

CHILDREN, YOUNG PEOPLE & SKILLS COMMITTEE ADDENDUM 1

4.00PM, MONDAY, 11 JANUARY 2021

COUNCIL CHAMBER, HOVE TOWN HALL

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ADDENDUM 1

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**CHILDREN & YOUNG PEOPLES
COMMITTEE****Agenda Item 63**

Brighton & Hove City Council

Subject:	Introduction of a Charging Policy for Children who are Accommodated at the request of their parents under Section 20 of the Children Act 1989		
Date of Meeting:	11 January 2020		
Report of:	Executive Director Families, Children and Learning		
Contact Officer:	Name:	Anna Gianfrancesco, Interim AD	Tel: 01273 29
	Email:		
Ward(s) affected:	All		

FOR GENERAL RELEASE

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that there were technical difficulties over the Christmas period in obtaining the legal comments in order to complete the report.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The report lays out the circumstances in which the local authority can seek to costs, in defined circumstances, when a child becomes Looked After at the request of parents. It proposes that as a local authority Brighton and Hove introduce charging costs, in order to see to recoup partial costs from parents.

2. RECOMMENDATIONS:

- 2 The CYPS is recommended to approve the introduction of the Charging Policy, pending ratification at Policy and Resource Committee, as set out in Appendix 1 to seek to recoup partial costs in defined circumstances when a child becomes Looked After at the request of parents.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Parents can request that their child should become Looked After by a local authority under Section 20 of the Children Act 1989. If this happens, both birth parents can be required by law to contribute toward the child's maintenance, irrespective of whether or not they have contact with the child.
- 3.2 In certain circumstances, parents will not be required to contribute if:
 - They are in receipt of some means tested benefits including Income Support, any element of Child Tax Credit other than the family element of Working Tax Credit, income-based Job Seekers Allowance, or income related Employment Support Allowance.

- The child is subject to an Interim Care Order, Care Order, Emergency Protection Order or subject to Police Protection.
 - The child is remanded into local authority foster care, or subject to a Youth Rehabilitation Order with an attached Residence Order (Child Arrangement Order).
 - The child is detained under S38(6) of the Police and Criminal Evidence Act 1984, or under S92 of the Powers of Criminal Courts (sentencing) Act 2000
 - The accommodation is provided as part of an aftercare service under section 117 of The Mental Health Act
 - The child is placed with parents under S22(c) of the Children Act 1989
 - Parents who have relinquished their child to be adopted will not be charged.
- 3.3 Family and Friends option (kinship care), in terms of alternate care, will always be discussed and explored with families before a child enters care.
- 3.4 If parents are separated and one is exempt due to any of the reasons above, the other parent will still be subject to financial assessment.
- 3.5 The proposed policy is based on similar policies that are in place in other high performing local authorities. The two authorities who use a similar policy in the South East are both rated Outstanding by Ofsted. Both authorities report that families still seek support, but that it has enabled them to have a different conversation about whether care is the best option.
- 3.6 The local authorities we have consulted with have indicated that actual use of the policy is extremely limited and that it is seen more as a deterrent and as part of a more general response to prevent families abdicating responsibility for their children. While one of the SE Local Authorities introduced it this year the other has had it in place for a number of years, they are a large authority and report using it once or twice a year, as above they use it to stop parents abandoning their adolescent children's care to the local authority. They do not believe it has stopped families who need help from social care in accessing their services.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 A liable parent can be required to contribute a weekly amount to the care of their child, the level of which will be decided after a financial assessment has been completed by the BHCC staff in the FCL Directorate. The amount of the contribution expected from parent/s for each child should never be more than the foster care rate. In Brighton and Hove, it is recommended the rate is set at 50% of the lowest foster care rate for the child's age band (appendix 1), this is considered fair and retrievable and would be irrespective of the actual cost or placement type, such as a residential placement or independent foster carer.

The amount will be adjusted each year to reflect changes in the foster care rate. For example, in 2019/20 12-18 age group the rate is £241 per week, therefore the calculation becomes 50% of this or £120.50 per week.

- 4.2 As this amount will be collected each calendar month the following calculation would be applied:
 $\text{£ } 120.50 \times 12 = \text{£ } 1,446 \text{ per year: Divided by 12} = \text{£ } 120.50 \text{ per calendar month}$
- 4.3 Consideration of a financial contribution will become part of the process when a child enters care at the request of their parents. Thereafter an annual review of financial circumstances will take place within Safeguarding and Care to ensure the contribution remains at a suitable rate in

response to any changes in either parental circumstances and/or any adjustments made to the DfE recommended fostering allowance.

- 4.4 In cases where parents are separated but are both found to be liable, the charge will be divided equally between the parents. Where a Maintenance Order is in force in respect of the child, the sum as detailed in the Contribution Agreement will be claimed from the parent who receives the Maintenance Order.
- 4.5 If the parents do not agree that they are able to afford to contribute the amount as calculated they will be asked to evidence this by completion of the financial assessment and to discuss this with their child's social worker, for further consideration by the relevant Head of Service. The Head of Service may apply discretion on the basis of the family's individual circumstances which may include:
- What the circumstances leading to the child being accommodated are. For example, if a single parent was hospitalised for a short period of time and had no one to care for their children it might be considered not worth seeking to recoup costs for this short period.
 - Whether there are specific financial pressures affecting the parents that means that strict adherence to this policy is likely to be counter-productive in the context of working towards the child being rehabilitated to the parents.
 - Parents of a child with disabilities are subject to the same rules under Part III of Schedule 2 of Children Act 1989. However, in certain circumstances where there is assessed to be risk of harm arising from the child's disability that cannot be reduced without the need for accommodation, parents will not be charged. These circumstances could include the following:
 - A. Those children whose needs, including medical needs, are so complex that the child essentially requires 24 hour care or similar.
 - B. Those children whose behaviour, as a result of their disability, is so frequently challenging that it is only reasonable for the authority to offer to accommodate the child as an option for supporting the family – often there will be a significant risk of harm to the child, a sibling, or to another family member.
 - C. Those children who are consistently disruptive throughout the night and where no other intervention has been able to ameliorate the impact on the rest of the family.
- 4.6 When parents are assessed to be liable and able to contribute to the care of their child, BHCC is empowered to apply to the Court for a Contribution Order requiring parents to make weekly contributions. No application would be made providing that there is agreement to contribute financially. If no payment is forthcoming within 1 month of the child(ren) becoming Looked After, however, or if payments are not made regularly, the Council has the right to seek to enforce payment by initiating legal proceedings in the courts.
- 4.7 The draft policy (Appendix 2) has been drawn up in consultation with colleagues in both Orbis Law and Business Operations and is considered to be both legally compliant and deliverable operationally.
- 4.8 A full Equality Impact Assessment is available at Appendix 3.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1

6. CONCLUSION

- 6.1 We have seen an increase in the number of request from parents who feel they no longer can manage their challenging teenagers and at the same time refuse to work with us to look at wider family support. This is causing considerable pressure on the social work system, numbers in care and budgets. It is hoped that by focusing parents' attention on the fact that even in care they have responsibility for their child it may act as a lever for some to work in a different way with the local authority.
- 6.2 Within a wider Council budget that is under pressure, the specific budget that supports the care of children who are Looked After continues to be very challenging. It is reasonable to expect parents to contribute to the costs for their child to be cared for when they request it and if they can afford to do so. It encourages parents not to abdicate responsibility for their child and emphasises the importance of parents continuing to be involved in their child's life. It is unlikely in reality, however, that this will generate much or any income but may act as a partial deterrent to those parents who could work with us to find alternative solutions for their child, could afford to contribute but are presently not expected to do so, or who are unwilling to do so.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The potential income per placement as set out in paragraphs 4.1 and 4.2 would be approximately £6,300 per annum. In reality, for a number of reasons, it is not envisaged that this charge would be applied more than two or three times a year, therefore income would not be more the £0.020m per annum. However, it is hoped that this will act as a partial deterrent and reduce the number of children requiring foster care. On average a child placed in foster care (with an independent foster agency) costs £39,100 per annum. It is thought that potentially two to three placements could be diverted each year making a saving of up to £0.117m.
- 7.2 As it is likely that there will be very few assessments needed, at this stage it is not anticipated that any additional costs will be incurred in administering the process.
- 7.3 There is a risk of some reputational damage should the local authority need to enforce debt recovery measures in the event of parents defaulting on contributions.

Finance Officer Consulted: David Ellis

Date: 18/11/2020

Legal Implications:

- 7.4 Local authorities cannot seek to charge accommodation which is necessitated arising from care proceedings, and are obligated to provide accommodation for any child who meets the criteria in s20(1), which includes "the person who has been caring for him being prevented (whether or not permanently or for whatever reason) from providing him with suitable accommodation" The report

provides a policy framework by which the Council can determine whether it is appropriate to exercise discretion to charge for the accommodation into care of a child under S20 Children Act 1989, when that accommodation is at the request of the parent or lawful carer for the child. The statute actually mandates that the authority consider recovering a contribution in some circumstances: Schedule 2 para 21.1) of the Act specifically provides that “where a local authority are looking after a child (other than in the cases mentioned in sub-paragraph(7)) they shall consider whether they should recover contributions towards the child’s maintenance from any person liable to contribute.” Under the Act charges cannot be imposed on any parent in receipt of benefits and financial contributions should only be recovered where it is where it is reasonable to do so ((Schedule 2 para 21 (2)), as the policy provides. Under S22. (1) contributions towards a child’s maintenance may only be recovered if the local authority have served a notice on the contributor specifying (a) the weekly sum which they consider should be contributed; and (b) arrangements for payment. If payments are not forthcoming the statute provides a mechanism for a court application for a “contribution order” requiring the contributor to contribute a weekly sum until such time is the child is no longer accommodated.

Lawyer Consulted: Natasha Watson

Name Date: 04/01/21

Equalities Implications:

- 7.5 The cohort of families that will be covered by the proposal to charge parents will be very small. Attention has been paid to identifying exemptions and to allowing senior staff discretion not to apply the policy, when it is deemed inappropriate to the safety and welfare of the child concerned, including when a child is disabled. Costs will not be imposed where parents are in receipt of a means-tested benefit and will be reviewed if parental situations change. It is anticipated that this proposal will impact on a very small number of families each year and the EIA has not identified any disproportionate impacts on any legally protected or other groups.

SUPPORTING DOCUMENTATION

Appendices:

1. Foster carers allowances
2. Charging Policy for Children Looked After by Brighton and Hove City Council under Section 20 Children Act 1989
3. EIA

Appendix 1:

Foster carer allowance 20-21

Age of Child	Amount
0-4	£159pw
5-11	£200pw
12-18	£241pw

Brighton and Hove City Council

Charging Policy for Children Looked After by Brighton and Hove City Council under Section 20 Children Act 1989

Children's Services Operational Instructions

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Appendix A – Note to Parents – Maintaining Your Child

Appendix B – Contribution Notice

Appendix C – Contribution Agreement

Appendix D – Statement of Financial Circumstances Form

Appendix E – Assessment and Process of Collecting Contributions

Appendix F – S20 Leaflet information

PURPOSE

This procedure informs staff of the actions to be taken when collecting parental contributions toward the cost of their child being looked after by Brighton and Hove City Council. Adherence to this policy will ensure Brighton and Hove City Council are compliant with legislation.

SCOPE

This applies to all staff involved in the process of accommodating a child into foster care or alternative placement such as residential units. This procedure applies to parents whose children are accommodated by Brighton and Hove City Council under section 20 and it is considered reasonable that they contribute under Schedule 2, Part 111 paragraph 21 of the Children Act 1989.

POLICY

It is the policy of Brighton and Hove City Council to recoup a contribution from parents, towards their child's maintenance when accommodated under section 20 of the Children Act 1989 where it is considered reasonable to do so

By recouping a contribution, it promotes parental responsibility and active involvement in the care of their child, even when the child is accommodated by the County Council. Brighton and Hove City Council endeavour to work in partnership with parents wherever possible by encouraging involvement in decision making and contributing to the costs associated with their child's care, providing this is in the best interest of the child.

DEFINITIONS

Parental responsibility (PR) - defines the rights, responsibilities, and duties a parent has toward their child and their child's property. Birth mother's automatically have PR as do fathers who are married to the mother at the time the child was born. Fathers who are not married to the mother of the child but are registered on the birth certificate have PR; however, the registration or re-registration has to have taken place after December 2003. Fathers without PR are still liable to contribute

Section 20 of the Children Act 1989 – provides a duty to Local Authorities to accommodate any child in need in their area who appears to require accommodation as a result of there being no person with PR for the child, the child is lost or has been abandoned or the person who normally provides care is prevented from providing suitable care or accommodation. The Local Authority is not able to provide accommodation to a child under this section if any person with PR objects. Any

person with PR can remove a child from accommodation provided under this section. 16 –17-year olds are able to consent to being accommodated under this section.

ROLES

Pod Managers and Heads of Service are responsible for ensuring this policy and the procedure is adhered to.

Through appeal, a decision can be referred to the Head of Service.

The child's Social Worker has the key role of undertaking required tasks associated with implementing the procedure and liaising with the parent/s.

The Social Worker is responsible for carrying out any requested financial assessment.

Legal Services may be called on for advice.

AUTHORITY TO VARY THE PROCEDURE

The relevant Head of Service has authority to apply discretion and waive charges in exceptional circumstances, e.g. cases of extreme hardship.

PROCEDURE

This procedure is arranged in the following sections:

Legal Framework

Persons liable to contribute

Financial Assessment and process of collecting contributions

Applying Discretion

Failure to agree to or pay contributions

Other charges

Equality Impact Assessment

Performance Standards

Appendices

A. Note to Parents – Maintaining your Child

- B. Contributions Notice
- C. Contributions Agreement
- D. Statement of Financial Assessment Form
- E. Collecting Contributions Flowchart
- F. S20 Consent Forms/leaflets

1. Legal Framework

- 1.1 Paragraph 21 of Part III of Schedule 2 of The Children Act 1989 states:

“Where a local authority is looking after a child (other than under section 21, interim care order or remanded into their care) they shall consider whether they should recover contributions towards the child’s maintenance from any person liable to contribute.”

- 1.2 Brighton and Hove City Council may only consider recovering contributions when considered reasonable to do so.

- 1.3 A parent is not liable if in receipt of specified tax credits or social security/welfare benefits.

- 1.4 The statutory basis for a local authority recovering contributions for looked after children state that the contribution should not be higher than what the local authority would normally pay for a similar child they had placed in foster care. Therefore, the standard foster care rate provides a comparator for what the contribution should be.

- 1.5 Irrespective of whether the parents are asked to contribute to the cost of their child being accommodated by the Local Authority, it remains their responsibility to notify the Benefit Agency about the child no longer being in their care. The service user needs to understand that failure to do so will likely result in an overpayment being recovered from them or them potentially being liable for investigation into a fraudulent claim.

2. Persons Liable to Contribute

- 2.1 Each parent of a child under 18 years old is liable to contribute save for exemptions listed below. This is irrespective of their involvement in the child’s life, therefore absent parents are also liable.

- 2.2 All parents are expected to protect and maintain their children by providing a home. The legislation stipulates that parents who do not have parental responsibility are still required to ensure their child is financially supported.

2.3 There are many exemptions whereby parents would not be liable to contribute, as follows:

- When in receipt of income support, any element of child tax credit other than the family element of working tax credit, income-based job seekers allowance, or income related employment support allowance. Any of the elements of the incoming Universal Credit which replace these Income related benefits. Parents need to produce a copy of their current welfare benefit entitlement to evidence they are in receipt of these funds and the Social Worker should upload this to e-casefile for the child's record.
- The child is subject to an Interim Care Order, Care Order, Emergency Protection Order or subject to Police Protection.
- The child is remanded into Local Authority foster care, or subject to a Youth Rehabilitation Order with an attached Residence Order (Child Arrangement Order).
- The child is detained under S38(6) of the Police and Criminal Evidence Act 1984, or under S92 of the Powers of Criminal Courts (sentencing) Act 2000
- The accommodation is provided as part of an aftercare service under section 117 of The Mental Health Act
- The child is placed with parents under S22(c) of the Children Act 1989
- Parents who have relinquished their child to be adopted will not be charged.

2.4 If parents are separated and one is exempt due to any of the reasons above, the other parent will still be subject to financial assessment.

3. Financial Assessment and Process of Collecting Contributions

3.1 The amount of the contribution expected from parent/s for each child should never be more than the foster care rate. In Brighton and Hove, the rate is set at 50% of the lowest foster care rate for the child's age band, which is considered fair and retrievable. The amount will be adjusted each year to reflect changes in the foster care rate:

For example:

In 2019/20 the 12-18 year old rate is £ 241 per week

50% = £120.50 per week

As this amount will be collected on a calendar monthly basis the following calculation should be applied:

$£120.50 \times 52 = £6266$ per year:

Divide by 12 = £522.16 per calendar month (preferred method of collection)

- 3.2 The contribution should be paid by monthly direct debit, the County Council will contact parents to arrange completion of a direct debit mandate and will send a monthly invoice in advance of each direct debit collection.
- 3.3 The Note to Parents, Appendix A, refers to an annual review of the parent's contribution. It will be the responsibility of the child's social worker to identify whether the parents financial circumstances have significantly changed at the end of the year in order to trigger any new financial assessment from the Business Support Financial Team, for example if the parents have started working full time rather than part time. The Note to Parents also places a responsibility on the parents to inform the Council of any change of financial circumstances.

3.4 **Assessment and Process of Collecting Contributions**

In all circumstances where a child under 16 is to be accommodated under Section 20 of the Children Act 1989, the Social Worker must consider whether recouping contributions from parent/carer is required. Section 2.4 lists all the exemptions. If any of these apply, the Social Worker makes a note on the child's record that parents are exempt from contributions. If the exemption is because they are in receipt of income support (IS), income related job seekers allowance (JSA) or employment and supported allowances (ESA) then proof is needed and should be uploaded to the child's e-casefile record and summarised in a case note record. However, if it appears that one or both parents are not exempt from providing financial contribution or it is not clear, they should be provided with the following financial documents to complete –

- “Notes to Parents – Maintaining your Child” (Appendix A)
- “Statement of Financial Circumstances (Appendix E). This financial assessment should be completed prior to the child being accommodated wherever possible so that parents are fully informed that they retain their parental responsibility and are expected to work in partnership with the department regarding care planning of their child and of the consequences of their decision. Social Workers offer support to ensure the financial assessment is understood and completed

If parents are separated and one is exempt due to reasons under section 2, the other parent will still be subject to a financial assessment.

In cases where parents are not exempt, or it is not clear whether they are exempt, they should complete sections A and B of for “Statement of Financial Circumstances”. Section B assesses whether parent/carer is in receipt of Income Support or income based Job Seekers Allowance or

Employment and Supported Allowances.

See Flowchart: Appendix E

4. Applying Discretion

4.1 It is the role of the relevant Head of Service to apply discretion on the basis of the family's individual circumstances. This should be based on a briefing assessment provided by the relevant Pod Manager.

4.2 Head of Service will need to consider:

- What the circumstances leading to the child being accommodated are. For example if a single parent was hospitalised for a short period of time and had no one to care for their children it might be considered not worth seeking to recoup costs for this short period.
- Whether there are specific financial pressures affecting the parents that means that strict adherence to this policy is likely to be counter-productive in the context of working towards the child being rehabilitated to the parents.
- Parents of a child with disabilities are subject to the same rules under Part III of Schedule 2 of Children Act 1989. However in certain circumstances where there is assessed to be risk of harm arising from the child's disability that cannot be reduced without the need for accommodation, parents will not be charged. These circumstances could include the following:
 - A) Those children whose needs, including medical needs, are so complex that the child essentially requires 24 hour care or similar.
 - B) Those children whose behaviour, as a result of their disability, is so frequently challenging and that it is only reasonable for the authority to offer to accommodate the child as an option of supporting the family – often there will be a significant risk of harm to the child, a sibling or another family member.
 - C) Those children who are consistently disruptive throughout the night and where no other intervention has been able to ameliorate the impact on the rest of the family.

5. Failure to agree to or pay contributions

- 5.1 In the event that the financial assessment and process for collecting contributions has been fully implemented and the parent/s are not abiding by the agreement the Legal Services must be informed.
- 5.2 The Council can apply for a Contribution Order in the following circumstances:
- A parent has failed to reach an agreement within one month of the contribution notice being served.
 - A parent has in writing withdrawn their agreement.
 - A parent who formally agreed the contributions by signing a contributions agreement but has not maintained the payments.
- 5.3 In the above circumstances the matter is to be managed as a civil debt, allowing BHCC to present the matter to the court to seek a Contribution Order pursuant to Schedule 2, Paragraph 23, Children Act 1989. The Legal Services must be contacted in order to gain legal advice about taking such action
- 5.4 The court may order the payment of any sum up to the amount specified in the notice. Once a court order is made it is enforceable as a civil debt
- 5.5 Should a parent default on payments contact must be made with Legal Services to consider the appropriateness of the department taking court action to recover any debt.

6. Equality Impact Assessment

- 6.1 This policy considers the needs of all children looked after regardless of gender, age, ethnicity or disability.

7. Performance Standards

- 7.1 This procedure will be reviewed annually regarding weekly/monthly contributions or sooner if there are changes to legislation.

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Appendix A

NOTE TO PARENTS – MAINTAINING YOUR CHILD

1. Contributing to the costs of your child's accommodation and care

When a child is looked after by a Local Authority under Section 20 of the Children Act 1989, which can only happen with parental consent, both birth parents can be required by law to contribute toward the child's maintenance until the child is 16 years of age irrespective of whether or not they have contact with the child.

In certain circumstances, however, the charge may be waived and you will not be required to contribute if:

- You are in receipt of income support, any element of child tax credit other than the family element of working tax credit, income-based job seekers allowance, or income related employment support allowance.
- You have no personal finance from any source.

2. The Amount of Your Contribution

A liable parent will be required to contribute a weekly amount decided after a financial assessment has been completed. The amount will not exceed that paid to local authority foster carers caring for a similar child. This amount is guided by the Department for Education (DfE) recommended south east minimum fostering allowance rates and Brighton and Hove fostering allowance rates which are reviewed annually.

An annual review of your financial circumstances will take place to ensure the contribution remains at a suitable rate in response to any changes to your circumstances and any adjustments made to the DfE recommended fostering allowance. It is understood that the assessment of your financial circumstances is made on the basis of your circumstances at the time of this agreement and you will undertake to notify the County Council if your circumstances change.

3. Specific Circumstances

In cases where parents are separated but are both found to be liable the charge will

be equally divided between the parents.

Where a Maintenance Order is in force in respect of the child, the sum as detailed in the Contribution Agreement will be claimed from the parent who receives the Maintenance Order.

Child Benefit payments normally stop 8 weeks after a child becomes looked after by the Local Authority. If you fail to notify the Department of Work and Pensions (DWP) that your child is being looked after and you continue drawing payments, this may result in the DWP taking action to recover any overpayments.

If you do not agree that you are able to afford to contribute the amount detailed within the contribution notice and you consider this will cause financial hardship this should be evidenced within completion of the financial assessment (any expenditure not listed can be detailed in Section F) and discussed with your child's social worker, for consideration by the Head of Service.

4. Consequences of non-payment

The County Council is empowered to apply to the Court for a Contribution Order requiring you to make weekly contributions. It is not proposed to make such an application provided that you are willing to enter into such agreement as the County Council may require. Of course, if you do not make your first payment within 1 month of the child(ren) being looked after, or if you do not keep up payments regularly, the County Council has the right to enforce payment by initiating legal proceedings in the courts.

By law it is the duty of the parent of a child under 18 years old who is Looked After by the Local Authority to keep the Local Authority informed of the parents address.

You have a right to appeal against any Order made concerning contributions under the Children Act 1989 and you should seek legal advice on the matter.

5. Methods of Payment

The contribution should be paid by monthly direct debit, the County Council will contact parents to arrange completion of a direct debit mandate and will send a monthly invoice in advance of each direct debit collection

Appendix B

CONTRIBUTION NOTICE

Dear XXXXXX

CONTRIBUTION NOTICE

RECOUPMENT OF COSTS – CHILDREN LOOKED AFTER BY BRIGHTON AND HOVE CITY COUNCIL

When a child is looked after by a Local Authority with parental consent, both parents can be required by law to contribute towards the child's maintenance.

I enclose a copy of 'Notes to Parents – Maintaining Your Child' and a Contribution Agreement Form which should be completed and returned to your child's social worker at the following address:

**Insert social worker's address*

In accordance with Schedule 2, Part III, Paragraph 22, of the Children Act 1989, notice is therefore given to you that as of today's date XXXXXX, as parent of **INSERT CHILDS NAME XXXXX** you are liable to contribute to Brighton and Hove City Council, the weekly sum of £XXXXXX in respect of your child until he/she attains the age of 16 years or ceases to be looked after by Brighton and Hove City Council. Whilst the contribution is determined based on a weekly payment wherever possible it is preferred that payments are made on a calendar monthly basis equating to £XXXX per month as specified in the Contribution Agreement.

A first payment is required by XXXX (*insert date – 1 month after the date of this notice*) using any of the methods detailed on the enclosed 'Note to Parents – Maintaining Your Child', convenient to you.

This letter should be construed as, and has the effect of, a Contribution Notice as defined in Schedule 2, Part III, Paragraph 22, of the Children Act 1989.

Your child's social worker will discuss this with you if you want to clarify any particular points.

Yours sincerely

Pod Manager

Appendix C

CONTRIBUTION AGREEMENT

Child's Name:

Child's Date of Birth:

Child's Address

The following weekly sum has been determined as the contribution you are required to pay toward your child(ren)'s accommodation and care, provided by Brighton and Hove City Council. This has been decided upon completion of a financial assessment to ensure the agreed sum is reasonable.

Amount payable: £ per week, amounting to £ per calendar month

First payment due on and weekly/monthly hereafter.

I, (insert name) agree to pay charge specified above.

Signed:

Date:

Name:

Relationship to child:

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Appendix D

Brighton and Hove City Council

Statement of Financial Circumstances

Parental Contributions towards a child accommodated or Looked After by East Sussex

Important notes about the completion of this form:

Complete all relevant boxes or write "none" or "N/A"

Ensure that the declaration on page 4 is completed (Section G)

Securely attach any supporting documentation

If parents live apart, each parent must complete a separate form

Please indicate reason for completing statement:

First Time Assessment

Change of Circumstances

SECTION A: DETAILS OF PARENT(S)

1. Parent 1

Title

Full Name

2. Parent 2

Title

Full Name

3. Preferred correspondence type

Post

Email

4. Email Address

5. Address

Post code

Telephone number

6. Name and date of birth of child(ren) looked after by a Local Authority

7. Name and date of birth of all other children you are responsible for

SECTION B

1. Parent 1
Are you in receipt of Income Support or income based Job Seekers Allowance or an income-related Employment and Support Allowance?
Yes: No

2. Parent 2
Are you in receipt of Income Support or income based Job Seekers Allowance or an income-related Employment and Support Allowance?
Yes No

SECTION C

1.	Occupation of parent 1	<input type="text"/>
	Name of Employer	<input type="text"/>
2.	Occupation of parent 2	<input type="text"/>
	Name of Employer	<input type="text"/>

SECTION D – INCOME OF PARENTS

	Parent 1 (weekly)	Parent 2 (weekly)
1.	Net PAYE salary/wages	<input type="text"/>
2.	Taxable benefits	<input type="text"/>
3.	Self employed income	<input type="text"/>
4.	Child Benefit (excluding the children who are looked after by the Local Authority)	<input type="text"/>
5.	Sickness/Incapacity Benefit or SDA	<input type="text"/>
6.	State Pension	<input type="text"/>
7.	Private/Company Pension	<input type="text"/>
8.	Pension Credit	<input type="text"/>

9.	Widow's Benefit	<input type="text"/>	<input type="text"/>
10.	War Widow's or Dependents Pension	<input type="text"/>	<input type="text"/>
11.	Working Tax Credit	<input type="text"/>	<input type="text"/>
12.	Child Tax Credit	<input type="text"/>	<input type="text"/>
13.	Attendance Allowance	<input type="text"/>	<input type="text"/>
14.	DLA Mobility Component	<input type="text"/>	<input type="text"/>
15.	Statutory Maternity Allowance	<input type="text"/>	<input type="text"/>
16.	Income from lettings	<input type="text"/>	<input type="text"/>
17.	Income from Lodgers	<input type="text"/>	<input type="text"/>
18.	Bank/Building Society Interest	<input type="text"/>	<input type="text"/>
19.	Income from Share Dividends	<input type="text"/>	<input type="text"/>
TOTAL		<input type="text"/>	<input type="text"/>

SECTION E – EXPENDITURE OF PARENTS

Parent 1 (weekly)

Parent 2 (weekly)

1.	Rent	<input type="text"/>	<input type="text"/>
2.	Mortgage/Endowments	<input type="text"/>	<input type="text"/>
3.	Council Tax	<input type="text"/>	<input type="text"/>
4.	Life Insurance	<input type="text"/>	<input type="text"/>
5.	Maintenance Payments	<input type="text"/>	<input type="text"/>
6.	Private Pension Contributions	<input type="text"/>	<input type="text"/>
7.	Nursery/Childcare Provider	<input type="text"/>	<input type="text"/>
	TOTAL	<input type="text"/>	<input type="text"/>

Please attach photocopied documentary evidence of all figures declared above

SECTION F: ADDITIONAL INFORMATION

Please use this section to provide any additional information which may be relevant

SECTION G – DECLARATION BY PARENT(S)

Please read the following notes carefully and sign the declaration below.

When a child is looked after by a Local Authority by agreement both parents can be required by law to contribute towards the child's maintenance irrespective of whether or not they have contact with the child. In accordance with Schedule 2, Part 111, Paragraph 22 of the Children Act 1989, County Council considers it is reasonable that you as a parent are liable to pay the County Council a weekly sum as a contribution in respect of your child until he/she attains the age of 16 years or ceases to be looked after by Brighton and Hove City Council.

A parent is not liable to contribute during any period when he/she is in receipt of Income Support or income based Job Seekers Allowance or an income-related Employment and Support Allowance.

A liable parent will be required to contribute a weekly set amount at 50% of the in-house foster care rate for Brighton and Hove Children's Social Care (subject to annual review) for each child looked after by Brighton and Hove City Council.

In cases where parents are separated but are both found to be liable, the charge will be equally divided between the parents.

Where a Maintenance Order is in force in respect of the child, the sum of the Order will be claimed from the parent who receives it. Where the Order is for less than 50% of the foster care rate per week, the balance will be claimed from whichever parent is not exempted from contributing for any of the reasons stated above.

Child Benefit payments normally stop 8 weeks after a child commences to be looked after by the Local Authority. Failure on your part to notify the DWP and continue drawing payments may result in action being taken by the DWP to recover overpayments.

To pay an amount less than 50% of the foster care rate for each child looked after it is understood that such an assessment is made on the basis of your circumstances at the time of this agreement and you will undertake to notify the County Council if your circumstances change (e.g. commenced employment etc).

The County Council is empowered to apply to the Court for a Contribution Order requiring you to make weekly contributions. It is not proposed to make such an application provided that you are willing to enter into such agreement by signing the declaration below. It is understood that if you do not make your first payment within 28 days of the child(ren) being looked after, or if you do not keep up payments regularly, the County Council has the right to enforce payment by instituting legal proceedings in the Courts. Your child's Social Worker will be pleased to discuss with you any particular points you may wish to raise on this matter.

The County Council reserves the right to make such enquiries it may think fit regarding the financial circumstances of parent(s), but you are reminded that the strictest confidence will be observed in the processing of this form. The County Council has a duty under the Data Protection Act 2018 to ensure that the personal data it keeps on people is safe and secure.

I/we certify that the information given on this form is true and complete. I have read and understood the notes above and will notify you immediately with any change or circumstances which may affect my contributions.

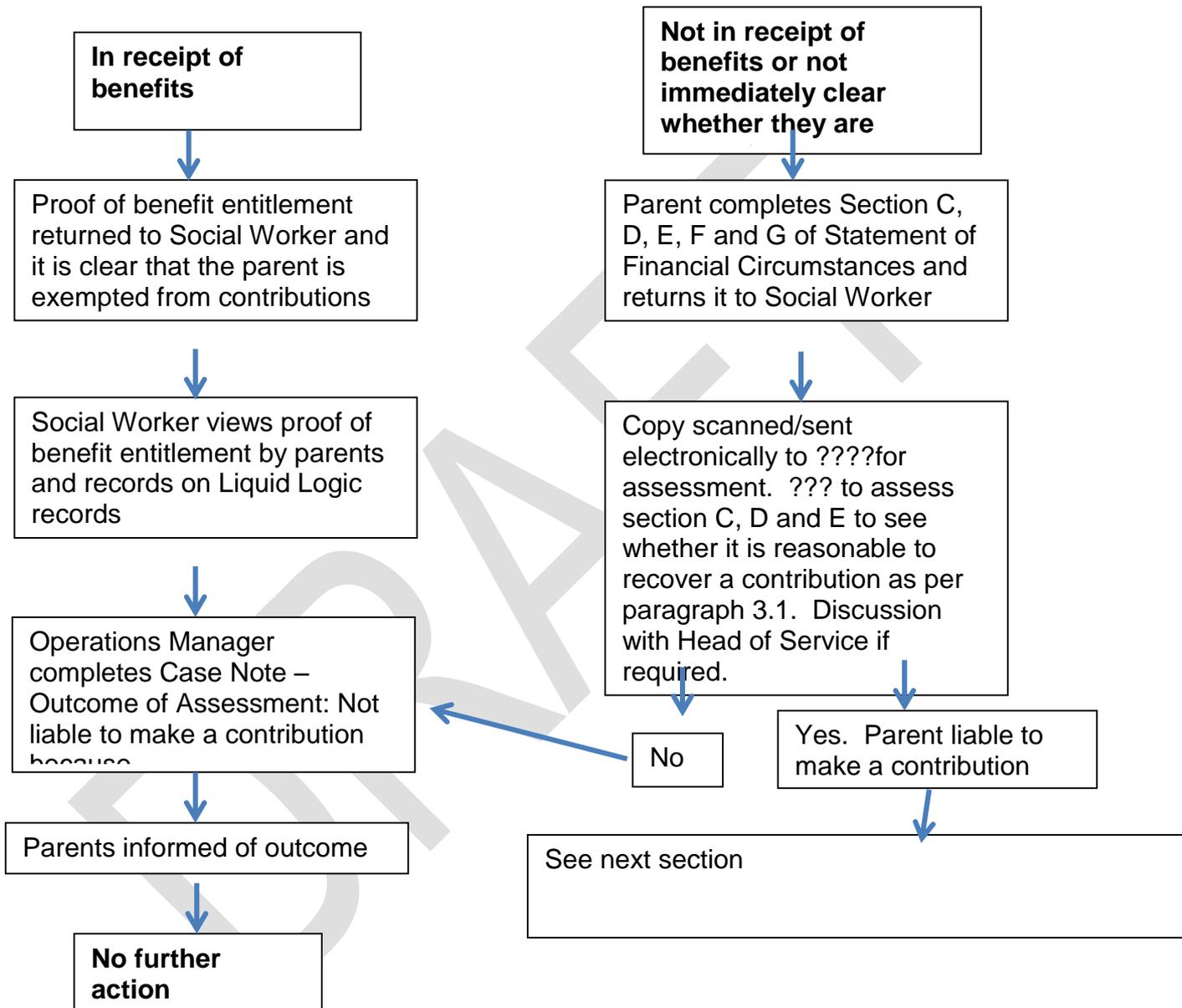
Parent 1

Date

Parent 2

DRAFT

Appendix E – Assessment and Process of collecting contributions



DRAFT

Parent liable to make a contribution

Business Support Practice Manager returns form to Social Worker with result of assessment of sections C, D and E. Social Worker considers additional parental expenditure in Section F to decide what are essential and priority payments to determine whether there is a case to apply local discretion to level of payments required. Social Worker discusses decision with Practice Manager/Operations Manager/Head of Service to decide whether reduced payments can be agreed. Business Support Practice Manager will store electronic version of Financial Assessment

If level of contribution is deemed to be reasonable and fair but parents continue to refuse to sign/pay then parents can appeal in writing to the Head of Service. If this escalation does not resolve the issue then formal complaints procedure applies. If decision not changed then legal advice required for civil debt

Social Worker completes relevant sections of "Contribution Notice (Appendix B) and "Contribution Agreement (Appendix B) and "Contribution Agreement" (Section C) and sends to parent along with "Notes to Parents – Maintaining your Child (Appendix A) with request that Contribution Agreement is signed and returned. This acts as a formal agreement of the parent's acceptance of the amount recoupable and schedule

Legal processes begun.

Payments start

DRAFT

Appendix 3



Equality Impact and Outcome Assessment (EIA) Template - 2019

EIAs make services better for everyone and support value for money by getting services right first time.

EIAs enable us to consider all the information about a service, policy or strategy from an equalities perspective and then action plan to get the best outcomes for staff and service-users¹. They analyse how all our work as a council might impact differently on different groups². They help us make good decisions and evidence how we have reached these decisions³.

See end notes for full guidance. Either hover the mouse over the end note link (eg: Age¹³) or use the hyperlinks ('Ctrl' key and left click).

For further support or advice please contact:

- **BHCC: Communities, Equality and Third Sector Team on ext 2301**
- **CCG: Engagement and Equalities team (Jane Lodge/Debbie Ludlam)**

1. Equality Impact and Outcomes Assessment (EIA) Template

First, consider whether you need to complete an EIA, or if there is another way to evidence assessment of impacts, or that an EIA is not needed⁴.

Title of EIA⁵	Introduction of a charging policy for children who become Looked After at the request of their parents under Sec 20 of the Children Act (1989)	ID No.⁶	
Team/Department⁷	FCL		

Focus of EIA⁸

To introduce a charging policy in specific and limited circumstances that is legally compliant.

As of 28/09/20 BHCC is caring for 379 children in care of which are accommodated via Section 20 of the Children Act (1989). Because there has been no charging policy in place thus far, it is not possible to determine how many of these children might have incurred a financial charge to their parents. It is highly likely however that many would be exempt, had the exceptions set out below been applied.

Going forward, the proposal will impact any parent who makes a request to BHCC for their child to be accommodated on a voluntary basis unless the following specific exceptions apply i.e:

- they are in receipt of some means tested benefits including Income Support, any element of Child Tax Credit other than the family element of Working Tax Credit, income-based Job Seekers Allowance, or income related Employment Support Allowance.
- they have no personal finance from any source.
- if care is required to support a family with a severely disabled child
- the child is subject to an Interim Care Order, Care Order, Emergency Protection Order or subject to Police Protection.
- the child is remanded into Local Authority foster care, or subject to a Youth Rehabilitation Order with an attached Residence Order (Child Arrangement Order).
- the child is detained under S38(6) of the Police and Criminal Evidence Act 1984, or under S92 of the Powers of Criminal Courts (sentencing) Act 2000
- the accommodation is provided as part of an aftercare service under section 117 of The Mental Health Act
- the child is placed with parents under S22(c) of the Children Act 1989
- the child has been relinquished for adoption

2. Update on previous EIA and outcomes of previous actions⁹

What actions did you plan last time? (List them from the previous EIA)	What improved as a result? What outcomes have these actions achieved?	What <u>further</u> actions do you need to take? (add these to the Action plan below)

3. Review of information, equality analysis and potential actions

Groups to assess	What do you know¹⁰? Summary of data about your service-users and/or staff	What do people tell you¹¹? Summary of service-user and/or staff feedback	What does this mean¹²? Impacts identified from data and feedback (actual and potential)	What can you do¹³? All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
Age¹⁴	Currently there are under 18s in care under s.20, however as there is no charging policy or financial assessment currently in place it is not possible to know how many of these would be affected.	Both Hampshire and East Sussex have introduced a similar policy, the policy has been discussed with them and they have not indicated that any negative feedback from parents has been received. Because there has been no charging policy in place thus far it is not possible to determine the views of the parents and the children, where the proposed policy might require a charge in the future.	We will not know the impact until the policy is implemented. Equality monitoring will take place as part of the monitoring of the policy	Heads of service have discretion not to charge the family if the financial assessment or other circumstances mean the family will experience hardship.
Disability¹⁵	As the financial charging is not in place now, we are unable to identify if there is a disproportionate number of disabled parents who might, in the future, be subject to a charge.	As above	As above	Those Children with disabilities and high levels of need are exempt from this policy

Groups to assess	What do you know¹⁰? Summary of data about your service-users and/or staff	What do people tell you¹¹? Summary of service-user and/or staff feedback	What does this mean¹²? Impacts identified from data and feedback (actual and potential)	What can you do¹³? All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
Gender reassignment¹⁶	Gender reassignment of parents is not recorded in a way that can be pulled from our system.	As above	As above	Heads of service have discretion not to charge the family if the financial assessment or other circumstances mean the family will experience hardship.
Pregnancy and maternity¹⁷	We do not record in a way data can be pulled where a child is accommodated due to their parents pregnancy	As above	As above	As above
Race/ethnicity¹⁸ Including migrants, refugees and asylum seekers	Different ethnic groups are not reflected disproportionately in the overall profile of children accommodated via Sec 20 and thus this proposal will not impact them disproportionately.	As above	As above	As above
Religion or belief¹⁹	data	As above	As above	As above
Sex/Gender²⁰	Different genders are not reflected disproportionately in the cohort of children, and of their parents and carers who are accommodated via Sec	As above	As above	As above

Groups to assess	What do you know¹⁰? Summary of data about your service-users and/or staff	What do people tell you¹¹? Summary of service-user and/or staff feedback	What does this mean¹²? Impacts identified from data and feedback (actual and potential)	What can you do¹³? All potential actions to: • advance equality of opportunity, • eliminate discrimination, and • foster good relations
	20 and thus this proposal will not impact different genders.			
Sexual orientation²¹	We do not record sexual orientation of parents.	As above	As above	As above
Marriage and civil partnership²²	We do not monitor the martial or civil partnership status of parents		In cases where parents are separated but are both found to be liable, the proposal is that the charge will be divided equally between the parents. Where a Maintenance Order is in force in respect of the child, the sum as detailed in the Contribution Agreement will be claimed from the parent who receives the Maintenance Order.	
Community Cohesion²³	It should not impact on community cohesion			
Other relevant groups²⁴ Parents on low income	Parents on low income will be exempt from the policy	Parents on low income will not be subject to the proposed charging policy. This includes if:	We will not know the impact until the policy is implemented. Equality monitoring will take place as part of the monitoring	As above

Groups to assess	What do you know¹⁰? Summary of data about your service-users and/or staff	What do people tell you¹¹? Summary of service-user and/or staff feedback	What does this mean¹²? Impacts identified from data and feedback (actual and potential)	What can you do¹³? All potential actions to: • advance equality of opportunity, • eliminate discrimination, and • foster good relations
		<ul style="list-style-type: none"> • they are in receipt of some means tested benefits including Income Support, any element of Child Tax Credit other than the family element of Working Tax Credit, income-based Job Seekers Allowance, or income related Employment Support Allowance. • they have no personal finance from any source. 	of the policy	
Cumulative impact²⁵				
Assessment of overall impacts and any further recommendations²⁶				
<p>The cohort of families that will be covered by the proposal to charge parents will be very small. Attention has been paid to identifying exemptions and to allowing senior staff discretion not to apply the policy, when it is deemed inappropriate to the safety and welfare of the child concerned.</p> <p>A liable parent can be required to contribute a weekly amount to the care of their child, the level of which will be decided after a financial assessment has been completed by BHCC staff. The proposal is that the amount will not exceed that paid to BHCC foster carers caring for a similar child. This amount is guided by the Department for Education (DfE) recommended minimum fostering allowance rates and BHCC fostering allowance rates which are reviewed annually.</p>				

Groups to assess	What do you know¹⁰? Summary of data about your service-users and/or staff	What do people tell you¹¹? Summary of service-user and/or staff feedback	What does this mean¹²? Impacts identified from data and feedback (actual and potential)	What can you do¹³? All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations

4. List detailed data and/or community feedback that informed your EIA

Title (of data, research or engagement)	Date	Gaps in data	Actions to fill these gaps: who else do you need to engage with? (add these to the Action Plan below, with a timeframe)
Social care data	28/09/20		

5. Prioritised Action Plan²⁷

Impact identified and group(s) affected	Action planned	Expected outcome	Measure of success	Timeframe
NB: These actions must now be transferred to service or business plans and monitored to ensure they achieve the outcomes identified.				
All groups	Set up data monitoring of policy and impact after 1 year		No adverse impact on minority groups	1 year

EIA sign-off: (for the EIA to be final an email must sent from the relevant people agreeing it or this section must be signed)

Staff member completing Equality Impact Assessment:

Date:

Directorate Management Team rep or Head of Service/Commissioning:

Date:

CCG or BHCC Equality lead:

Date:

Guidance end-notes

¹ The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the council must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.
- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the council is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the equality duty is a continuing duty. It applies when a policy is developed/agreed, and when it is implemented/reviewed.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

NB: Filling out this EIA in itself does not meet the requirements of the equality duty. All the requirements above must be fulfilled or the EIA (and any decision based on it) may be open to challenge. Properly used, an EIA can be a tool to help us comply with our equality duty and as a record that to demonstrate that we have done so.

² Our duties in the Equality Act 2010

As a public sector organisation, we have a legal duty (under the Equality Act 2010) to show that we have identified and considered the impact and potential impact of our activities on all people in relation to their 'protected characteristics' (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership).

This applies to policies, services (including commissioned services), and our employees. The level of detail of this consideration will depend on what you are assessing, who it might affect, those groups' vulnerability, and how serious any potential impacts might be. We use this EIA template to complete this process and evidence our consideration.

The following are the duties in the Act. You must give 'due regard' (pay conscious attention) to the need to:

- **avoid, reduce or minimise negative impact** (if you identify unlawful discrimination, including victimisation and harassment, you must stop the action and take advice immediately).
- **advance equality of opportunity.** This means the need to:
 - Remove or minimise disadvantages suffered by people due to their protected characteristics
 - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people
 - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low
 - Consider if there is a need to treat disabled people differently, including more favourable treatment where necessary
- **foster good relations between people who share a protected characteristic and those who do not.** This means:
 - Tackle prejudice
 - Promote understanding

³ EIAs are always proportionate to:

- The size of the service or scope of the policy/strategy
- The resources involved
- The numbers of people affected
- The size of the likely impact
- The vulnerability of the people affected within the context

The greater the impacts, the more thorough and demanding the process required by the Act will be.

⁴ **When to complete an EIA:**

- When planning or developing a new service, policy or strategy
- When reviewing an existing service, policy or strategy
- When ending or substantially changing a service, policy or strategy
- When there is an important change in the service, policy or strategy, or in the city (eg: a change in population), or at a national level (eg: a change of legislation)

Assessment of equality impact can be evidenced as part of the process of reviewing or needs assessment or strategy development or consultation or planning. It does not have to be on this template, but must be documented. Wherever possible, build the EIA into your usual planning/review processes.

Do you need to complete an EIA? Consider:

- Is the policy, decision or service likely to be relevant to a specific group or groups (eg: older people)?
- How many people is it likely to affect?
- How significant are its impacts?
- Does it relate to an area where there are known inequalities?
- How vulnerable are the people (potentially) affected?

If there are potential impacts on people but you decide not to complete an EIA it is usually sensible to document why.

⁵ **Title of EIA:** This should clearly explain what service / policy / strategy / change you are assessing

⁶ **ID no:** The unique reference for this EIA. If in doubt contact your CCG or BHCC equality lead (see page 1)

⁷ **Team/Department:** Main team responsible for the policy, practice, service or function being assessed

⁸ **Focus of EIA:** A member of the public should have a good understanding of the policy or service and any proposals after reading this section. Please use plain English and write any acronyms in full first time - eg: 'Equality Impact Assessment (EIA)'

This section should explain what you are assessing:

- What are the main aims or purpose of the policy, practice, service or function?
- Who implements, carries out or delivers the policy, practice, service or function? Please state where this is more than one person/team/body and where other organisations deliver under procurement or partnership arrangements.
- How does it fit with other services?
- Who is affected by the policy, practice, service or function, or by how it is delivered? Who are the external and internal service-users, groups, or communities?
- What outcomes do you want to achieve, why and for whom? Eg: what do you want to provide, what changes or improvements, and what should the benefits be?
- What do existing or previous inspections of the policy, practice, service or function tell you?
- What is the reason for the proposal or change (financial, service, legal etc)? The Act requires us to make these clear.

⁹ **Previous actions:** If there is no previous EIA or this assessment if of a new service, then simply write 'not applicable'.

¹⁰ **Data:** Make sure you have enough data to inform your EIA.

- What data relevant to the impact on specific groups of the policy/decision/service is available?¹⁰
- What further evidence is needed and how can you get it? (Eg: further research or engagement with the affected groups).
- What do you already know about needs, access and outcomes? Focus on each of the groups identified above in turn. Eg: who uses the service? Who doesn't and why? Are there differences in outcomes? Why?
- Have there been any important demographic changes or trends locally? What might they mean for the service or function?
- Does data/monitoring show that any policies or practices create particular problems or difficulties for any groups?
- Do any equality objectives already exist? What is current performance like against them?
- Is the service having a positive or negative effect on particular people in the community, or particular groups or communities?
- Use local sources of data (eg: JSNA: <http://www.bhconnected.org.uk/content/needs-assessments> and Community Insight: <http://brighton-hove.communityinsight.org/#>) and national ones where they are relevant.

¹¹ **Engagement:** You must engage appropriately with those likely to be affected to fulfil the equality duty.

- What do people tell you about the services?
- Are there patterns or differences in what people from different groups tell you?
- What information or data will you need from communities?
- How should people be consulted? Consider:
 - (a) consult when proposals are still at a formative stage;
 - (b) explain what is proposed and why, to allow intelligent consideration and response;
 - (c) allow enough time for consultation;
 - (d) make sure what people tell you is properly considered in the final decision.

-
- Try to consult in ways that ensure all perspectives can be considered.
 - Identify any gaps in who has been consulted and identify ways to address this.

¹² Your EIA must get to grips fully and properly with actual and potential impacts.

- The equality duty does not stop decisions or changes, but means we must conscientiously and deliberately confront the anticipated impacts on people.
- Be realistic: don't exaggerate speculative risks and negative impacts.
- Be detailed and specific so decision-makers have a concrete sense of potential effects. Instead of "the policy is likely to disadvantage older women", say how many or what percentage are likely to be affected, how, and to what extent.
- Questions to ask when assessing impacts depend on the context. Examples:
 - Are one or more groups affected differently and/or disadvantaged? How, and to what extent?
 - Is there evidence of higher/lower uptake among different groups? Which, and to what extent?
 - If there are likely to be different impacts on different groups, is that consistent with the overall objective?
 - If there is negative differential impact, how can you minimise that while taking into account your overall aims
 - Do the effects amount to unlawful discrimination? If so the plan must be modified.
 - Does the proposal advance equality of opportunity and/or foster good relations? If not, could it?

¹³ Consider all three aims of the Act: removing barriers, and also identifying positive actions we can take.

- Where you have identified impacts you must state what actions will be taken to remove, reduce or avoid any negative impacts and maximise any positive impacts or advance equality of opportunity.
- Be specific and detailed and explain how far these actions are expected to improve the negative impacts.
- If mitigating measures are contemplated, explain clearly what the measures are, and the extent to which they can be expected to reduce / remove the adverse effects identified.
- An EIA which has attempted to airbrush the facts is an EIA that is vulnerable to challenge.

¹⁴ **Age:** People of all ages

¹⁵ **Disability:** A person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The definition includes: sensory impairments, impairments with fluctuating or recurring effects, progressive, organ specific, developmental, learning difficulties, mental health conditions and mental illnesses, produced by injury to the body or brain. Persons with cancer, multiple sclerosis or HIV infection are all now deemed to be disabled persons from the point of diagnosis.

¹⁶ **Gender Reassignment:** A transgender person is someone who proposes to, starts or has completed a process to change their gender. A person does not need to be under medical supervision to be protected

¹⁷ **Pregnancy and Maternity:** Protection is during pregnancy and any statutory maternity leave to which the woman is entitled.

¹⁸ **Race/Ethnicity:** This includes ethnic or national origins, colour or nationality, and includes refugees and migrants, and Gypsies and Travellers. Refugees and migrants means people whose intention is to stay in the UK for at least twelve months (excluding visitors, short term students or tourists). This definition includes asylum seekers; voluntary and involuntary migrants; people who are undocumented; and the children of migrants, even if they were born in the UK.

¹⁹ **Religion and Belief:** Religion includes any religion with a clear structure and belief system. Belief means any religious or philosophical belief. The Act also covers lack of religion or belief.

²⁰ **Sex/Gender:** Both men and women are covered under the Act.

²¹ **Sexual Orientation:** The Act protects bisexual, gay, heterosexual and lesbian people

²² **Marriage and Civil Partnership:** Only in relation to due regard to the need to eliminate discrimination.

²³ **Community Cohesion:** What must happen in all communities to enable different groups of people to get on well together.

²⁴ **Other relevant groups:** eg: Carers, people experiencing domestic and/or sexual violence, substance misusers, homeless people, looked after children, ex-armed forces personnel, people on the Autistic spectrum etc

²⁵ **Cumulative Impact:** This is an impact that appears when you consider services or activities together. A change or activity in one area may create an impact somewhere else

²⁶ **Assessment of overall impacts and any further recommendations**

- Make a frank and realistic assessment of the overall extent to which the negative impacts can be reduced or avoided by the mitigating measures. Explain what positive impacts will result from the actions and how you can make the most of these.
- Countervailing considerations: These may include the reasons behind the formulation of the policy, the benefits it is expected to deliver, budget reductions, the need to avert a graver crisis by introducing a policy now and not later, and so on. The weight of these factors in favour of implementing the policy must then be measured against the weight of any evidence as to the potential negative equality impacts of the policy.
- Are there any further recommendations? Is further engagement needed? Is more research or monitoring needed? Does there need to be a change in the proposal itself?

²⁷ **Action Planning:** The Equality Duty is an ongoing duty: policies must be kept under review, continuing to give 'due regard' to the duty. If an assessment of a broad proposal leads to more specific proposals, then further equality assessment and consultation are needed.

Subject:	Kinship Care Support Offer		
Date of Meeting:	11 January 2020		
Report of:	Interim Executive Director Families, Children and Learning		
Contact Officer:	Karen Devine, Head of		
	Name:	Service, Fostering, Placement & Permanence	Tel: 01273 295546
	Email:	Kare.devine@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that there were technical difficulties over the Christmas period in obtaining the legal comments in order to complete the report.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To inform committee of the current support offer to Kinship Care and Family & Friends placements in Brighton and Hove, benchmarked with East and West Sussex offers.

2. RECOMMENDATIONS:

- 2.1 Committee notes the report

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Kinship and Family & Friends Care is where extended family members or friends come forward to care for a child in their network who cannot safely be cared for by their parents. The child would otherwise be placed with unrelated foster carers and remain in local authority care. It is an underlying principle of the Children Act that children should be supported to live within their extended family unless this is not consistent with their welfare.
- 3.2 Where a child is looked after by the local authority, there is a responsibility to make arrangements for the child to be placed with fully approved Foster Carers. Where family members come forward to care for the child, following an initial viability assessment they can be approved as Family and Friends Foster Carers on a

temporary basis for up to 16 weeks whilst a full fostering assessment is undertaken.

3.3 Family & Friends fostering assessments are presented to BHCC Fostering Panel in the same way as for any other foster carer. The assessment timeframe in most cases is set by the court in Care Proceedings for the child and is generally 12 weeks. Once approved, Family and Friends Foster Carers are supervised and supported by a social worker from the Family & Friends Team to ensure they meet Fostering Regulations.

3.4 Family & Friends Foster Carers in Brighton and Hove receive an allowance designed to cover the basic day to day costs of caring for the child. This is based on the Government's recommended National Minimum Fostering Allowance <https://www.gov.uk/foster-carers/help-with-the-cost-of-fostering>

3.5 The following table illustrates the financial support offer to Family & Friends Foster Carers across Brighton & Hove, East Sussex, and West Sussex:

	Brighton & Hove	East Sussex	West Sussex
Child 0-4 years	£159.00 per week	£126.58	£160.44
5-11 years	£200.00 per week	£144.18	£190.82
12-18 year	£241.00 per week	£179.49 (11 + years)	£217.70 (11 – 15 years)
			£262.99 (16-18 years)

3.6 Where Brighton & Hove Family & Friends Foster Carers choose to complete the mandatory training courses and the Training, Support and Development Standards (TSDS) portfolio which evidences knowledge and compliance against all Fostering Standards, they become eligible for the skills payment that unrelated foster carers receive. Very few Family & Friends Foster Carers choose to remain foster carers at the end of Care Proceedings, or seek to undertake the mandatory training and TSDS portfolio in order to receive the skills payment, as they define themselves primarily as family members rather than professional foster carers. There are currently three Family & Friends Foster Carers in receipt of a skills payment.

3.7 Where the Care Plan for the child is to live permanently with the carers, the court will consider whether the Family & Friends Foster Carers should be awarded parental responsibility for the child via a Special Guardianship Order. Special Guardianship means the child is no longer looked after by the local authority, it enables the child to leave the care system as the Kinship Carers assume full parental responsibility for the child and can exercise this to the exclusion of the child's parents. Local Authority corporate parenting responsibility therefore ends on the making of a Special Guardianship Order. The term Kinship Carer refers to carers that hold parental responsibility for the child in their care. Most Family & Friends Foster Carers go on to become Kinship Carers by obtaining a Special Guardianship Order for the child.

3.8 Kinship Carers often face financial challenges of taking on the unplanned care of children, at a later stage in their lives, often as grandparents and this not only challenges their financial position but also their life plans . The documentary entitled 'The First Day of Forever' by the Centre for Child and Family Justice

Research at Lancaster University and kinship care charity Grandparents Plus illustrates this: <https://youtu.be/pNO1sZb5mjc>

- 3.9 Where the child was in care immediately prior to the making of the Special Guardianship Order, the local authority has a responsibility to assess the support needs of the child, parents and Special Guardians, including the need for financial support for the Special Guardians. The fostering allowance transfers to a Special Guardianship Allowance at the point the Special Guardianship order is made. A Special Guardianship Support Plan detailing the full support offer is presented to court.
- 3.10 If the child was not in care prior to the making of the Special Guardianship Order, the Local Authority may carry out an assessment if requested, to determine whether support, including financial support is required to support the placement. If there is evidence of financial hardship that would put the children's welfare at risk, the local authority will consider making a time limited financial contribution.
- 3.11 During 2019 – 20, Brighton and Hove Family & Friends team approved 35 Family & Friends Foster Carers for 49 children. Of these, 34 moved out of the care of the local authority onto Special Guardianship Orders to former Family & Friends Foster Carers. Whilst it is much better for a child to be placed with a family member and remain in their kinship network, placing children in this way also represents significant savings in terms of the fees that would otherwise be paid to professional foster carers, or significantly higher fees payable were private sector fostering providers used. The average unit cost for a BHCC foster placement (non-kinship) is £25,000 p.a compared with £43,800 p.a for a private sector foster placement.
- 3.12 During 2019- 20, BHCC paid £2,560,029 in Special Guardianship Order allowances, and £690,006 in Residence Order/Child Arrangement Order allowances to Kinship Carers looking after children previously in care. Residence Orders were replaced by Child Arrangement Orders in 2014, both determine who a child should live with and confer parental responsibility to the carer (see glossary of terms in Appendix 1). Through children moving out of foster care into their kinship networks, foster placements are freed up and made available to other children, without this our capacity to offer fostering placements to new children coming into care would be seriously challenged.
- 3.13 All Kinship Carers receive a minimum of 6 months allocated support from a social worker in the Family & Friends team at the granting of the Special Guardianship Order. The social worker has regular contact with the Special Guardian to support them to re-negotiate relationships with the birth parents and child to reflect the fact that they are now the primary carer. Often contact between the child and birth parents represents a challenge for the Special Guardian and a high level of support is needed to establish appropriate and safe levels of contact. The Special Guardianship Support Plan is reviewed after 6 months, and a decision made as to whether continued allocated social work support is required. The Team provided allocated social work support to 98 Special Guardians during 2019-20. Once allocated social work support ends, Special Guardians access support via the Kinship Care Support Service.
- 3.14 The Kinship Care Support Service operates 3 mornings and 1 afternoon per week and is available to all Kinship Carers. The Team also offers 2 Carer Support

Groups a month and a rolling program of workshops and interventions which are well received by Kinship Carers.

- 3.15 In April 2016, the eligibility criteria for the Adoption Support Fund was changed to include children subject to Special Guardianship Orders who were in care immediately prior to the order being made. In 2019 – 2020, the team successfully made 67 applications for therapeutic support for children subject to Special Guardianship Orders. Those applications successfully secured funding worth £187,584 and made a significant contribution to the stability and efficacy of these placements, reducing the likelihood of disruption and children returning to care.
- 3.16 BHCC is acknowledged nationally as an exemplar of good practice in its assessment and support to Kinship Carers.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Report seeks to inform committee of current provision for Kinship Care.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Report seeks to inform committee of current provision for Kinship Care.

6. CONCLUSION

- 6.1 Report noted

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The details of the financial arrangements for Kinship carers are set out within the report. The 2020/21 budget allocation for these placements is: £2.758m for SGO allowances and £0.577m for Residence/Child Arrangement Order allowances.

Finance Officer Consulted: David Ellis

Date: 26/11/20

Legal Implications:

As set out in the report there are a number of legal routes for kinship carers to obtain legal status in caring for children of family and friends. Dependent on the legal status they will be entitled to local authority advice and support, including financial support where applicable, as described. If the child is subject to care proceedings until there are alternative orders in place, such as Special Guardianship orders which have the legal consequence of giving parental responsibility for the child to the Special Guardian, the child will remain the

responsibility of the local authority and as such the carers will need to be approved as foster carers with entitlement to the fostering allowance. Before becoming Special Guardians kinship carers are entitled to the development of a support plan to consider the needs of the child which will be scrutinised by the court before any order being made.

Lawyer Consulted: Natasha Watson

Date: 31.12.20

Equalities Implications:

- 7.2 Kinship care is the epitome of unplanned parenting, often by grandparents, who rely on the kinship care allowance in order to meet the needs of the children in their care. These children would otherwise be looked after by the Local Authority.

Sustainability Implications:

- 7.3 Kinship care allowances are paid until the young person reaches 18 years of age or moves to live independently whichever is sooner. The allowance represents a cost saving compared with the cost of unrelated foster care.

Brexit Implications:

- 7.4 There are no Brexit implications

Any Other Significant Implications:

There are no other significant implications

Crime & Disorder Implications:

- 7.5 There are no crime & disorder implications

Risk and Opportunity Management Implications:

- 7.6 There are no risk and opportunity implications

Public Health Implications:

- 7.7 There are no public health implications

Corporate / Citywide Implications:

- 7.8 There are no corporate/citywide implications

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1 – Glossary of Terms

	Private fostering	Family care (informal)	Family and friends foster care	Unrelated foster care	Child Arrangements Order	Special guardianship order (SGO)	Adoption
Route into the caring arrangement	<p>This is a private arrangement whereby the child is being cared for for 28 days or more (or the intention is that the arrangement will last for 28 days or more) by anyone who does not have parental responsibility, and who is not a close relative.</p> <p>Relative means grandparent, brother, sister, uncle or aunt (by full blood, half blood or by marriage or civil partnership) or a step parent.</p> <p>The child is not a looked after child.</p>	<p>The relative has chosen to take on the care of the child but does not have parental responsibility, and the arrangement was not made by the local authority.</p> <p>The child is not a looked after child.</p> <p>Relative may perceive the parents to be unable to care for the child;</p> <p>or the parents may be dead or otherwise not available (e.g. in prison);</p> <p>or there may be an agreement between relatives due to difficult family circumstances.</p>	<p>The child has been placed with the relative or friend by the local authority, because the person who had been caring for the child was deemed not to be providing suitable care.</p> <p>The child is a looked after child and so the local authority must approve the relative or friend as a local authority foster carer.</p> <p>The child may be accommodated voluntarily with the agreement of the parents or may be subject to a care order.</p>	<p>The child is a looked after child being accommodated by the local authority under section 20 Children Act 1989 or because the child is subject to a care order; but has been placed with a foster carer by the local authority.</p> <p>(Alternatively, the local authority may choose to place a child into residential care where this is considered to best meet the child's needs).</p>	<p>The child may be at risk of becoming 'looked after' and a friend or relative applies for an order, or</p> <p>The child may have been 'looked after' and their foster carer or other relative/friend applies for an order.</p> <p>In either circumstance, application can be made without the support of the parents or the local authority. Relatives may apply for an order after the child has lived with them for one year.</p> <p>Or, there can be benign reasons, e.g. after parents' death and in line with a prior agreement between the birth parents and the carer.</p>	<p>Looked after children: the LA may decide that the child should be placed for adoption. They can only do so with the consent of the birth parent or under a placement order made by a court.</p> <p>An approved foster carer can apply for an adoption order after a year of caring for the child.</p> <p>Other informal carers could apply for an adoption order if the child has lived with them for a period of 3 years.</p>	
Parental Responsibility (PR)	Remains with birth parents	Remains with birth parents but the person who cares for the child may do what is reasonable to safeguard or promote the child's welfare	Remains with birth parents if child accommodated under section 20 CA, or if the child is subject to a care order or emergency protection order the local authority will have parental responsibility and determines the extent to which it may be exercised by others.		Shared by parents and holder of Child Arrangements Order.	PR shared with parents and anyone else with parental responsibility for the child. The special guardian may exercise parental responsibility to the exclusion of all others with PR, apart from another special guardian.	Transfers to adopters and relationship with birth parents is severed.
Approval basis	The arrangement is assessed by LA, but the carer is not 'approved' as a local authority foster carer is. The arrangement may be prohibited if assessed by the local authority as unsuitable.	None	Approved as local authority foster carers in accordance with Fostering Services Regulations. (If child is looked after, carers must be approved as foster carers even if close relative.)		Appointed by court following application.	Appointed by court, following application from the applicant. LA must investigate the matter and prepare a report for the court dealing with the suitability of the applicant to be a special guardian.	Adoption agency assesses and approves prospective adopters, court makes order regarding specific child. If the child is not looked after then notice of intention to adopt must be given to the LA who then carry out an assessment / report for the court.

	Private fostering	Family care (informal)	Family and friends foster care	Unrelated foster care	Child Arrangements Order	Special guardianship order (SGO)	Adoption
Duration	Subject to discretion of person with PR and readiness of private foster carer.	Subject to discretion of person with PR	So long as placement remains in line with child's care plan, as determined by LA		Age 18.	Age 18 unless varied or discharged by the court before the child reaches 18 years.	Permanent lifelong relationship
Placement supervision	It is not a placement, but there are statutory visits to child by social worker (minimum 6 weekly in first year, then 12 weekly)	None	Statutory: visits to child by social worker and supervision of foster carers by supervising social worker			None	When child is placed for adoption by the LA, the placement is supervised and there are statutory reviews. Once the adoption order is made, none.
Review of placement	It is not a placement, but the LA may do formal reviews in addition to ongoing assessment during visits.	None	Statutory reviews of child's care plan (minimum 6 monthly) and annual reviews of local authority foster carers' approval		None	None	See above
Support services	Provision of advice and support as determined necessary by the LA, which may assess the child as a child in need, with a child in need plan, and provide services / support for child/family under section 17 of the Children Act 1989	No entitlement but the LA may assess the child as a child in need, with a child in need plan, and provide services / support for child/family under section 17 of the Children Act 1989	Support to meet child's needs including health plan and personal education plan. Training and practical support to foster carers in accordance with the Fostering services Regulations, NMS and CWDC standards. Young person may be entitled to leaving care support services		No entitlement (But LA has discretion to provide services / support for child/family under section 17 of the CA)	If child was looked after prior to making the SGO, LA must assess for need for special guardianship support services. LA has discretion whether to provide support. Young person may be entitled to leaving care support services if was a looked after child prior to making of the SGO.	Entitlement to assessment for adoption support services, which may be provided at discretion of LA in accordance with Regulations and NMS.

	Private fostering	Family care (informal)	Family and friends foster care	Unrelated foster care	Child Arrangements Order	Special guardianship order (SGO)	Adoption
Financial support – entitlement	<p>Can claim child benefit and child tax credit if not being paid to parent.</p> <p>Financial responsibility to maintain the child remains with holders of PR</p>	<p>Can claim child benefit and child tax credit if not being paid to parent.</p> <p>Financial responsibility to maintain the child remains with holders of PR.</p> <p>Guardians Allowance payable if both parents have died, or the only surviving parent cannot be found or serving 2 years or more prison sentence.</p>	<p>Child benefit and child tax credit not payable.</p> <p>Weekly allowance to meet the costs of caring for the child. This should meet at least the national minimum rate set by DCSF.</p> <p>The Manchester City Council judgment ruled that allowances must be the same for all foster carers, whether or not family & friends.</p>	<p>Can claim child benefit and child tax credit if not being paid to parent.</p>	<p>Can claim child benefit and child tax credit if not being paid to parent.</p>	<p>Can claim child benefit and child tax credit if not being paid to parent.</p> <p>Entitlement to assessment for financial support (part of adoption support) if child looked after prior to order.</p>	
Financial support – discretionary	<p>LA has discretion to make one-off or regular payments under section17 Children Act</p>	<p>LA has discretion to make one-off or regular payments under section17 Children Act</p>	<p>Some fostering providers pay their foster carers a fee to recognise the carers' skill, experience and commitment.</p> <p>The Manchester City Council judgement (which requires allowances to be paid on the same basis regardless of the relationship of the carer to the child) did not consider fees. However, Statutory Guidance for Fostering Services requires that any policy in relation to the payment of fees must be applied to all foster carers who meet the criteria in the same way and must not discriminate on the grounds of a pre-existing relationship with the child.</p>	<p>LA has discretion to pay Child Arrangements Order allowance – usually if child was previously fostered by the carers, or exceptionally if making Child Arrangements Order prevents child becoming looked after. Any allowance reviewed annually.</p>	<p>Entitled to an assessment for financial support under the Special Guardianship Regulations 2005 if child looked after prior to order and meets the criteria in the regulations.</p> <p>Subject to assessment as above and for former foster carers can include an element of remuneration.</p> <p>Regular or one off payments.</p> <p>Any allowances reviewed annually.</p>	<p>Subject to assessment, one off payments or regular adoption allowance may be paid.</p>	

