

**Report of the Cabinet Member for Services for Children and Young People**

**Cabinet – 20 August 2015**

**WESTERN BAY HEALTH AND SOCIAL CARE PROGRAMME**

**REGIONAL ADOPTION SERVICE**

<b>Purpose:</b>	To provide Cabinet with an opportunity to approve the attached Adoption Financial Support Policy developed in line with the establishment of the Western Bay Adoption Service
<b>Policy Framework:</b>	Sustainable Social Services for Wales: A Framework for Action.
<b>Reason for Decision:</b>	To implement a standardised policy and rate across the Western Bay region from 1st July 2015 resulting in harmonisation of working practices and equality of approach to allowances paid to adopters.
<b>Consultation:</b>	Legal, Finance and Access to Services.
<b>Recommendation(s):</b>	It is recommended that Cabinet:  1) Agree the attached Financial Support Policy and the plans for the implementation of a standardised process to assess and review Adoption Allowances which will ensure compliance with the provisions of the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 and Section 17 of the Children Act 1989.  2) Adopt this policy which will be a consistent one to serve the three Local Authorities across the Western Bay collaborative.  The recommendations above are made in order to assure Cabinet that the Council's statutory functions in relation to providing financial support to adopters are fully met, in accordance with legislation and guidance.
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## **1.0 Introduction**

- 1.1 The provision of Financial Support to Adopters is part of the wider remit of the Local Authority's responsibilities for supporting adopted children and families. It is guided by the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (made under the Adoption and Children Act 2002).
- 1.2 The attached report outlines the proposals for a Financial Support policy that will be consistent across the region but will allow for each local authority adoption agency to retain accountability and control of their own budget. It should be noted, however, that any proposals agreed are likely to be influenced by developments across Wales through the work that is due to be undertaken by the National Adoption Service on Adoption Allowances and may result in a further report to Cabinet to take account of any national changes.

## **2.0 Current Situation / Proposal**

- 2.1 A review of the Financial Support Adoption Allowance Policy for each authority has been completed. Currently adoption allowances in Swansea are approved and based on individual needs as assessed by the social worker, with no independent financial means test undertaken. This approach can be seen as inconsistent in the way it is applied and could be at risk of challenge. The new approach will clarify the process in relation to the means test and discretionary payments, will remove any inconsistencies as to how individuals are assessed and minimise the risk of any future challenges.
- 2.2 This proposal is consistent with messages learned from an Internal Audit of the policy in Bridgend which complies with the Regulations mentioned above. This model is already in operation in Bridgend and Neath Port Talbot have very recently agreed the new approach through their Cabinet process. It includes a means tested assessment using Department of Health guidelines in terms of family expenses and a common Western Bay basic rate based on the Welsh Government Guidelines on Fostering Allowances as a maximum allowance payable. The findings of the audit conducted in Bridgend concluded that those allowances approved under the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 were not fully compliant with the regulations. In order to ensure compliance and consistency of approach, assessments and reviews of allowances should include a means tested financial assessment and reviews should be undertaken annually.
- 2.3 It is proposed that the Western Bay Adoption Service will conduct the assessments for Financial Support in terms of eligibility as per the regulations and the amount paid to be calculated by a Finance Officer via the means tested assessment process called a Financial Assessment.

Following this a recommendation will be made and submitted to the relevant local authority Agency Decision Maker (ADM) for approval.

2.4 In the short term, a Finance Officer for their respective authorities will undertake this work. There are concerns however that this arrangement may not be the most appropriate model. The preferred arrangement would be for the financial assessment to be carried out in one place for the following reasons

- To ensure consistency in applying the formula
- To provide one point of contact for Western Bay staff and adopters in respect of the financial assessment. This will simplify the administration process and speed up payment
- The Finance Officer would become the expert in this method and as a consequence gain experience and knowledge in areas such as Welfare Rights, when completing these assessments. This has been the experience of Bridgend staff who currently adopt this method.

2.5 The workload for the new referrals is not expected to be high as each authority is reporting low numbers of families requiring financial support in terms of allowances; however existing allowances need to be reviewed.

2.6 There are a number of existing allowances granted post 2005, which have in place an undertaking by the local authority to make payments for a fixed period of time or until the child is 18 years of age. To ensure that there will be no financial detriment to these existing adopters, it is not the intention to alter historical cases unless financial circumstances of the adopters significantly change. It is proposed that they be treated as 'exceptional circumstances'. Therefore, the afore mentioned arrangements would be monitored and 'reviewed' not via a means tested mechanism but via the annual self-reporting process currently in place for those allowances. This entails each recipient being contacted annually and for them to provide a statement of their circumstances which indicates (or not) that they still require the pre-existing agreed long term (exceptional circumstances) discretionary allowance.

2.7 The Adoption allowance rate will be the common Western Bay basic rate. As per the Welsh Government Guidelines as follows:

**Suggested Adoption Allowance Rate**

<b>Age</b>	<b>0 - 4</b>	<b>5 - 10</b>	<b>11 - 15</b>	<b>16 - 17</b>
<b>WG 15/16</b>	£ 159.00	£ 145.00	£ 145.00	£ 182.00

2.8 Currently the Adoption Allowance rate paid by each local authority differs and is based on the amount paid for Fostering Allowances. If each authority were to apply their own rate for the calculation there is a risk that some families will be paid less than their peers living in another part

of the region. It is recommended that Western Bay harmonise the rates and use the Welsh Government guidelines for the base rate.

- 2.9 The Financial Support Policy clarifies the use of 'discretionary payments'. Whilst there may need to be a provision of such payments to adoptive families, the primary legislation for such payments may not be the Adoption Agencies (Wales) Regulations 2005 and where this is the case, they could alternatively be considered under the provisions of the 'child in need' Section 17 of the Children Act 1989. With any new exceptional circumstances requests, the process at 3.2 will be followed whereby the Western Bay Adoption Service staff undertake the eligibility assessment followed by the independent financial means test to calculate the amount applicable. The recommendation from this assessment and any proposal for an exceptional circumstances payment, over and above the outcome of the means tested financial assessment will require approval by the ADM. The annual review would also follow this process.
- 2.10 In order to enable the enactment of the policy, a range of tools and procedures are being developed for the Western Bay Adoption service. All new allowances will use the new procedures as set out within the attached policy. The volume and process of this activity needs to be monitored and relevant changes made to procedures where necessary. This includes the introduction of a single point of contact in one of the authorities, for the calculation of the Financial Assessment as described in 2.3.

### **3.0 Equality and Engagement Implications**

An initial EIA screening has been undertaken and has concluded that a full EIA report is not required for the following reasons:

- The impact on the protected groups is low
- The impact is likely to ensure greater equity of approach to all adopters.
- The aim of the regional policy is to provide a consistent approach to the arrangements and level of payments and the legislation will continue to apply. However, the new arrangements will only apply to new adopters to ensure that there will be no financial detriment to existing adopters unless there is significant change in circumstances - an annual review process will be undertaken with the current payments continuing as 'exceptional circumstances'. Current adopters can request a new assessment under the new arrangements with the possible risk of the assessed allowance increasing or decreasing.
- The implementation of the proposed documentation and review process will have no adverse impact on those who are deemed eligible under the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (made under the Adoption and Children

Act 2002) or those eligible for exceptional circumstances payments under the 'Children in Need' Provisions of Section 17 of the Children Act 1989.

Therefore, some flexibility will remain in the new arrangements in order to respond to assessed individual needs covered by use of 'discretionary payments' under Children in Need and decided by the responsible Head of Service.

- The financial support policy is governed by national legislation with equality considerations at its core
- Monitoring the new arrangements for any unintended impact.

#### **4.0 Financial Implications**

- 4.1 It is anticipated that the new process will not immediately create a reduction in the budget due to the number of existing allowances being paid and the likelihood of these payments continuing. A comparison of the current average fostering allowances paid with those proposed suggests that the move to regional allowances should not be a financial burden to the City and County of Swansea. The spend within 2014/15 was £388k, an average allowance per child of £8,255. For 15/16 the budget is set for £400k.
- 4.2 **Swansea** are currently paying allowances in respect of 47 children and in 2014/15 an average allowance of £158.75 per week was paid. Under the regional arrangements, the weighted average allowance is expected to be £153.47 per week. Further assurance has been gained from the recalculation of a number of allowances which demonstrated a small decrease in the amounts paid.
- 4.3 The greatest financial risk relates to the criteria for the award of an allowance. Should a greater proportion of adoptions attract an allowance than has historically been the case, a consequential financial impact would occur. Finance have not been made aware of any change in criteria for the award of an adoption allowance but the proportion of children in receipt of an allowance will need to be monitored to ensure the on-going affordability of this arrangement.
- 4.4 **Neath Port Talbot:** The actual amount paid out in 14/15 is anticipated to be £433k in relation to 53 children giving an annual average payment per child to be £8,170. The Council's budget for 2015/16 for Adoption Allowances is £451k (53 children).
- 4.5 **Bridgend:** The total amount spent on adoption allowances in 14/15 was £132k. This was in respect of 39 children giving an average allowance per child at £3,390. For 15/16 the total budget for allowances is £128k.

## **5.0 Legal Implications**

- 5.1 The proposed arrangements, as set out in this paper, will ensure that the statutory responsibilities of each local authority continue to be met and comply with legislation as follows;
- 5.2 The current statutory responsibilities are set out in section 4 of the Adoption and Children Act 2002, and Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (made under the Adoption and Children Act 2002).
- 5.3 These state that a local authority must carry out an assessment of that person's needs for adoption support services if so requested by a regulated person;
- 5.4 Once a person has had their needs for adoption support services assessed and the local authority has informed that person of their decision, the local authority will prepare a plan of the adoption support services to be provided, except where the services are to be provided once only, e.g. information giving. The plan should be set out in a way that everybody affected can understand.
- 5.5 The local authority, having decided a person has needs for adoption support services following the assessment and considering any representations, must come to a decision whether or not to provide such services and whether or not to impose conditions on those services.
- 5.6 Local authorities must consider, assess and pay financial support to adoptive families in accordance with the Regulations. The Regulations are intended to give agencies greater flexibility to respond to the individual needs of children and their circumstances.
- 5.7 The local authority must review any financial support annually on receipt of the adoptive parents statement of financial or on notification of any changes in circumstances, Financial needs or resources of the child.
- 5.8 If the local authority becomes aware of a change in the circumstances of a person receiving adoption support services it must review the adoption support services plan. If a decision is made to revise the adoption support services plan, notice must be given in writing to allow representations to be made by the person. Following the receipt of representations and once the plan has been agreed the local authority must inform the recipient of the services.
- 5.9 Any assessment, plan or adoption support services in preparation, in place or provided before these regulations came into force are to be treated as if undertaken under these regulations.

**Background Papers:** Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (made under the Adoption and Children Act 2002).

**Appendices:** Appendix A – Western Bay Adoption Service Draft Financial Policy