled to be assessed for ongoing support services. Whilst the Local Authority has discretion as to whether or not to provide services, where there is robust evidence of an assessed need, there is a requirement that the service will be provided. A Local Authority foster carer may apply for an SGO once the child has lived with them for at least one year immediately preceding the application.

1.3 Regulation sets out that the central principle is that financial support should be payable to help secure a suitable Special Guardianship arrangement where such an arrangement cannot be readily made because of a financial obstacle. Regulation provides a mechanism under which there may be a two year period of adjustment during which time East Sussex County Council (ESCC) may pay an allowance equivalent to the financial support paid to the carers when they were foster carers prior to the order i.e. both the maintenance and professional fee elements of existing payments. In exceptional circumstances, these payments can continue for longer than two years if the Local Authority considers this appropriate. This proposal goes further than the SGO regulations in that it provides a tapering of the allowance paid to former foster carers in the third year.

1.4 A Lead Member report dated 23 March 2006 endorsed a proactive approach to the use of SGOs in East Sussex where appropriate, to achieve permanence for Looked After Children (LAC) so that they are living with a carer who can exercise parental responsibility and make all the normal parental decisions for a child such as medical treatment, school placement etc. This report recommended that there should be no financial disadvantages for potential carers to apply for an SGO. It was agreed that the allowance to be paid to former foster carers would be consistent with their existing fostering allowance as an alternative to the child being Looked After.

1.5 Accordingly since 2006 a "no detriment" principle has been in place for foster carers who have applied for an SGO so that their existing fostering allowance has continued with both the maintenance and professional fee elements payable until the young person has reached 18. Very exceptionally this has also been agreed for Independent Fostering Agency (IFA) foster carers in discussion with the Assistant Director because this allows ESCC to reduce costs by not paying the ongoing overhead to the fostering agency. To date, this initial agreement to apply the No Detriment principle has not been varied in the event of a significant change in the financial circumstances of the foster carer, including the carer

resuming fostering. This approach has to date resulted in an approach that is more generous than in some other local authorities.

2. Supporting information

2.1 Currently payments are being made by ESCC for 20 children with SGOs or Adoption Orders to their previous foster carers at an annual cost of £479k or £4m in total until the child reaches 18.

2.2 Proposed changes

2.2.1 In the context of ongoing financial pressure for ESCC, it is reasonable that ESCC should consider putting a limit on ongoing payments to foster carers when they assume permanent legal orders for children already in their care since, by both SGO's and Adoption Orders, they become de facto parents to the child. As part of the initial assessment for an SGO, a full and comprehensive financial assessment is carried out in accordance with the SGO Regulations using the Department for Education means test. The prospective Special Guardian must agree to provide an annual financial statement and must notify the Local Authority if there are changes in financial circumstances, or if the needs or resources of the child change, as this may affect the amount of financial support given to the carer. Adoption Order allowances are similarly means tested for all prospective adopters in East Sussex.

2.2.2 The proposals for change are as follows:

- (i) For a foster carer who is becoming a Special Guardian for a child that was previously fostered, for the first two years post order their ongoing payment (including their maintenance allowance and fee) will remain the same. At the end of the second year, a taper will be introduced for the fee element, 60% for the first 6 months and 55% for the remaining 6 months, so that by the end of the third year only the maintenance element will be payable until the child reaches 18 years old
- (ii) Any ongoing additional payments (i.e. the fee element) to foster carers after 3 years will be made if the Local Authority considers the case to be exceptional and payment would need to be agreed by the Assistant Director of Children's Services.
- (iii) After 3 years, a foster carer who has adopted a child that was previously fostered must be assessed as qualifying for an Adoption Allowance in line with ESCC's policies in order for payment to continue. Allowances are not intended to apply to young single children or to babies with no particular special needs for whom suitable adoptive parents are more readily available. It is likely to be applied to older children, to sibling groups and to children with special needs.
- (iv) There will be protection of current payments for those existing former foster carers who are already in receipt of ongoing allowances as part of their initial support plans, under the "No Detriment" principle for both SGO's or Adoption Orders. ESCC will continue to honour these existing agreements made in good faith.

2.3 If the average age of a child at which an SGO is made is 9.62 years (based on 29 children subject to SGO over the last 3 years) and both the potential percentage of carers who will continue to seek SGOs or Adoption Orders plus the payments until the child is 18 are calculated, potential savings could be as follows if the take up rate is as indicated (eg if 75% of carers take up this route then the savings could be £908k):

Potential % of carers applying for orders	Potential saving
75%	£908k
50%	£605k
25%	£302k

2.4 Risks

2.4.1 ESCC's policy and practice in achieving permanence for Looked After Children (LAC) via the take up of SGOs by former foster carers was highly praised in the 2014 Ofsted Inspection. Since the original policy was introduced in 2006, there have been efficiency savings resulting from the reduction of numbers of LAC and the associated costs of supervision and review. If these proposed changes were to be introduced, there is a risk that foster carers may not pursue a Special Guardianship or Adoption application because of the lack of financial support. However this proposal is designed to attract those foster carers who have an existing attachment to a child and wish to provide permanence through an SGO or via adoption.

2.4.2 It is also possible that foster carers might not resume fostering if this would reduce payment of SGO or Adoption allowance, thereby reducing the stock of available carers. Consultation with the East Sussex Foster Care Association has taken place to ensure that this does not damage the existing strong partnership.

3. Conclusions and reason for recommendations

3.1 Greater financial control is necessary with reduced resources within ESCC. Introduction of a reduction of the period of the fee element of the allowances with a taper of payment in the third year (as outlined in 2.2 above) will enable savings to be made.

3.2 Any changes need to be introduced in a transparent and open way so that carers can make decisions in full knowledge of the implications and to preserve the existing strong partnership with the East Sussex Foster Care Association. Greater consistency with existing processes will help to explain the changes that are recommended. There are some risks that this may deter some foster carers from seeking permanent legal orders in respect of the children they are fostering and that this may impact negatively upon LAC numbers or on the stock of available foster carers. For IFA carers it could mean ongoing payments to the IFA at a greater cost to ESCC.

3.3 The Lead Member is recommended to endorse the changes to financial support to foster carers who apply for an SGO or for an Adoption Order as outlined in this report.

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Director of Children's Services

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LOCAL MEMBERS: All wards

BACKGROUND DOCUMENTS: None

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