

# Minutes of a meeting of the Children's Services Overview and Scrutiny Committee held on Tuesday, 31 January 2017 in the Council Chamber - City Hall, Bradford

Commenced      4.30 pm  
Concluded        6.45 pm

**Present – Councillors**

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
M Pollard	Engel Mullaney Peart Tait	Ward

VOTING CO-OPTED MEMBERS:

Claire Parr	Church Representative (RC)
Joyce Simpson	Church Representative (CE)

NON VOTING CO-OPTED MEMBERS

Tina Wildy	Health Representative
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Observers: Councillors V Slater, Thirkill and Whiteley

Apologies: Tom Bright

**Councillor D Smith in the Chair**

**61. DISCLOSURES OF INTEREST**

Councillor D Smith disclosed that he knew a member of the public in attendance at the meeting but he was not related to them.

Councillor Peart disclosed that she had friends who were foster carers.

**62. CALL-IN FOSTERING ALLOWANCES REVIEW**



On 10 January 2017 the Executive considered the report of the Strategic Director Children's Services (**Executive Document "AS"**) which set out the proposals to;

Align the level of fostering allowances ensuring that payments for all fostering, special guardianship, Child Arrangement Orders (formerly Residence Orders) and adoption are all paid at the same rates as required by law.

The proposal to bring fostering allowances in line with statutory requirements would achieve affordable equity for children for whom Bradford had a financial responsibility by ensuring that they were not disadvantaged as a result of the permanency option that best meets their needs.

### **Executive Resolved –**

**That Option 2 – Reducing Fostering allowances to the Government minimum allowances over a two year period with effect from 01 April 2017 be approved.**

The decision of the Executive was called in. The reasons for the call in were set out below:

- It is acknowledged by the council that Foster Carers already possess a strong sense of being undervalued, though the report provides members with no indication or projection of the potential impact that the implementation of the Executive's decision, may have upon the Council's Sufficiency Duty in relation to looked after children.
- Whilst the report makes reference to legal requirements relating to payments made to the carers of Looked After Children and the actions of the Courts, in to date rejecting local authority justifications for differences in allowances paid to the different types of carers, the information provided regarding the legal requirements is not sufficient for members to ascertain whether the Council's circumstances are comparable and thus whether any legal obligations are likely to be breached.

In response to the Call-In, the Strategic Director of Children's Services submitted **Document "AG"** which provided a commentary on the call-in.

The Deputy Director, Children's Social Care expressed his appreciation for the valuable service provided by foster cares to the most vulnerable children in the district and acknowledged their concerns. He also thanked those who had sent supporting messages. He summarised the background from 2015 and referred to the decision of the Executive of 10 January Executive which had been called-in. He referred to the reasons for call-in which related to sufficiency and clarity on legal obligations.



He added that clear legal advice had been given that the allowance paid in relation to Foster Carers, Special Guardians, Family and Friends and Adoption and Residence Orders should be the same. He explained that the authority could either equalise up (which would have a financial impact) or revise all rates to that set by the Department for Education (while understanding that this was a reduction). The introduction of the new rate would be staggered over 2 years.

He went on to advise members that fees and allowances had been compared to other authorities in the area. In the vast majority of circumstances Bradford compared favourably to other authorities. It was accepted that there would be circumstances where individual foster cares would do better in another authority. The vast majority of authorities paid the national minimum rate.

He referred to the issue of sufficiency and noted that there were currently 9 vacancies, 2 foster carers were on annual leave and more foster carers were needed. It was noted that 23 foster carers were in assessment and it was expected that 3 foster carers would be brought to panel for approval in 6 weeks. Some foster carers had indicated that they may leave and it was hoped that this would not happen. An independent review of support given to foster carers was to be undertaken to ensure that it was sufficient.

The following questions were asked and answers given:

- Q Do other authorities provide payments for holidays, religious festivals?  
A Some agencies pay holiday allowance, some pay an extra week for birthdays, some pay an extra week for religious holidays and some do not.
- Q Has the variation in the cost of living between authorities been looked at?  
A The cost of living is reasonably similar compared against the rest of West Yorkshire. Some family and friends in South of England may have a different cost of living.
- Q Why is there a disparity between different Local Authorities?  
A Foster carers get an allowance which is not taxable. The Fostering Network rate was originally used. They have discontinued publishing a rate so the authority use the Government rate.
- Q Are other authorities not paying the minimum?  
A This authority also pay a fee which is set dependant on the age of child and experience of the foster carer. The vast majority are level 3 foster carers. The authority pay 28 days holiday, some authorities may not. To make a comparisons the authorities combined fees and allowances were sent to other authorities and they provided theirs.
- Q Explain the level 4 banding.  
A There are 9 level 4's from a total of 450 foster carers however the level 4 banding has been discontinued. Other authorities such as Wakefield do



not have a level 4.

Q Why have we discontinued level 4 ?

A Levels relate not to the needs of the child but the skills of foster carer. There is a need to ensure that foster carers are skilled to meet the needs of children.

Q Reference was made to the GMB submission and concerns expressed about the cost implications of losing foster carers.

A The Assistant Director responded that this was a real concern and that was why benchmarking was carried out. It was believed that the authority was competitive. It was understood that foster carers would feel upset, so much so that they may resign or go to an IFA. Agencies paid more, however they had long void periods. To date 1 foster carer was considering going to an IFA and 1 was considering retiring, 23 were in assessment and it was believed that the authority could continue to meet the sufficiency requirement. The authority could work with foster carers. It was understood that a reduction was not a palatable message. Officers were confident that the damage could be repaired.

Q GMB has stated that if foster carers go to an agency they keep children with them is this correct?

A This is incorrect. Bradford decides where Bradford children are placed. If any foster carer changed to an agency a case review would be called to determine where the child should be placed.

Q In the event of a case review arising from a foster carer moving to an agency, is it improbable that the child would move because the authority do not have capacity? Reference was made to the statement that it is not the needs of the child but the skill level of the foster carer.

A The skill level determines the fee. The allowance is determined by the age of the child.

Payments are broken down into (1) the fostering allowance which is the cost of caring for the child and (2) the fee which is paid to the carer and is dependent on their level of experience and skills and is reviewed and assessed annually.

If the needs of the child were complex it would be expected that a more experienced foster carer could manage a wider range of children than those that were newly qualified.

The issue was to ensure that the authority provided foster carers with support to deal with challenges.

Q How has the removal of the retainer and holiday allowance been monitored?

How confident is the authority about consultation and the level of scrutiny of DfE fees? There is a need to ensure that the money meets the needs of the child.

A Holiday allowance is paid to the equivalent of 2 weeks of fostering allowance. In the last round the holiday scheme was reviewed to £10 per



day when taking the child on holiday, the majority of foster carers did not claim this. The retainer paid in Bradford was the most generous in West Yorkshire ,it was paid for 12 weeks and reduced after 6 weeks. There had not been an adverse effect on foster carers in Bradford.

The Family Finding Team look at carers with vacancies and match children with carers. The authority worked hard to ensure that foster carers were not affected financially.

The Assistant Director advised members that the DfE Fostering Network represents foster carers with the DfE and that GMB represents foster carers on the Parliamentary Scrutiny into all aspects of foster care. The majority of Local Authorities adopt the DfE level of allowance.

The Health and Wellbeing Portfolio Holder stated that for many years Bradford had prided itself in going over and above the minimum in making payments. She added that there had been huge cuts in the Council's budget over the previous six years. She stressed that the needs of vulnerable children were paramount. She noted that as the Council could not pass a deficit budget and that over 55% of the Council budget was for Adult Services. She added that if the authority equalised up there would be less money to provide in other areas. She stressed that difficult decisions had to be made. She commented that the authority did not want to lose foster carers but people would make decisions based on their circumstances. Levels were based on foster carers competencies and expertise so foster carers experienced stability. She noted that 4 foster carers received over £70,000pa, 27 received £55,000pa and 73 received £38,000pa. which she put into the context of the Council's overall financial position.

Q How much money is paid to foster carers who go through the agency route?

What percentage of the budget of other authorities is paid to agencies compared to Bradford?

A Bradford's strategy is to keep children local and in family based placements, to grow and retain our own foster carers and not rely on agencies. Leeds pay £5m more than Bradford and Manchester pays £15m more than Bradford.

A Committee member contended that paying agency foster carers was not the most cost effective route. In response to which the Strategic Director stated that if the authority had to buy in specialist provision it could be more cost effective than having that level of specialism in house.

Q How do the authority's rates compare with fostering agencies?

A They charge the local authority more and make a profit. They can pay more to their foster carers.

The average cost of IFA's is 40% more than Foster Carers or Family & Friends. IFA's pay more because foster carers have void periods,



however foster carers come back from agencies because they will always have a child and they love children.

Q Is there a set of descriptors that sets the skill levels?

A There is no set of descriptors. Foster carers have to work to national minimum standards for fostering. A clear progression programme has to be in place.

A number of foster carers attended the meeting one of whom addressed the Committee. He explained that as a level 3 carer of a 17 year old boy with ADHD who attended a special school, he and his wife received £23,000 for working 24 hours a day. He read an email from the Chairman of the Bradford Association for Fostering and Adoption (BAFFA) opposing the cuts which strike at the core of looked after children. They stated that foster carers already suffered cuts of £1,000 last year. They felt undervalued and bullied to self fund such things as transport and school outings. The cuts in allowances would affect foster children. He referred to the issue of a legal challenge which he considered was an issue for the authority to address. He added that foster children should not have to be adversely effected. He added that foster carers were being forced to take protective action. He concluded that foster carers could vote with their feet which would be more costly for the authority. He urged the Executive to work with foster carers and find a more financially viable solution.

The Shadow Spokesperson Health & Wellbeing, who had herself been a foster child, attended the meeting. She addressed the Committee and read out emails that she had received from foster carers. She noted that £560,000 was required to bring the figures up to parity. She was concerned about the authority's sufficiency duty. She noted that there had been a 41% increase in the use of agency foster carers. She contended that the figures were misleading as this authority only pay 50% for a second child and some authorities paid 100%. She expressed concern about sufficiency and sustainability and any savings that may be lost if foster carers went over to an agency.

A member expressed doubt whether the comparisons in the Table on page 5 of the report were comparing like for like. And asked whether someone on level 3 in Bradford for the 16-17 age group could be on level 4 in Leeds.

A The table was sent to neighbouring authorities to fill in. Officers were sure that a different authority would come to same assessment of levels a Bradford. If Leeds have 200 level 4's it can be said in the vast majority of cases, Bradford will pay more than its neighbours. Level 4 and 3 is not comparing like for like. The majority of foster carers (over 60%) are on level 3 on the top band of what Bradford pays. There are 700 foster carers in Leeds, it was not known if 200 were on level 4.

Q Calderdale are considering ways to pull people back from IFAs. How





many Bradford children are in IFAs?

A No decision has been taken in Calderdale, there are on going discussions with GMB.

In Summer 2016, 36 children were with IFAs in Bradford, 200 were with IFAs in Leeds and over 50 were with IFA's in Calderdale.

A member noted that foster carers only received 50% for a second child and added that they are the most vulnerable children that the authority had responsibility for. She did not consider a saving of £450,000 was a great deal for what foster carers provided. She expressed the opinion that they should receive more not less.

The Strategic Director responded that upping the levels would result in an increase of £1.6m and questioned where this would come from. He stressed the need to work in the financial context of standardising allowances.

Q A response was requested on the issues of sufficiency and legal challenge.

A It was noted that some foster carers would be considering their future with the authority. Currently 23 new foster carers were being assessed, 3 of whom were going to panel in next 6 weeks. A review of the support for foster carers was being undertaken. In meetings with foster carers they had indicated that more could be done by the authority to provide them with support.

Clear legal advice had been received stating that if the authority did not equalise foster carers with others, there was a risk of legal challenge. This had been brought to the attention of the authority June 2015. The question for the authority was to either equalise up at a cost of 1.6m or equalise down at some distress to foster carers.

The Strategic Director advised members that he had discretion to ensure that support was provided if needed in exceptional circumstances. He gave an assurance that he would look at individual cases to ensure that any families were not in real hardship.

It was emphasised that the majority of local authorities paid the DfE rate of foster carers allowance. It was noted that there were 450 foster carers and 293 Special Guardianship Orders. It was recommended that the authority benchmark itself against the rate that the Government set.

Q Can you comment on the case of R(TT) v London Borough of Merton (2012).

A In law, if the authority want to pay varying rates it would be required to have a justification that would stand up to external scrutiny. The authority does not have a justification that will give it a legal basis on which to have



differential rates. It was considered that by equalising, the authority was taking into account the needs of the children. The authority does not have the finance to equalise up.

Members considered the call in and discussed the levels contained in table on page 5 of Document "AS" and whether comparisons could be made on a like for like basis.

**Resolved –**

**That the decision be referred back to the Executive to reconsider in the light of Executive carrying out further investigation of the Levels across the Local Authorities used in the table on page 5 of Document "AS" to better understand the comparability on a like for like basis on the levels and descriptors used.**

**ACTION:** Strategic Director of Children's Services

Chair

**Note: These minutes are subject to approval as a correct record at the next meeting of the Children's Services Overview and Scrutiny Committee.**

THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

