

## **APPENDIX 3**

# **Report of the Strategic Director of Children's Services to the Meeting of the Executive to be held on 10<sup>th</sup> January 2017**

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**Subject:****Fostering Allowances Review****Summary statement:**

This report sets 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 will achieve affordable equity for children for whom Bradford has a financial responsibility by ensuring that they are not disadvantaged as a result of the permanency option that best meets their needs.

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**Portfolio:****Health & Wellbeing**

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**Overview & Scrutiny Area:****Children's Services**

## **1. SUMMARY**

1.1 This report sets out the proposals to;

- Ensure that Bradford is compliant with the law by equitably aligning payments across fostering, special guardianship, Child Arrangement Orders (formerly Residence Orders) and adoption based on the national age related minimum allowance.

The proposal will achieve equity as required by law through bringing allowances in line with legal requirements. Under these proposals Bradford foster carers will receive a fee and allowance that when aggregated is in excess, for the most part, of all other local authorities in West Yorkshire. There is a significant financial risk to the authority if we do not achieve equity. However by implementing the proposals, the authority, whilst paying more than elsewhere in the region, will also make a saving of £454k in a financial year based on current rates and numbers of children.

## **2. BACKGROUND**

2.1 There are approximately 450 foster carers in the Bradford District who provide a highly valued service in looking after children in care in Bradford. As at November 2016, there were 243 mainstream fostering households; 158 approved Family and Friends households and 47 approved short breaks households. Bradford has a proud tradition of working positively in partnership with foster carers to support our children in placements to improve their life chances. Foster carers provide a safe, secure, nurturing environment and are passionate about wanting to make a difference to the lives of children and young people in their care. The Council is committed to ensuring that it is able to place Bradford children in Bradford with Bradford carers with the right kind of skills to provide the appropriate level of care and support.

2.2 The Council has a duty under the Children Act 1989 to ensure it provides a range of suitable and appropriate accommodation to meet the assessed needs of children in care. Local Authorities are responsible for providing fostering services in line with Fostering Regulations, Care Planning, Placement and Case Review Regulations and National Minimum Standards for Fostering.

2.3 The service currently spends £10.1 million on fostering fees and allowances. Proposals for budget reductions identified within Children's Services include a review of fostering allowances to achieve the required budget savings. The Council approved budget savings of £830k over 2 years i.e. £415k in 2015/16 and £415k in 2016/17. Phase 1 changes within the service identified £415k savings by introducing a range of measures: the Holiday scheme was ended saving £85k in 2015/16; the retainer on the fostering allowance has been removed; indefinite fee payments for vacant placements ended reducing the cost of vacancies from £12k per week in February 2015 to £2.7k per week in August 2016. The scope for these efficiencies was widely acknowledged. A dedicated Family Finding team was established which has been successful in matching children to carers. Vacancies have been managed much more proactively. Implementing these measures has contributed already to £340k savings made in 15/16. Bradford's current and proposed combined fees and allowances to our foster carers remain higher than all

other West Yorkshire Authorities.

- 2.4 Phase 2 of the process relates to reviewing the payment of fostering allowances. A weekly age-related allowance is paid to foster carers to cover the child's living expenses (e.g. food, clothing, household, transport etc). Currently Bradford pays differential rates for Special Guardianship, Adoption and Residence allowances compared to Fostering allowances. At the moment foster carers, including approved Family and Friends, are paid more in Bradford than those providing care through Special Guardianship, Adoption and Residence Orders. The law requires that there should be very clear justification for differences in payments. Bradford faces the risk of judicial review of its current payment policy if the allowances are not aligned equitably across all placements. The risk for the council of judicial review is that there would need to be an uplift of all allowances to the current fostering rate at a cost of £1.6 million to the authority.
- 2.5 The Government sets a National Minimum Allowance for foster carers and many local authorities set their allowances based on this rate. The fostering allowance in Bradford was historically paid at the rate recommended by the Fostering Network. For some years Bradford has not kept pace with the Fostering Network's recommended annual increases, which has resulted in payments for children aged 0-10 reducing to almost the national minimum allowance while payments for children aged 11+ have remained relatively high in comparison. The Fostering Network has discontinued recommending rates.
- 2.6 The allowance is deemed to cover the costs of clothing and day to day living; food; heating; normal transport to school; social activities; toiletries; hair/skin care and school dinners. Bradford Council adopts the age related percentage category/costs breakdown of the weekly allowance as currently recommended nationally and provides this as guidance for foster carers.

The current allowance rates in Bradford compared to national minimum rates are as follows;

Fostering	No. of Children	Current Weekly Rates	Government Weekly Rates
0-4	70	127.47	126.00
5-10	127	145.21	139.00
11-15	136	180.76	159.00
16-18	42	219.86	185.00
	<b>375</b>		

Family & Friends	No. of Children	Current Weekly Rates	Government Weekly Rates
0-4	56	127.47	126.00
5-10	74	145.21	139.00
11-15	64	180.76	159.00
16-18	24	219.86	185.00
	<b>218</b>		

2.7 Additionally, foster carers can be paid a 'fee' as a 'reward'. There is no legal entitlement to a fee. In Bradford, the rate of fees paid to foster carers remains competitive compared to those paid by neighbouring West Yorkshire authorities. The fee structure rewards foster carers for their skills and experience and does not relate to the age of the child. Carers are asked to evidence their skills and experience against a set of competencies in order to progress with the highest reward paid to those who carry out the most complex tasks, regardless of the age of the child. For example, experienced foster carers may be required to facilitate complex contact arrangements, prepare children for adoption, care for children with complex health and emotional needs, or support young people at risk of child sexual exploitation.

### 3. OTHER CONSIDERATIONS

3.1 The Council also plans to undertake work to explore options relating to Special Guardianship Orders.

### 4. FINANCIAL & RESOURCE APPRAISAL

4.1 Bradford's allowances have been benchmarked against other local authorities. In comparing Bradford's allowances with neighbouring Local Authorities, the rates in Leeds and Kirklees are higher as they are based on the Fostering Network's 2015/16 recommended allowance. However, from 2016/17 the Fostering Network is no longer publishing recommended allowances.

4.2.1 The preferred option to meet legal requirements in Bradford is to reduce the allowances paid to foster carers to the national minimum allowance in order to achieve parity across all care arrangements. This has the added potential to save £454k in a financial year based on current rates and numbers of children. The proposal is to achieve the savings over 2 years with £227k of savings to be delivered in each year in order to minimise the impact on recruitment and retention of foster carers.

4.2.2 The table below compares Bradford's existing allowance and fees based on one child against the rates in neighbouring Local Authorities as an annual amount. In addition, the table compares the proposed allowance rates for Bradford combined with fees calculated on the basis of one child.

Annual fee & allowance	Age Group	Bradford (£)	SUGGESTED BRADFORD (£)	Leeds (£)	Kirklees (£)	Wakefield (£)
Allowance + Level 1	0 - 4	13,609	13,505	7,456	12,671	8,969
	5-10	14,496	14,183	8,499	12,671	9,594
	11-15	16,373	15,226	10,585	15,799	10,637
	16-17	18,406	16,581	12,827	18,041	11,941
Allowance + Level 2	0 - 4	16,477	16,425	13,714	13,974	12,879
	5-10	17,416	17,103	14,756	13,974	13,505
	11-15	19,241	18,146	16,842	17,103	14,548
	16-17	21,326	19,501	19,084	19,345	15,851
Allowance + Level 3	0 - 4	20,649	20,596	16,321	16,581	18,094
	5-10	21,587	21,274	17,364	16,581	18,719
	11-15	23,412	22,317	19,449	19,710	19,762
	16-17	25,446	23,673	21,691	21,952	21,066
Allowance + Level 4	0 - 4	29,200	29,148	18,928	20,753	0
	5-10	30,139	29,826	19,971	20,753	0
	11-15	32,016	30,869	22,056	23,881	0
	16-17	34,049	32,224	24,299	26,124	0

*Note: Calderdale fees and allowances excluded as currently under review.*

**The following examples demonstrate the difference made by the proposed changes to the weekly rate;**

**3 year old with a level 3 carer:**

Bradford proposed rate is £20,596, Leeds £16,321, Kirklees £16,581  
Proposed Bradford weekly rate is £394.56 - reduction of £1.47 per week

**6 year old with a level 3 carer:**

Bradford proposed rate £21,274, Leeds £17,364, Kirklees £16,581  
Proposed Bradford weekly rate is £407.56- reduction of £6.21 per week

**12 year old with level 3 carer**

Bradford proposed rate is £22,317. Leeds £19,449, Kirklees £19,710  
Proposed Bradford weekly rate is £427.56- reduction of £21.76 per week

**16 year old with level 3 carer**

Bradford proposed rate is £23,673, Leeds £21,691, Kirklees £21,952  
Bradford proposed weekly rate is £453.56- reduction of £34.86 per week

4.3 The projected savings are required to be met as the budget has already been reduced by £830k for the Fostering service. This process of proposed change to the allowances represents a financial and reputational risk to the Council.

## **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

- 5.1 Proposals to reduce allowances are contentious and may result in impacting on the District's ability to meet its Sufficiency Duty in relation to placements for looked after children and the Journey to Excellence recruitment target. Adjusting to a new allowance structure may present some challenges for some foster carers and it is possible that some foster carers might decide to leave the service.
- 5.2.1 Plans are in place for ongoing consultation with stakeholders at all stages in order to minimise disruption for looked after children, agree terms and conditions with foster carers and to continue to pro-actively promote recruitment and retention. Consultations will provide opportunities to explain the options and the rationale for the proposals. Carers will be offered advice on entitlement to work and benefits. The key message the Council will continue to reinforce is our commitment to ensuring that Bradford children are placed in Bradford with Bradford carers with the right skills to offer the appropriate level of care and support needed. Elected Members will continue to be briefed at all stages.
- 5.2.2 Consultations were held on 24<sup>th</sup> and 25<sup>th</sup> November 2016. It was apparent at the consultation events that some foster carers have a strong sense of feeling undervalued. Foster carers are not classed as employees or workers because they are not engaged under a contract of employment, this means they are not entitled to sick pay, holiday pay or the national minimum wage. A recent meeting in parliament of foster carers led to a vote to form a union which would aim to give foster carers the same rights as employees. The Department of Education have stated they will launch a fundamental review of fostering nationally as a result.

## **6. LEGAL APPRAISAL**

- 6.1 The Local Authority's policy relating to fostering payments should be clear, equitable and transparent. The criteria for calculating allowances and fees must be applied equally to all foster carers whether related to a child or not. A clear justification is required for any differences in allowances paid to foster carers, adoptive carers, special guardians and those caring under residence/child arrangement orders. To date, the courts have rejected justifications put forward by local authorities for differences in allowances. Policies that differentiate allowances are vulnerable to legal challenge. Fostering allowances must cover the full cost of caring for a child.
- 6.2 The Local Authority is required to consider the impact of proposals on its duty to ensure sufficiency of foster carers and its duty to ensure the welfare of the children it looks after.
- 6.3 The proposal has been equality assessed to ensure compliance with the Local Authority's duties under the Equality Act 2010. The Equality Impact Assessment is attached as Appendix 1.
- 6.4 The Local Authority's duty to act fairly includes a general duty to consult. In addition, there is a specific duty to consult foster carers in advance of any changes to fostering payments. Consultations should be on all viable options, be proportionate, allow time for consideration and response and take place at each stage of the process. Consultation events have now taken place. In addition,

Children's Services will respond to requests for additional face to face meetings as well as promoting the on-line consultation opportunities.

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

The proposals may have a greater impact on single carers, most of whom are single females. There could be an impact on young people aged between 11 to 17 years if placements are disrupted though this has not been the case so far.

### **7.2 SUSTAINABILITY IMPLICATIONS**

The financial changes proposed within this report ensure that the service is aligned with the national minimum expectations in complying with legal requirements whilst remaining viable.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

None.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

None.

### **7.5 HUMAN RIGHTS ACT**

None.

### **7.6 TRADE UNION**

None. Foster carers are not employees of the Council. They are currently categorised as self-employed.

### **7.7 WARD IMPLICATIONS**

These proposals will impact on foster carer households in all Wards across the District.

## **8. NOT FOR PUBLICATION DOCUMENTS**

None.

## **9. OPTIONS**

**Option 1** – Reducing foster carer allowances to the Government minimum allowances. Although this option brings foster carer allowances in line with Special Guardianship, Adoption and Residence allowances and removes any risk of legal challenge in relation to the payment of differential rates, it will impact more

significantly on older children between the ages of 11 to 17 years with payment differences of between £21 to £34 per week. There is no capacity to spread the reduction in fostering allowances more fairly across the age ranges or to reduce the payments for younger children more to reduce the impact for carers of older children because the allowances for children aged 0-10 are already close to the minimum rate. Fostering allowances cannot legally be paid at lower than the national minimum allowance. As stated above (see paragraph 2.4), the fostering allowance is intended to cover the cost of caring for a child. It is not a reflection of the perceived challenges of caring for an older child in comparison to caring for a younger child. This option will save approximately £454k based on current rates and numbers of children in a full year.

**Option 2** – Reducing fostering allowances to the Government minimum allowances over a two year period with effect from 01 April 2017. This option is the same as above as it aligns payment in all care arrangements thereby ensuring compliance with the legal requirements and has the added potential to reduce impact on carers of older children by giving them time to adjust as it would be introduced over 2 years as illustrated below.

Fostering	No.of Children	Current Rates	Government Rates	2017/18 phased at 50%	2017/18 50% saving	2018/19 100% saving
0-4	70	127.47	126.00	126.74	-2,889	-5,777
5-10	127	145.21	139.00	142.11	-22,139	-44,278
11-15	136	180.76	159.00	169.88	-83,073	-166,147
16-18	42	219.86	185.00	202.43	-41,100	-82,200
	375				-149,201	-298,402

Family & Friends	No.of Children	Current Rates	Government Rates	2017/18 phased at 50%	2017/18 50% saving	2018/19 100% saving
0-4	56	127.47	126.00	126.74	-2,311	-4,622
5-10	74	145.21	139.00	142.11	-12,900	-25,800
11-15	64	180.76	159.00	169.88	-39,093	-78,187
16-18	24	219.86	185.00	202.43	-23,486	-46,971
	218				-77,790	-155,580
					-226,991	-453,982

This option will save £227k in 2017/18 and a further £227k in 2018/19. This is the preferred option.

**Option 3** – Increase Special Guardianship, Adoptions and Residence Orders to Bradford rates for Fostering. This option would align all payments for care arrangements and remove the risk of legal challenge in relation to paying differential rates but would be a more costly option as it could cost approximately an additional £582k.



**Option 4** – Increase Fostering allowances, Special Guardianships, Adoptions and Residence Orders to rates currently paid by Leeds and Kirklees based on the Fostering Network's recommended allowance for 2015/16. From 2016/17 the Fostering Network are no longer publishing recommended allowances. Although implementing the Fostering Network rates to all types of carers will bring Bradford's rates in line with some other neighbouring authorities and remove the risk of legal challenge, this option will be an additional cost of £1.6m which makes it unviable.

## **10. RECOMMENDATIONS**

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

## **11. APPENDICES**

**Appendix 1:** Equality Impact Assessment.

**Appendix 2:** Initial analysis from consultation as at 12<sup>th</sup> December 2016

## **12. BACKGROUND DOCUMENTS**

Report to the Meeting of the Executive held on 23rd June 2015 on Changes to Bradford's Fostering Fees and Allowances.

## APPENDIX 1

### Equality Impact Assessment Form

<b>Department</b>	Children's Services	<b>Version no</b>	2.1
<b>Assessed by</b>	Kal Nawaz	<b>Date created</b>	9 November 2016
<b>Approved by</b>		<b>Date approved</b>	
<b>Updated by</b>		<b>Date updated</b>	
<b>Final approval</b>		<b>Date signed off</b>	

The Equality Act 2010 requires the Council to have due regard to the need to

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups

#### Section 1: What is being assessed?

##### 1.1 Name of proposal to be assessed.

Fostering Allowances Review

##### 1.2 Describe the proposal under assessment and what change it would result in if implemented.

Proposal 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 and to undertake broader consultation to review the payment for skills framework.

The Council has a duty under the Children Act 1989 to ensure it provides a range of suitable and appropriate accommodation to meet the assessed needs of children in care. Local Authorities are responsible for providing fostering services in line with Fostering Regulations, Care Planning, Placement and Case Review Regulations and National Minimum Standards for Fostering.

There are approximately 450 foster carers in the Bradford District who provide a highly valued service in looking after Children in care in Bradford. As at November 2016, there were 243 mainstream fostering households; 158 approved Family and Friends households and 47 approved short breaks households.

The proposal to bring allowances in line with statutory requirements will ensure equity and achieve a saving of £454k over 2 years between 2017-2019. The service currently spends £10.1 million on fostering fees and allowances. Proposals for budget reductions identified within Children's Services include a

review of fostering allowances to achieve the required budget savings.

A weekly age related allowance is paid to foster carers to cover the child's living expenses (e.g. food, clothing, household, transport etc.). Currently Bradford pays differential rates for Special Guardianship, Adoption and Residence allowances compared to Fostering allowances. At the moment foster carers are paid more in Bradford than those providing care through Special Guardianship, Adoption and Residence Orders. The law requires that there should be very clear justification for differences in payments. The national minimum allowance is paid to foster carers in some authorities

Additionally, foster carers can be paid a 'fee' as a 'reward'. There is no legal entitlement to a fee. In Bradford, the rate of fees paid to foster carers has been generous compared to those paid by neighbouring West Yorkshire authorities. The fee structure rewards foster carers for their skills and experience. Carers are asked to evidence their skills and experiences against a set of competencies in order to progress.

The preferred option to meet statutory requirements in Bradford is to reduce the allowances paid to foster carers to the national minimum allowance in order to achieve parity across all care arrangements. This has the added potential to save £454k in a financial year based on current rates and numbers of children as required within the budget plans for the District.

## **Section 2: What the impact of the proposal is likely to be**

- 2.1 **Will this proposal advance equality of opportunity for people who share a protected characteristic and/or foster good relations between people who share a protected characteristic and those that do not? If yes, please explain further.**

The proposal will achieve parity across all care arrangements

- 2.2 **Will this proposal have a positive impact and help to eliminate discrimination and harassment against, or the victimisation of people who share a protected characteristic? If yes, please explain further.**

N/A

- 2.3 **Will this proposal potentially have a negative or disproportionate impact on people who share a protected characteristic? If yes, please explain further.**

The proposal aims to standardise payments to all carers. Service data on foster carers by household type and gender indicates that 35% of our 446 foster carer households are single women carer households. Currently available data indicates that approx. 34% of children in foster care are aged between 11-15yrs whilst 11% are 16-18yrs. Although the proposal brings foster carer allowances in line with Special Guardianship, Adoption and Residence allowances and removes any risk of legal challenge in relation to the payment of differential rates, it will impact more significantly on older children between the ages of 11 to 17 years with payment differences of between £21 to £34 per week but the proposal does create parity for

children in those age groups in whatever the care arrangements.

2.4 **Please indicate the level of negative impact on each of the protected characteristics?**

(Please indicate high (H), medium (M), low (L), no effect (N) for each)

<b>Protected Characteristics:</b>	<b>Impact (H, M, L, N)</b>
Age	M
Disability	N
Gender reassignment	N
Race	N
Religion/Belief	N
Pregnancy and maternity	N
Sexual Orientation	N
Sex	M
Marriage and civil partnership	N
<b>Additional Consideration:</b>	
Low income/low wage	N

2.5 **How could the disproportionate negative impacts be mitigated or eliminated?**

(Note: Legislation and best practice require mitigations to be considered, but need only be put in place if it is possible.)

The Local Authority's policy relating to fostering payments needs to be clear, equitable and transparent. The criteria for calculating allowances must be applied equally to all foster carers whether related to a child or not.

The proposal is to reduce fostering allowances to the Government minimum allowances over a two year period. This option aligns payment in all care arrangements thereby ensuring compliance with the legal requirements and has the added potential to reduce impact on carers of older children by giving them time to adjust as it would be introduced over 2 years.

Plans are in place for ongoing consultation with stakeholders at all stages in order to minimise disruption to looked after children. Consultations will provide opportunities to explain the options and the rationale for the proposals. Carers will be offered advice on entitlement to work and benefits.

### **Section 3: Dependencies from other proposals**

- 3.1 Please consider which other services would need to know about your proposal and the impacts you have identified. Identify below which services you have consulted, and any consequent additional equality impacts that have been identified.**

Neighbourhood Services and Targeted Early Help to be consulted on potential to ensure links with targeted youth provision to promote access to opportunities for LAC

### **Section 4: What evidence you have used?**

- 4.1 What evidence do you hold to back up this assessment?**

Bradford's allowances have been benchmarked against neighbouring local authorities and combined with a relatively generous fees structure, comparisons show that Bradford's foster carers will still be better off than those in neighbouring areas.

The Government's national minimum allowance is applied in some Local Authorities and is the basis for the Bradford proposal.

Currently available Service data on foster carers and children in Bradford in addition to financial data has been utilised in undertaking the assessment.

- 4.2 Do you need further evidence?**

Consultations are planned with foster carers to collate further evidence

### **Section 5: Consultation Feedback**

- 5.1 Results from any previous consultations prior to the proposal development.**

N/A

- 5.2 The departmental feedback you provided on the previous consultation (as at 5.1).**

N/A

- 5.3 Feedback from current consultation following the proposal development (e.g. following approval by Executive for budget consultation).**

Dates planned for consultation on 24 & 25 November 2016 in addition to on line feedback.

- 5.4 Your departmental response to the feedback on the current consultation (as at 5.3) – include any changes made to the proposal as a result of the feedback.**

## **APPENDIX 2**

### **Initial analysis from consultation as at 12<sup>th</sup> December 2016**

The Fostering service have held two consultation events during November in Bradford and Keighley, they were attended by over 150 foster carers. There was a mixed reception to the proposals and the preferred option. Foster carers were asked to complete written feedback at the event and an on line consultation has been promoted for four weeks ending on the 27<sup>th</sup> December.

Full analysis of the feedback will be provided once the consultation closes. However at this stage foster carers are stating as follows to a selection of questions posed:

Q3 I think the fostering allowance currently paid in Bradford is:

**1 too high**  
**31 about right**  
**9 too low**

Q5 I think the reasons behind the proposal to reduce the fostering allowance to the National Minimum Allowance are:

**10 very clear**  
**11 clear**  
**14 neither clear nor unclear**  
**4 unclear**  
**0 very unclear**

Q6 I think the proposal to reduce the fostering allowance to the National Minimum Allowance is:

**2 very fair**  
**5 fair**  
**9 neither fair nor unfair**  
**10 unfair**  
**15 very unfair**

Q7 – The impact of reducing the fostering allowance to the NMA on me will be:

**14 very high**  
**14 high**  
**12 neither high nor low**  
**0 low**  
**1 very low**

Q8 – The impact of reducing the fostering allowance to the NMA for my foster child/ children will be:

**15 very high**  
**12 high**

**12 neither high nor low**

**0 low**

**2 very low**

Q13 – if the proposal to reduce the fostering allowance to the NMA is accepted, I think the reduction should be made:

**6 in 1 year**

**26 over 2 years**

At the consultation events, Foster Carers also made a number of suggestions for how the fostering service as a whole could potentially gain efficiencies and provide support to foster carers differently, including ensuring that there were no gaps in named support workers. As a result of this consultation it is proposed that a rapid review of the Fostering Service is undertaken and any recommendations will be shared in due course.