

**Title of meeting:** Cabinet Member for Children's Social Care

**Date of meeting:** 20 February 2017

**Subject:** Means Testing Assessment Policy for Adoption, Special Guardianship, Child Arrangements and Residence Orders

**Report from:** Sarah Newman, Deputy Director of Children's Services - Children's Social Care  
Chris Ward, Director of Finance and Information Services

**Report by:** Richard Webb, Finance Manager for Education & Children's Services  
Kelly Redman, Team Leader - Financial Assessments, Income and Recovery

**Wards affected:** All Wards

**Key decision:** No

**Full Council decision:** No

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**1. Purpose of report**

The purpose of this report is to seek approval from the Cabinet Member, to the revised and updated Means Testing Assessment Policy attached at Appendix 1; as well as to the engagement and implementation process with carers.

**2. Recommendations**

**It is recommended that the Cabinet Member approve:**

- i. **The implementation of the '*Means Testing Assessment Policy for Adoption, Special Guardianship, Child Arrangement and Residence Orders*' at Appendix 1, with effect from 9<sup>th</sup> April 2017; noting potential changes to the 2017-18 Basic Income Support Personal Allowance Rates once approved by the Department for Work and Pensions (see Appendix 2).**
- ii. **The alignment of the weekly allowance rates for both holders of Adoption and Residence Orders with the age related Standard Fostering Allowance, with effect from the 9<sup>th</sup> April 2017.**

- iii. **The proposed transitional protection arrangements for carers as set out in section 8 of the report.**
- iv. **The proposed engagement and implementation process with carers as set out in section 9 of the report; which will be led by the Financial Assessment and Benefits team, together with officers from the Children's Social Care service.**
- v. **To delegate authority to the Section 151 officer to update the personal allowance rates as required, ensuring that they remain in line with the rates published by the Department for Work and Pensions.**

### **3. Background**

- 3.1. The current financial support and assessment processes applied by the Financial Assessments and Benefits (FAB) team, on behalf of Children's Social Care, have not been reviewed or updated for a number of years. The current assessment processes are complicated and have developed and evolved with the different care orders. The current means testing assessments processes applied by the FAB team are also not consistent with those that they apply to Adult Services; as the Children's assessments exclude capital thresholds, etc.
- 3.2. The means testing assessment policy attached at Appendix 1, has been updated and revised to ensure consistency, fairness, transparency as well as compliance with the relevant regulations and guidance. For the purpose of this policy the Council has applied principles from the standardised means test model - as issued by the Department for Education Skills and The Care and Support (Charging and Assessment of Resources) Regulations 2014; which is consistent with the process applied in Adult Services.

### **4. Introduction**

- 4.1 The means testing assessment policy attached at Appendix 1 will apply to all carers subject to an Adoption Order, Special Guardianship Order (SGO), Child Arrangement Order or a Residence Order and who are eligible to receive financial support from the Council.
- 4.2 As highlighted within the Policy, the means testing assessment process will not be applied when consideration is being given to providing financial support in respect of:
  - the legal costs (including court fees) of making an application to court in respect of a looked after child where the local authority is in support of the application;

- legal and court costs involved in varying or discharging an order made in respect of a child previously looked after; or
  - expenditure for the purpose of introducing an agency adoptive child to their adoptive parent.
- 4.3 Additionally, the means testing assessment process will not be applied to former foster carers to whom the two year transitional protection period applies under the Special Guardianship Regulations 2005 or Adoption Support Services Regulations 2005.
- 4.4 The Deputy Director of Children's Services - Safeguarding will also have the ability to dis-apply the means testing assessment process for a carer; where the application of the assessment would result in additional costs to the Council.

## **5. Key Policy Changes**

- 5.1 As highlighted previously, the means testing assessment policy attached at Appendix 1, has been updated and revised to ensure consistency, fairness, transparency as well as compliance with the relevant regulations and guidance.
- 5.2 There are a number of potential benefits that arise from the updated means testing assessment policy; which include:
- The assessment process will be clearer and more transparent for both carers and officers within Children's Social Care.
  - The assessment process will reduce the number of contacts required with the carer.
  - If a young person transitions into Adult services, the assessment processes will be consistent.
  - The assessment processes will be aligned with that for Adult Social Care clients which will enable other FAB officers to support Children's Social Care; whereas currently the knowledge of the children's assessment process is limited to certain individuals.
- 5.2 There are a number of differences between the current means testing assessment processes and the proposed policy at Appendix 1. The main changes are:
- An amended Personal Allowance. To ensure that the household has adequate financial resources, a personal allowance will be applied (according the households specific circumstances). The personal allowance will be set at the Basic Income Support Levels, (applicable amount plus age related premiums, dependent children, family and disability related premiums), plus a 25%

adjustment in line with The Care and Support (Charging & Assessment) Regulations 2014.

This new 25% adjustment replaces the previous General Allowance in the assessment process; which was calculated at 30% of total income and therefore benefited those with the highest income levels.

- The introduction of a savings/capital threshold. In circumstances where the carer(s) have savings in excess of those specified within the Care Act or a second property, then financial support would not be payable.
- The introduction of Tariff Income. This will apply where carer(s) have savings/capital above the lower threshold level, but below the upper threshold level, specified in the Care Act Regulations.
- Benefits claimed in respect of the child are deducted after the calculation of the maximum support available.

5.3 In addition to the above changes, the new policy also provides greater clarity in respect of the arrangements for the recovery of overpayments of financial support. Overpayments may be recovered from either future weekly payments of financial support, or instead an invoice may be raised to the carer.

5.4 The method of recovery will depend on both the amount of the overpayment and whether the carer is expected to be in receipt of future weekly payments of financial support.

## **6. Adoption and Residence Order Allowances**

6.1 During this review into the financial support arrangements for holders of Adoption, Residence and Special Guardianship Policy, the current level of allowances for Adoption and Residence Orders was considered.

6.2 With the implementation of the new Special Guardianship Policy in October 2016, the weekly allowance for Special Guardians was aligned with the Standard Fostering Allowance.

6.3 It is therefore proposed that the weekly allowance for both holders of Adoption and Residence Orders is increased and aligned to the Standard Fostering Allowance, in order to provide consistency and transparency across all care order types. Any financial support provided to these carers will be based on the means test assessment, undertaken in line with the policy proposed at Appendix 1.

- 6.4 The table below shows the current and proposed rates. The financial impact of these proposals is included within financial assessment in section 7.

	<b>Current weekly Allowance 2016-17 £</b>	<b>Standard Fostering Allowance 2016-17 £</b>
0 to 4 Years	72.95	140.00
5 to 10 Years	86.09	156.00
11 to 15 Years	112.40	177.00
16 to 18 Years	149.70	208.00

## 7. Financial Impact Assessment

- 7.1 In order to quantify the potential financial impact of the new means testing assessment policy, a sample of 43 (20%) payments were selected from across the below categories of care orders; based on the payments made in May 2016. A desk based assessment was undertaken to determine the impact on the level of financial support payable; if the new assessment process had been applied.
- 7.2 During May 2016, the Council was providing financial support in respect of 214 children, cared for by 158 carers. The table below shows the breakdown of children for which financial support was being provided by type of care order.

<b>Type of Care Order</b>	<b>Number of Children No.</b>	<b>Annual Financial Support* £</b>
Adoption	60	480,000
Residence	21	100,000
Special Guardianship	133	836,000
	214	1,416,000

*\* Estimated annual cost based on May 2016 payments*

- 7.3 As the FAB team do not currently collect information in respect of savings or capital, it has not been possible to determine at this stage how many carer(s) may be affected by this policy change.
- 7.4 There are a number of carers in receipt of financial support who were previous foster carers and whose financial support is based on the previous foster care allowance and skill fees, less the amount of child benefit that they are now entitled to. As referred to above, where the former foster carers are within the two year transitional protection period, then the proposed means test assessment process would not apply to

them during this period, and they will be eligible to continue to receive the standard fostering allowance and the remuneration (skill fee) element of their financial support, less the child benefit amount.

- 7.5 Where the two year transitional protection no longer applies to the carer, but they continue to be eligible to receive financial support, then the means test assessment policy will be applied. Based on the May dataset, there were circa 90 former foster carers outside of the transitional protection period, who will now require a means test assessment to be applied to their payment. It has not been possible to complete a desk based review of those carers, as the FAB team do not currently hold the necessary financial information for them.
- 7.6 From the sample of 43 cases reviewed, only 22 had previously had a financial assessment applied. The application of the new means testing assessment process, as mentioned earlier, has been applied using the information held by the FAB team at the date of the last assessment and does not take into account any savings or capital. Additionally a number of assumptions have been applied in order to enable comparability, including:
- The child's age remains the same as at the previous assessment point, for the determination of financial allowances.
  - Personal allowances, income and expenditure remain the same as at the previous assessment point, other than in respect of the changes set out at 5.2 above.
  - Any previously deductible expenses, now no longer eligible (such as water, sewage, etc.) have been excluded.
  - Application of the proposed new allowance rates for Adoption and Residence orders.

The financial impact of the application of the new means testing assessment process on the 22 samples cases is shown in the table below.

Type of Care Order	No of case previously means tested	Current total weekly financial support £	Current total annual financial support £	Estimated total change in weekly financial support £	Estimated total change in annual financial support £	Average estimated weekly change in financial support (per case) £
Adoption	7	636	33,054	(224)	(11,648)	(32)
Residence	4	300	15,661	(12)	(624)	(3)
Special Guardianship	11	807	41,972	(110)	(5,720)	(10)
	22	1,743	90,687	(346)	(17,992)	(16)

- 7.7 If the estimated change in the annual financial support shown above for the sample cases, is extrapolated across the other previously means tested carers, the estimated change in financial support could amount to £88,000.
- 7.8 If the change in the annual financial support was extrapolated across all carers, (except those former foster carers currently within the two year transitional period) then the estimate change in financial support could amount to £153,000. The reduction in the level of financial support could potentially be greater as these carers had not previously been means tested.

## **8. Transitional Protection Arrangements**

- 8.1 It is recognised that following the introduction of the new means test assessment policy, the level of financial support payable to some carers may be reduced; particularly where fall they within the new capital/savings thresholds or where the previous means test assessment process had not been applied.
- 8.2 Therefore, it is proposed that transitional protection arrangements will be put in place in the circumstances listed below. These transitional protection arrangements will apply to existing carers in receipt of financial support and who are eligible for means testing between the 9<sup>th</sup> April 2017 and 8<sup>th</sup> July 2017; under the criteria within the policy.
- The carers are no longer eligible to receive financial support under the new policy because:
    - They have savings, of £23,250.00 (single) or of £46,500.00 (joint) in line with the Care Act 2014 single charging framework.
    - They own a second property (other than the home they reside in).
  - The carers experience a reduction of:
    - more than 50% in their weekly level of financial support; and
    - the reduction is greater than £75 per week.
- 8.3 The transitional protection arrangements will apply for 18 months, as follows:
- In the first 6 months, carers would receive **80%** of their previously assessed weekly financial support (prior to the new policy).
  - In the next 6 months, carers would receive **60%** of their previously assessed weekly financial support (prior to the new policy).
  - For a further 6 months, carers would receive **40%** of their previously assessed weekly financial support (prior to the new policy)

Where the amount payable calculated under new assessment process exceeds the above transitional protection amounts, then the protection arrangements will no longer apply.

- 8.4 It is expected that the above transitional protection arrangements would be applicable mainly to carers affected by the new capital/savings thresholds or where the previous means test assessment process had not been applied. As highlighted previously within the report, as the FAB team do not hold the information required for these carers to undertake a desk based financial assessment, it is not possible to quantify the number of carers who would benefit from these arrangements.
- 8.5 For those previously means tested carers referred to above at paragraph 7.6, two carers would benefit from the transitional protection arrangements. Of the 20 remaining cases the financial modelling undertaken (see table below) shows the financial impact is not expected to be significant, other than for the potential impact of the new capital/savings thresholds.

Type of Care Order	No of cases previously means tested	Average estimated weekly change in financial support (per case) £	Average % weekly change in financial support (per case) £	Maximum estimated weekly gain in financial support (per case)	Maximum estimated weekly reduction in financial support (per case)
Adoption	5	(13)	(14%)	£16	£(52)
Residence	4	(3)	(4%)	£4	£(18)
Special Guardianship	11	(10)	(14%)	£15	£(59)

## 9. Engagement and Implementation Process

- 9.1 It is usual practice for the FAB team to visit all clients that they support, when there is a change to a Council policy which may affect the payments to or by clients.
- 9.2 It is therefore proposed that following approval of this report by Cabinet Member; that the FAB team undertake to visit each of the carers receiving financial support under Adoption, Special Guardianship, Child Arrangement or Residence Orders.
- 9.3 Initially a review of all Carer's will be conducted by Children Services - where deemed appropriate an Officer from Children's Social Care will be assigned to the FAB team in order to complete a joint visit when discussing the policy changes.
- 9.4 The purpose of the visits will be to undertake a financial assessment review in accordance with the new means testing policy at Appendix 1



and explain to the carer any potential changes in their level of financial support, arising either from the new policy; &/or changes to their personal circumstances since the last review. In addition, the FAB officer will support the carer to claim any benefits that they may be eligible for.

- 9.5 In order to complete the reviews within 10-12 weeks, additional temporary staffing resources will be recruited to undertake the reviews in addition to the existing officers.
- 9.6 It is proposed that the policy is effective from the 9<sup>th</sup> April 2017. The FAB team will begin the reviews in March, following publication by the Department for Work and Pensions of the annual update to the personal allowance rates.
- 9.7 Whilst assessments may be completed in March, payments will only begin under the new policy from 9<sup>th</sup> April 2017. The outcome of any assessment reviews will apply prospectively, from the latter of the 9<sup>th</sup> April 2017 or the Sunday following the date of the assessment. Any assessments undertaken will not be backdated.

## **10. Reasons for recommendations**

The Cabinet Member is recommended to approve the Financial Support and Assessment Policy attached at Appendix 1, in order to ensure that there is a fair and transparent means testing assessment policy in place for carers in receipt of financial support, which reflects latest guidance and aligns the means testing process across both Adult and Children's Services.

## **11. Equality impact assessment (EIA)**

A Preliminary Equality Impact Assessment has been carried out (Appendix 3). From this it has been determined that a Full EIA is not required as the recommendations do not have a potential negative impact on any of the protected characteristics as described in the Equality Act 2010. The main points that were highlighted from the preliminary EIA were.

- Portsmouth City Council already applies a means tested approach to financial support, this revised approach is to bring it in line with Adult Assessments and ensure transparent and equitable approach to all families requiring financial support looking after Portsmouth's vulnerable children.

Further mitigating factors are as follows:

- Every family affected by this proposed change has already been assessed by Children's Services and will be re-assessed at appropriate periods. Every family will be visited from our Financial Assessment and Benefits

(FAB) staff to explain in detail how these changes will affect them individually. At those visits the FAB staff:

- Act on behalf of the City Council as a whole to identify any problems or opportunities and either signpost clients to appropriate services or call on the necessary services as needed.
  - Identify and claim any benefits or other income that the client may be entitled to, including making the claims on their behalf for benefits administered by the City Council and other agencies such as the Department of Work & Pensions.
  - Calculate how much financial support they are entitled to, using accurate up to date figures and ensuring a clear comparison between assessment processes is detailed and evidenced to show the financial impact for them.
- Additionally, transitional protection arrangements will be put in place, for a period of time after the implementation of this new policy, to mitigate the impact for those carers whose new assessment would lead to a reduction in their weekly level of financial support. This will allow carers time to adjust to the new levels of weekly financial support.

## **12. Legal comments**

The policy is lawful. Councillors must have the opportunity to scrutinise the policy before it is approved and the member decision should be recorded in writing.

## **13. Finance comments**

- 13.1 The means testing assessment policy attached at Appendix 1, has been updated and revised to ensure consistency, fairness, transparency as well as compliance with the relevant regulations and guidance.
- 13.2 In order to quantify the potential financial impact of the new means testing assessment policy, a sample of 43 (20%) payments were selected from across the different types of care orders; based on the payments made in May 2016. A desk based assessment was undertaken to determine the impact on the level of financial support payable; if the new assessment process had been applied. The results of the financial modelling have been explained within the body of the report and indicate that the proposals can be accommodated within existing budget levels.
- 13.3 Where former foster carers had not previously been means tested, it has not been possible to complete a desk based review. Additionally, the FAB team do not currently collect information in respect of savings or

capital and therefore it has not been possible to determine at this stage how many carer(s) may be affected by this policy change.

- 13.4 The financial modelling has not been able to reflect specific individual arrangements and commitments which may have been entered into with carers, which may override the application of this policy
- 13.5 It is recognised that following the introduction of the new means test assessment policy, the level of financial support payable to some carers may be reduced; particularly where fall they within the new capital/savings thresholds or where the previous means test assessment process had not been applied. Therefore transitional protection arrangements have been proposed to mitigate the impact on carers and allow them time to adjust to the new levels of weekly financial support.

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Signed by:

**Sarah Newman**  
**Deputy Director of Children's Services - Children's Social Care**

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Signed by:

**Chris Ward**  
**Director of Finance & Information Services**

**Appendices:**

Appendix 1 - Means Testing Assessment Policy for Adoption, Special Guardianship, Child Arrangements and Residence Orders.

Appendix 2 - DWP proposed rates for 2017-18

Appendix 3 - Preliminary Equality Impact Assessment

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>
The Children's Act 1989 (as amended) The Special Guardianship Regulations 2005	<a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>

The Adoption Support Services Regulations 2005	
The Children's and Families Act 2014	
The Special Guardianship Guidance issued by the Department for Educational and Skills	<a href="http://www.gov.uk">www.gov.uk</a>
The Care and Support (Charging and Assessment of Resources) Regulations 2014	<a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

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Signed by: