



## London Borough of Hammersmith & Fulham

CABINET

7 APRIL 2014

### SPECIAL GUARDIANSHIP ALLOWANCE POLICY

Report of the Cabinet Member for Children's Services – Councillor Helen Binmore

Open Report

**Classification:** For Decision

**Key Decision:** No

**Wards Affected:** All

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## 1. EXECUTIVE SUMMARY

- 1.1. This report proposes updating the Hammersmith and Fulham Special Guardianship Allowance policy to bring it into line with the London wide initiative to have a consistent policy across London. These changes will also bring our policy into line with our tri borough partners so that the tri borough fostering and adoption service are operating under a single Special Guardianship allowance policy.
- 1.2. Special Guardianship allowances are used to provide financial support in situations where it is right for the child to leave the Council's care and legally become a full member of that family but financial support is needed to enable the carers to continue caring for the child. .
- 1.3. The main change in the policy is to provide a commitment to continuing the fostering allowance during the period of the Special Guardianship Order and to introduce a new Department for Education developed model of means testing. The overall cost of introducing this change is neutral.
- 1.4. The key benefit of this change is that it will encourage carers to proceed with Special Guardianship rather than leave children remaining looked after. It will also ensure that the single tri borough service can operate more effectively under one policy for all three Local Authorities.

## **2. RECOMMENDATION**

- 2.1. That the new Special Guardianship allowance policy (attached at Appendix 1) be approved.

## **3. REASONS FOR DECISION**

- 3.1. The current policy is in need of revising in the light of recent case decisions in court (where children have remained looked after with a fostering status when carers have been reluctant to proceed to a Special Guardianship Order) and the development of the Tri-borough fostering and adoption service which need to operate under a single policy.
- 3.2. It is also necessary to bring the policy into line with current practice; in the majority of cases financial support is provided to carers for the duration of the order and a policy that gave a commitment to this when carers were considering Special Guardianship or remaining as foster carers would encourage more carers to move to a Special Guardianship order.

## **4. INTRODUCTION AND BACKGROUND**

- 4.1. Usually children are best brought up in a family. To achieve this when they are looked after and cannot return home to their parent(s), the Council will seek to place them permanently with another family and to secure that placement with a court order – usually Adoption, Special Guardianship or residence order.
- 4.2. For all these orders the Council will assess what support the carers need; many carers will have planned taking a child into their family and have the financial resources to manage (most adopters will be in this position). Other carers, usually family members will have not expected to be caring for their relatives but have stepped in when a problem arose. A high proportion of these family arrangements are with grandparents who may be or will soon become of pension age. These families are more likely to need financial support.
- 4.3. Our current policy provides carers with a guarantee of three years of non means tested financial support (equivalent to the fostering allowance) and then ongoing financial support is annually reviewed. An assessment is made after three years and if it is not reasonable to expect the carer to continue without financial support, then it will continue and a significant proportion do.
- 4.4. An unintended consequence of this policy is that carers making a permanent commitment to a child do not know if they will have financial support in three years' time; there have been a number of carers recently where carer have refused to move from fostering to Special Guardianship because of this uncertainty. In those circumstances the child remains looked after and the financial support continues under the fostering

regulations. This is not helpful to the child to remain looked after; neither to the Council as the financial costs are higher.

- 4.5. In many cases the Council does continue to provide financial support; but the fact that this is uncertain at the point of agreeing the Special Guardianship Order support offer means that it can act as a deterrent and less carers move to Special Guardianship Order than we would like.
- 4.6. In addition since the creation of the tri borough fostering and adoption service the new tri borough fostering and adoption service has had to work under different policies in the three boroughs. It would simplify and assist the service to operate under one policy.
- 4.7. The number of children moving onto Special Guardianship Orders is shown in the table below:

Year ending March	2010	2011	2012	2013	2014
Special Guardianship Orders	13	21	27	18	16

- 4.8. The cost per child is based on the fostering allowances (less benefits relevant to that child such as child benefit, tax credits etc) and is means tested

Weekly Rates	Babies	Pre Primary	Primary	Secondary (11-15)	Secondary (16-17)
England	119	122	134	154	179
South East	131	135	151	171	201
London	137	140	157	178	209

## 5. PROPOSAL AND ISSUES

- 5.1. It is therefore proposed that the Council adopts a new Special Guardianship allowance policy; this policy is the current policy operating in the other two Local Authorities.
- 5.2. The key proposals in the new policy are that the allowance would:
- 5.2.1. Continue for the duration of the order.
  - 5.2.2. Match the fostering rate for a child of that age
  - 5.2.3. Have benefits that duplicate the allowance deducted (Child Benefit, Child tax credit and working tax credit)
  - 5.2.4. Introduce a new rigorous annual means test that is to be implemented by a new finance post funded by the Adoption Reform Grant.

## **6. OPTIONS AND ANALYSIS OF OPTIONS**

- 6.1. The main alternative option would be to remain with the current scheme. As outlined above that leaves the Council in the position of some carers not being willing to move to a Special Guardianship Order and children would remain looked after unnecessarily.

## **7. CONSULTATION**

- 7.1. No additional consultation is required.
- 7.2. In developing the London wide initiative there was consultation with all London Local Authorities.

## **8. EQUALITY IMPLICATIONS**

- 8.1. There is no impact on the public sector equality duty as a result of this new policy as the proposals apply equally to all looked after children where Special Guardianship is being considered.

## **9. LEGAL IMPLICATIONS**

- 9.1. The legal duty to assess and the power to provide a Special Guardianship allowance is governed by sections 14F and 14G of the Children Act 1989, the accompanying Special Guardianship Regulation 2005 and DfE Special Guardianship Guidance.
- 9.2. Strict adherence to the Regulations would mean that the Local Authority could cease payment of the allowance after 3 years, subject to a further assessment of needs and the carer continuing to reside within the area of LBHF. As such, the Policy may have the beneficial effect not only of increasing the number of Special Guardianship applications and thus reducing the number of looked after children but also reducing the number of legal challenges from Special Guardians who seek an allowance that is equivalent to the fostering allowance and who seek that it should continue for as long as they continue to care for the child.
- 9.3. Implications verified/completed by: (Jade Monroe, Senior Solicitor 0208 753 2695)

## **10. FINANCIAL AND RESOURCES IMPLICATIONS**

- 10.1. The proposed implementation of the revised policy is estimated to be cost neutral for LBHF. Although the current scheme only guarantees to pay the allowance for the first 3 years in reality most continue beyond this time due to the carer's financial circumstances.

10.2. The revised policy will formalise the process of robust financial assessment which will be carried out annually after 3 years and will ensure that where financial circumstance change the allowance is reduced or stopped accordingly.

10.3. Completed by Caroline Osborne, Tri Borough Head of Finance, Children's Social Care.

## **11. RISK MANAGEMENT**

11.1. The changes bring the Councils' sovereign policy into line with our Tri-borough partners so that the Tri-borough fostering and adoption service operates under a single Special Guardianship allowance policy. In doing so these contribute to the Enterprise Wide Risk Management Bi-borough risk number 6 - Managing statutory duty, compliance with laws and regulations. A London Local Authorities initiative to develop across London a standardised approach to financial support is being developed for special guardians in accordance with the Special Guardianship Regulations 2005 and the DfE Special Guardianship Guidance.

1.1. Implications verified by; Michael Sloniowski, Bi-borough Risk Manager ext. 2587.

### **LOCAL GOVERNMENT ACT 2000**

#### **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Draft London Special Guardianship Order Support Policy	Steve Miley/2300	Children's services

#### **LIST OF APPENDICES:**

- 1 Special Guardianship Financial Support Policy