

Report to: Lead Member for Children and Families

Date of meeting: 1 June 2020

By: Director of Children's Services

Title: Introduction of a Charging Policy for Children who are Accommodated at the request of their parents under Section 20 of the Children Act 1989

Purpose: The Lead Member is recommended to approve the introduction of a Charging Policy to seek to recoup partial costs in defined circumstances when a child becomes Looked After at the request of parents.

RECOMMENDATION

The Lead Member is recommended to approve the introduction of the Charging Policy set out in Appendix 1 to seek to recoup partial costs in defined circumstances when a child becomes Looked After at the request of parents.

1. Background

1.1. Parents can request that their child should become Looked After by a local authority under Section 20 of the Children Act 1989. If this happens, both birth parents can be required by law to contribute toward the child's maintenance until the child is 16 years of age, irrespective of whether or not they have contact with the child.

1.2. In certain circumstances, parents will not be required to contribute if:

- They are in receipt of some means tested benefits including Income Support, any element of Child Tax Credit other than the family element of Working Tax Credit, income-based Job Seekers Allowance, or income related Employment Support Allowance.
- The child is subject to an Interim Care Order, Care Order, Emergency Protection Order or subject to Police Protection.
- The child is remanded into local authority foster care, or subject to a Youth Rehabilitation Order with an attached Residence Order (Child Arrangement Order).
- The child is detained under S38(6) of the Police and Criminal Evidence Act 1984, or under S92 of the Powers of Criminal Courts (sentencing) Act 2000
- The accommodation is provided as part of an aftercare service under section 117 of The Mental Health Act
- The child is placed with parents under S22(c) of the Children Act 1989
- Parents who have relinquished their child to be adopted will not be charged.

1.3. If parents are separated and one is exempt due to any of the reasons above, the other parent will still be subject to financial assessment.

1.4. The proposed policy is based on similar policies that are in place in other high performing local authorities. It is the case though that other local authorities have indicated that actual use of the policy is extremely limited and that it is seen more as a deterrent and as part of a more general

response to prevent families abdicating responsibility for their children. This is likely to be mirrored in East Sussex.

2. Supporting Information

2.1. A liable parent can be required to contribute a weekly amount to the care of their child, the level of which will be decided after a financial assessment has been completed by the East Sussex County Council (ESCC) staff in the Children's Services Department (CSD) who currently assess carers in receipt of both Adoption Allowances and Special Guardianship Allowances. The amount of the contribution expected from parent/s for each child should never be more than the foster care rate. In East Sussex, the rate is set at 50% of the lowest foster care rate for the youngest age band, which is considered fair and retrievable. The amount will be adjusted each year to reflect changes in the foster care rate. For example, in 2019/20 the lowest rate is £126.58, therefore the calculation becomes 50% or £63.29 per week.

2.2. As this amount will be collected each calendar month the following calculation would be applied:

$£63.29 \times 52 = £3291.08$ per year:

Divided by 12 = **£274.25 per calendar month**

2.3. Consideration of a financial contribution will become part of the process when a child enters care at the request of their parents. Thereafter an annual review of financial circumstances will take place within CSD to ensure the contribution remains at a suitable rate in response to any changes in either parental circumstances and/or any adjustments made to the DfE recommended fostering allowance.

2.4. In cases where parents are separated but are both found to be liable, the charge will be divided equally between the parents. Where a Maintenance Order is in force in respect of the child, the sum as detailed in the Contribution Agreement will be claimed from the parent who receives the Maintenance Order.

2.5. If the parents do not agree that they are able to afford to contribute the amount as calculated they will be asked to evidence this by completion of the financial assessment and to discuss this with their child's social worker, for further consideration by the relevant Head of Service. The Head of Service may apply discretion on the basis of the family's individual circumstances which may include:

- What the circumstances leading to the child being accommodated are. For example, if a single parent was hospitalised for a short period of time and had no one to care for their children it might be considered not worth seeking to recoup costs for this short period.
- Whether there are specific financial pressures affecting the parents that means that strict adherence to this policy is likely to be counter-productive in the context of working towards the child being rehabilitated to the parents.
- Parents of a child with disabilities are subject to the same rules under Part III of Schedule 2 of Children Act 1989. However, in certain circumstances where there is assessed to be risk of harm arising from the child's disability that cannot be reduced without the need for accommodation, parents will not be charged. These circumstances could include the following:
 - A. Those children whose needs, including medical needs, are so complex that the child essentially requires 24 hour care or similar.
 - B. Those children whose behaviour, as a result of their disability, is so frequently challenging that it is only reasonable for the authority to offer to accommodate the child as an option for supporting the family – often there will be a significant risk of harm to the child, a sibling, or to another family member.

- C. Those children who are consistently disruptive throughout the night and where no other intervention has been able to ameliorate the impact on the rest of the family.

2.6. When parents are assessed to be liable and able to contribute to the care of their child, ESCC is empowered to apply to the Court for a Contribution Order requiring parents to make weekly contributions. No application would be made providing that there is agreement to contribute financially. If no payment is forthcoming within 1 month of the child(ren) becoming Looked After, however, or if payments are not made regularly, the County Council has the right to seek to enforce payment by initiating legal proceedings in the courts.

2.7. The draft policy (Appendix 1) has been drawn up in consultation with colleagues in both Orbis Law and Business Operations and is considered to be both legally compliant and deliverable operationally.

2.8. A full Equality Impact Assessment is available at Appendix 2.

3. Conclusion and reasons for recommendations

3.1 Within a wider Council budget that is under pressure, the specific budget that supports the care of children who are Looked After continues to be very challenging. It is reasonable to expect parents to contribute to the costs for their child to be cared for when they request it and if they can afford to do so. It encourages parents not to abdicate responsibility for their child and emphasises the importance of parents continuing to be involved in their child's life. It is unlikely in reality, however, that this will generate much or any income but may act as a partial deterrent to those parents who could afford to contribute but are presently not expected to do so, or who are unwilling to do so.

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Local Members

All

Background documents:

None

Appendices

Appendix 1: CSD Charging Policy for Children who become Looked After under Sec 20 Children Act (1989).

Appendix 2: Equality Impact Assessment