

North Tyneside Council

Report to Cabinet

Date: 11 September 2017

ITEM 6(h)

Title: Calculating
Financial Support for
Special Guardians

Portfolio(s): Children Young People and Learning

Cabinet Member(s): Ian Grayson

Report from Service Area: Health, Education, Care and Safeguarding

Responsible Officer:

Jacqui Old, Head of Service

(0191) 643 7295

Wards affected: All

PART 1

1.1 Executive Summary

Special Guardianship provides a child or young person who cannot be cared for by their parents with legally permanent care. It is an alternative to adoption and long-term foster care or residential care. Unlike adoption it does not absolutely sever contact for the child with birth family. Unlike long-term fostering or residential care, the child is not Looked After by the Authority and decision-making responsibility rests with the carers.

Special Guardians are assessed by the Authority to assure their suitability to be carers for the child or young person requiring permanent care. The Authority is also required to assess what support the Special Guardians may require, including financial support. The Authority is required to support Special Guardians financially where otherwise suitable Guardians have financial issues such that without financial support they would not be able to become Guardians for a child or young person. This is a matter determined through calculation by the Authority.

Legislation, guidance and case law are clear that the maximum amount an eligible Special Guardian is entitled to should equate to the maximum amount a Foster Carer is entitled to by way of Fostering Allowance. For the Authority to be compliant the current method of calculation requires revision.

1.2 Recommendation(s):

It is recommended that Cabinet authorise the Head of Health, Education, Care and Safeguarding to implement a new policy, as set out in this Report, revising the calculation used to determine the amount that eligible Special Guardians are entitled to receive as an allowance from the Authority to support permanent care of a child or young person.

1.3 Forward Plan

Twenty eight days notice of this Report has been given and it first appeared on the Forward Plan that was published on 14 August 2017.

1.4 Council Plan and Policy Framework

The Our North Tyneside Plan states that 'Our people will':

- Be listened to, and involved by responsive, enabling services
- Be ready for school – giving our children and their families the best start in life
- Be ready for work and life – with the skills and abilities to achieve their full potential, economic independence and meet the needs of local businesses
- Be healthy and well – with the information, skills and opportunities to maintain and improve their health, wellbeing and independence
- Be cared for and safeguarded if they become vulnerable

This report relates to the way in which the Authority supports achieving permanent alternative care for some of the most vulnerable children within the Borough. The Authority must assure itself that it does not preclude potential Special Guardians from become carers as a result of inaccurate financial assessment.

1.5 Information

1.5.1 Background

Legislation, guidance and case law require that the maximum amount to which an eligible Special Guardian is entitled should equate to the maximum amount a Foster Carer is entitled to by way of Fostering Allowance. Accordingly the current approach adopted by the Authority for calculating the allowance requires revision.

1.5.2 Current method of calculation

According to case law, the method used by a Local Authority to calculate the maximum amount that a Special Guardian would be eligible for, subject to means-tested deductions, must use the maximum Fostering Allowance that would be paid to a foster carer to care for the child. The Authority's current method of calculation is not consistent with this principle and requires amendment.

The Authority's current policy *Financial Support & Initial Information for Special Guardians 2016-17* (December 2015) is clear that the Authority utilises a percentage-based methodology to calculate the maximum amount that eligible Special Guardians are entitled to (emphasis added):

The Local Authority maximum Payment is a percentage of the Fostering Allowance based on the child's age, which is at the discretion of the Service Manager.

The application of the current policy results in a failure of the maximum Special Guardianship Allowance paid to eligible Special Guardians to equate in financial terms with the Authority's Fostering Allowance.

1.5.3 Methods of Calculation in use in other Local Authorities within the Region

The Authority's approach to such allowances is at odds with the approach in use in a majority of Authorities across the region. A review revealed that although all twelve regional Authorities used the applicable Foster Carer Allowance as the maximum payment available only this Authority and one other calculated the actual Special Guardianship Allowance payments as a percentage of the maximum amount. Accordingly, only the Authority and one other use a different methodology to the remaining Authorities in the area.

1.5.4 Proposed Method of Calculation

It is proposed that the Authority's current policy *Financial Support & Initial Information for Special Guardians 2016-17* (December 2015) be revised to end the use of the percentage-based method of calculation.

In common with a majority of Local Authorities within the Region, the Authority will adopt a method of calculation based upon equivalence between the maximum Fostering Allowance that would be paid to a foster carer to care for the child and maximum amount that eligible Special Guardians could receive, subject to means-tested deductions.

It is proposed that the policy be amended as follows (changes underlined):

The Local Authority maximum payment will be equivalent to the Fostering Allowance based on the child's age, plus any additional enhancement that would be payable to meet any special needs of the child or exceptional circumstances which require such an enhancement which is at the discretion of the Service Manager.

This will ensure that there is equivalence between the maximum Fostering Allowance payable by the Authority – based upon the core allowance paid for the child (dependent on age) and 'enhancements' (amounts additional to the core allowance based upon attributes of the specific child or young person to be cared for) – and the maximum Special Guardianship Order Allowance.

1.5.5 Implications of revision to the Method of Calculation

The required change in the Policy will result in a higher level of Special Guardianship Allowance being payable to affected carers. Work is currently underway to assess the financial implications for the allowance. However current estimates indicate that the pressure on the relevant budget will be approximately £500k.

1.6 Decision options:

The Authority must revise the method used to calculate eligibility for a Special Guardianship Allowance to ensure that the Authority is complies with current legislative requirements.

1.7 Reasons for recommended option:

Following approval of the recommended option, the Authority will revise the method of calculating eligibility for a Special Guardianship Allowance by ensuring that the maximum allowance payable to Special Guardians is equivalent to that which would be payable to foster carers as a Fostering Allowance. This ensures that the Authority complies with the current legal position.

The necessary change in the policy will ensure that children and young people within the Borough who require permanent care by Special Guardianship are supported to do so by carers who are not financially disadvantaged and/or prevented from caring.

1.8 Appendices:

There are no appendices.

1.9 Contact officers:

Nik Flavell, Senior Manager for Quality Assurance, Children, Young People and Learning (0191) 6437219

Helen Coombs, Legal Manager Safeguarding and Litigation, Law and Governance (0191) 643 5337

Alison Campbell, Senior Business Partner, Finance (0191) 643 7038

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

Special Guardianship Guidance: Statutory guidance for local authorities on the Special Guardianship Regulations 2005 (as amended by the Special Guardianship (Amendment) Regulations 2016), Department for Education, February 2016

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/586406/Special_Guardianship_Statutory_Guidance_20_January_2017.pdf

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The Report has concluded that the method of calculation of eligibility for a Special Guardianship Order Allowance has used a percentage of the maximum allowance rather than the maximum allowance. Consideration will be given to the financial position of the current Special Guardians.

Current estimates indicate that applying the amended allowance rates will result in additional cost of £0.500m during 2017/18. There is currently no budget provision for this additional cost. This area of service – Corporate Parenting and Placements is facing total budget pressures of £2.168m across the service area as set out in the Financial Management Report to 31 July 2017. Details underlying this pressure is being reported to Cabinet as part of this meeting. This overall pressure includes the impact of changes to financial support for Special Guardians and the service has a number of actions in progress to reduce the in-year pressure. Progress with regard to the actions will continue to be reported to Cabinet as part of the normal financial management reporting cycle.

2.2 Legal

Legislation, guidance and case law are clear that the maximum amount an eligible Special Guardian is entitled to should equate to the maximum amount a Foster Carer is entitled to by way of Fostering Allowance. As a result the current method of calculation must be revised.

2.3 Consultation/community engagement

No specific consultation or engagement in relation to the change of policy has taken place however enquiries of other Local Authorities within the North East region about their approach to the calculation of the Special Guardianship Allowance were undertaken.

Those affected by the change in the policy will be advised accordingly.

2.4 Human rights

Children and young people have a right to life within their wider family (Article 8). The calculation of financial support by the Authority for potential Special Guardians must comply with the current requirement to calculate eligibility on an equivalent basis to the Fostering Allowance.

2.5 Equalities and diversity

The calculation of financial support by the Authority for potential Special Guardians must comply with the current requirement to calculate eligibility on an equivalent basis to the Fostering Allowance to ensure that the Authority does not discriminate.

2.6 Risk management

The introduction of a revised policy for the calculation of the Special Guardianship Allowance will minimise the future risk of challenge to the Authority's policy.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy