

# North Tyneside Council

## Report to Cabinet

### Date: 21 February 2022

#### Title: Aligning Child Arrangements Order Allowances, Adoption Order Allowances and Special Guardianship Allowances

**Portfolio(s):** Children Young People and Learning

**Cabinet Member(s):** Councillor Peter Earley

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**Report from Service**

**Area:** Health, Education, Care and Safeguarding

**Responsible Officer:** Jacqui Old, Head of Service (0191) 643 7295

**Wards affected:** All Wards

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#### **PART 1**

##### **1.1 Executive Summary:**

The Authority provides means tested financial support to carers of children subject to Child Arrangements Orders, Adoption Orders, and Special Guardianship Orders, to support the permanent care of a child or young person to prevent, or remove them, from being Looked After by the Authority.

Financial support provided for children subject to a Special Guardianship Order was revised in 2018 and updates to the policy and financial processing methods were made. The revision has left current Child Arrangements Order Allowances and Adoption Order Allowances misaligned with Special Guardianship Order Allowances, resulting in unequal provision of financial support. Aligning these allowances, while not an obligation on the Authority, would be fair and make business sense.

The Authority now seeks to assure itself that carers of children subject to Child Arrangements Orders and Adoption Orders in North Tyneside are not financially disadvantaged.

The main aspect to be considered by Cabinet is:

- Updated policy for the calculation and payment of Child Arrangements Order Allowances and Adoption Order Allowances. Appendix 1 to this report

##### **1.2 Recommendation(s):**

It is recommended that Cabinet

- (1) Approve the updated policy which incorporates Child Arrangements Order Allowances and Adoption Order Allowances which includes proposals to:

- adopt 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.
- not include additional payment equivalent to four weeks allowance to cover costs for birthday, relevant main cultural event and, holidays throughout the year, in line with Special Guardianship Order and fostering allowances, as there is no legal requirement to do so.

### **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 3<sup>rd</sup> December 2021.

### **1.4 Council Plan and Policy Framework**

This report relates to the following priority in the 2021/25 Our North Tyneside Plan:

A caring North Tyneside:

- Our People will be cared for, protected and supported if they become vulnerable including if they become homeless

### **1.5 Information:**

#### **1.5.1 Background**

Child Arrangements Orders (which replaced Contact Orders and Residence Orders) secure a child's living arrangement with a connected person and will provide the holder with parental responsibility to be shared with anyone else who holds parental responsibility such as birth parents. These orders are an alternative to adoption and long-term foster care or residential care and allow the child to have contact with their birth family.

Special Guardianship Orders secure a child's living arrangement with a connected person, and primary parental responsibility is given to the Special Guardians, however parental responsibility will be retained by anyone else who holds it. These orders are an alternative to adoption and long-term foster care or residential care and allow the child to have contact with their birth family. Special Guardianship Orders are accompanied by an additional support plan for which the Authority is responsible for.

Adoption Orders allow a child to legally become part of the adoptive family, with parental responsibility removed from birth parents and given to the adoptive parents.

From a legal perspective, the Authority has a duty to financially assess Special Guardians and 'may' assess carers in receipt of Child Arrangements Order Allowances or Adoption Order Allowances. There is therefore no legal requirement to revise the allowances however there is no legal barrier to doing so either. The current method for assessing Child Arrangements Order Allowances and Adoption Order Allowances is dependent on the specific qualities / needs of the child, which can be a subjective assessment. For example, in the case of trauma resulting in the need for ongoing therapeutic support, or how a disability impacts the child and family.

Unequal provision of financial support, coupled with an additional support plan, is likely to result in increased applications for Special Guardianship Orders, where a Child Arrangements Order would be more appropriate to meet the needs of the child and maintain shared parental responsibility. Delivering extra support plans would have both a financial and resource impact on the Authority.

To ensure financial equality between carers and children subject to Child Arrangements Orders and Adoption Orders in North Tyneside, the Authority requires a clearly defined assessment process which aligns allowances and strengthens support given to carers and adoptive parents by revising criteria to ensure it is based upon a means tested calculation.

#### 1.5.2 Current method of calculation – Child Arrangements Order Allowance

The Authority's current policy *Residence Orders and Residence Order Allowances Operational Guidance (April 2011)* is out of date as Child Arrangements Orders have now replaced Residence Orders. This allowance is means tested against the cost of an average family taken from the National Family Expenditure Survey. Any allowance paid by the Authority is up to two-thirds of the recommended rate for a child suggested by Fostering Network (which is the equivalent of the assessment of the cost of caring for a child within a family) and is payable on a sliding scale dependent on the outcome of the financial assessment. Child benefit will be taken into account. The allowance will be age related in the same age bands as the fostering allowance and will be appropriately increased at significant birthdays.

#### 1.5.3 Current method of calculation – Adoption Order Allowance

The current policy *Financial Support & Initial Information for Adoptive Parents 2016-17* states that the 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 Authority utilises several elements to determine the level of support.

The Department for Education and Skills (DfES) model calculates the family's income and disregards the first 20% of this; it also considers the projected family expenditure. The 'core regular family expenditure' is then added, which is an amount of money the Benefits Agency identifies as the core expenditure for any family. The model then adds an additional 25% to this figure. The model then calculates the amount payable and deducts the Child Benefit and where the final figure is a minus it indicates that there is no financial payment due. Where the final figure is not a minus figure this is the maximum monthly amount payable to the family, not per child.

#### 1.5.4 Methods of calculation in use in other Local Authorities within the Region

The Authority's approach to the provision of financial support to carers through Child Arrangements Order Allowances and Adoption Order Allowances is at odds with the approach in use in the majority of Authorities within the region and adjoining regions. A review has revealed that five out of six Authorities within the North East region base all allowances on the age related allowances paid to foster carers, which are means tested and benefits deducted. The sixth Authority is currently revising its processes in order to adopt the same model.

#### 1.5.5 Proposed Method of Calculation

It is proposed that the Authority will adopt the method of calculation as set out in the current policy *Financial Support & Initial Information for Special Guardians 2016-17*. When determining the amount of any Child Arrangements Order Allowance or Adoption

Order Allowance, the Authority will have regard to the amount of fostering allowance which would have been payable if the child were fostered. The maximum amount payable by way of Child Arrangements Allowance or Adoption Order Allowance will be equivalent to the fostering allowance (less child benefit and any child tax credit for the child/ren subject to a Child Arrangements Order or Adoption Order) based on the child's age plus any enhancement that would be payable to meet any assessed additional needs of the child or exceptional circumstances which will require such an enhancement which is at the discretion of the responsible Senior Manager.

The means-testing model calculates assessable income of the Carer's family of which 20% is then disregarded. It then considers the assessable family outgoings, adding an amount of money the Benefits Agency identifies as the 'core expenditure' for any family and then adds an additional 25% to this figure.

A subsequent revision to the current policies, aligning them into a combined *Policy for the Calculation and Payment of Child Arrangements Order Allowances and Adoption Order Allowances* will bring the Authority in line with other Authorities within the region and ensure financial parity for Child Arrangements Order Allowances and Adoption Order Allowances.

#### **1.5.6 Implications of revision to the Method of Calculations**

The required update to the relevant policies will result in a higher level of Child Arrangements Order Allowance and Adoption Order Allowance being payable to affected carers. It is estimated that the pressure on the relevant budgets will be **£160,941.13**.

### **1.6 Decision options:**

The following decision options are available for consideration by Cabinet:

#### Option 1

To approve the recommendations as set out in paragraph 1.2 above.

#### Option 2

Not to approve the recommendations as set out in paragraph 1.2 above.

Option 1 is the recommended option.

### **1.7 Reasons for recommended option:**

Option 1 is recommended for the following reasons:

Approving the recommendation in paragraph 1.2 will ensure the Authority does not financially disadvantage carers who provide permanent care for children and young people who are subject to a Child Arrangements Order or Adoption Order.

### **1.8 Appendices:**

Appendix 1: Policy for the calculation and payment of Child Arrangements Order Allowances and Adoption Order Allowances.

### **1.9 Contact officers:**

Julie Firth, Assistant Director Children's Services, Children, Young People and Learning  
(0191) 643 5943

Jackie Ingram, Senior Manager Children In Care, Health, Education, Care and Safeguarding, 07903931339

Juliet Morris, Improvement Manager, Health, Education, Care and Safeguarding, tel. (0191) 643 4965

David Dunford, Senior Business Partner, Strategic Finance, tel. (0191) 643 7027

## **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:

- (1) Financial Support & Initial Information for Adoptive Parents 2016-17 [Family and Friends Care \(proceduresonline.com\)](#)
- (2) [Residence Orders and Residence Order Allowances Operational Guidance \(April 2011\)](#)
- (3) Financial Support & Initial Information for Special Guardians 2016-17 [Family and Friends Care \(proceduresonline.com\)](#)

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

Aligning Child Arrangements Order Allowances, Adoption Order Allowances and Special Guardianship Allowances will result in a budget pressure to the Authority of **£160,941.13** per year, starting in 2022/23. It is anticipated that the impact on Child Arrangements Orders will be able to be met through existing budgets however, the impact on Adoption Orders is expected to cause the majority of the pressure. The Service will endeavour to try and meet these costs within existing budgets as well but the on-going pressures within Children's Social Care will make this high risk. The potential risk that this cost becomes a pressure has been included in the 2022-26 Medium Term Financial Plan and should any such pressure crystallise, it will be reported to Cabinet through the bi-monthly Financial Management reports.

### **2.2 Legal**

North Tyneside Council Legal Services have confirmed that there is no legal requirement to revise the Child Arrangements Order Allowances and Adoption Order Allowances. There is also no legal barrier to doing so. If Option 1 is agreed, the Authority will not be legally required to backdate any subsequent awards.

### **2.3 Consultation/community engagement**

#### **2.3.1 Internal Consultation**

Consultation has been undertaken with service managers within Children's Services.

#### **2.3.2 External Consultation/Engagement**

2.3.2.1 The Authority has consulted with Adopt North East regarding the proposed change in policy, and linked in with other Authorities within the North East region and adjoining regions about their approach to the calculation of Child Arrangements Order Allowances and Adoption Order Allowances. The outcome of this engagement has informed this report.

2.3.3.2 The Authority is engaging with carers regarding issues raised around the current financial support provided to them. Learning from the approach taken by the Authority to revise the SGO policy in 2018, the Authority has listened to those affected and is addressing current issues to ensure a consistent and equitable approach is taken to the revision of current CAO and AO financial support.

2.3.3.3 Approximately 50 carers will be affected by a change in policy, which will see that no family will be financially disadvantaged. The Authority will contact those affected by the proposed change in the policy.

## **2.4 Human rights**

Children and young people have a right to life within their wider family (Human Rights Act 1998, Article 8). The calculation of financial support by the Authority to carers with children subject to Child Arrangements Orders or Adoption Orders should not place them in a financially disadvantaged position in relation to Special Guardians.

## **2.5 Equalities and diversity**

The calculation of financial support by the Authority for carers with children subject to Child Arrangements Orders and Adoption Orders should be calculated to provide equality between these carers and Special Guardians to ensure that the Authority does not discriminate.

## **2.6 Risk management**

The introduction of a revised policies for the calculation of Child Arrangements Order Allowance and Adoption Order Allowance will minimise the future risk of challenge to the Authority's policies.

## **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**

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|-----------------------------|-------------------------------------|
| • Chief Executive           | <input checked="" type="checkbox"/> |
| • Director(s) of Service    | <input checked="" type="checkbox"/> |
| • Mayor/Cabinet Member(s)   | <input checked="" type="checkbox"/> |
| • Chief Finance Officer     | <input checked="" type="checkbox"/> |
| • Monitoring Officer        | <input checked="" type="checkbox"/> |
| • Assistant Chief Executive | <input checked="" type="checkbox"/> |