

**COUNCIL**

**AGENDA ITEM 14**

<b>Report title</b>	Standardised Means Tested Model for Financial Support for Family & Friends Carers: Connected Persons and Special Guardians.	
<b>Executive Member</b>	Mike Carr, Executive Member Children's Services	
<b>Chief Executive or Director</b>	Helen Watson, Executive Director of Children's Services	
<b>Date</b>	20 <sup>th</sup> June 2018	
<b>Purpose of the report</b>	To outline the benefits, and consider any associated risks, of adopting the Department for Education standardised means testing model for financial support for Family & Friends Carers	
<b>Summary of the report</b>	The report outlines the legislative context and the background to the requirement for the Local Authority to update its Family & Friends Carers Policy. It summarises the benefits, and impact, of adopting the Department for Education standardised means testing model for financial assessment for Family & Friends Carers.	
<b>If this is a key decision, which key decision test applies?*</b>	Over the financial threshold (£150,000)	
	Amends the Council's policy framework	
	Affects two or more wards	
	Non-key	x
<b>For the purposes of scrutiny call in procedure this report is*</b>	Exempt under s.12a Local Government Act 1972	
	Urgent ( <i>NB this must be approved by the Chair of OSB</i> )	
	Non-urgent	x
<b>If this is a confidential report, which exemption(s) from the Schedule 12a of the Local Government Act 1972 applies?</b>		
<b>Decision(s) asked for</b>	That Council consider formal approval of the Department for Education standardised means testing model for financial assessment for Family & Friends Carers.	
<b>Impact of decision(s)</b>	<ul style="list-style-type: none"> <li>• A systematic, disciplined approach to evaluate, and improve the effectiveness of the financial means test process when assessing what, if any, financial support Family &amp; Friends Carers may be entitled to from the Local Authority.</li> <li>• Increase the credibility of the Local Authority within the legal arena and reduce vulnerability in terms of formal complaints and judicial reviews, and associated financial costs.</li> </ul>	
<b>Contact:</b>	Director of Children's Care	

## **What is the purpose of this report?**

1. This paper considers the benefits of adopting the Department for Education model, in implementing a systematic, disciplined approach to evaluate and improve the effectiveness of the financial means test process when assessing what, if any, financial support family & friends carers may be entitled to from the Local Authority.

## **Why is this report necessary?**

2. The Department for Education has recently undertaken a review of Local Authority Family & Friends Care policies, identifying Middlesbrough as a Local Authority that is required to update its Family & Friends Carers Policy Guidance, attached to this report at Appendix 1 and the Child Arrangement Order and Special Guardianship Order policies attached at appendices 2 and 3. Whilst the policy itself has been updated, it cannot be approved until a decision is made in relation to the means testing financial assessment model to be adopted.

## **What decision(s) are being asked for?**

3. That the Executive Member approves adoption of the Department for Education standardised means test model when assessing the eligibility of Family & Friends Carers for financial support from the Local Authority, which will be reflected in the Council's revised policies attached to this report at appendices 1, 2 and 3.

## **Why is this being recommended?**

4. The support services that Local Authorities must provide family & friends carers, in accordance with the Children Act 1989, are outlined within the Special Guardianship Regulations 2005; updated 2016 and the Department for Education's Statutory Guidance for Local Authorities: Family and Friends Care 2010. The guidance sets out a framework for the provision of support to family and friends carers, including practical and financial support for family & Friends carers and special guardians.
5. The Department for Education has developed a model means test for financial support for Family and Friends Carers (see Appendices 1 and 2 for details and associated payment calculator). Whilst this is a suggested model only, the Department for Education recommends its use by Local Authorities as the model is fair and ensures a consistent approach to arriving at support payments, ensuring that Family & Friends carers are treated equitably within the context of what is affordable within existing Local Authority budgets.
6. The current means test adopted by Middlesbrough is based upon a deficit model, which has resulted in the Local Authority being subject to significant criticism from the Courts, adversely impacting upon its own credibility within the legal arena. Consultation with the Council's Legal Service has further confirmed that this has also led to the unnecessary making of a number of Care Orders, to secure the weekly age related foster care allowance for friends carers, whether they have been positively assessed in accordance with the Fostering Regulations, or not. It has also resulted in unbudgeted backdated payments.

## **Other potential decisions and why these have not been recommended**

7. The other alternative would be to continue to use the Council's means testing model, which leaves the Council vulnerable to continued criticism within the legal arena and to further unbudgeted payments.
8. Currently, all financial assessments are undertaken by Children's Services Social Workers or Resource Workers, attached to the 8 Assessment & Care Planning teams. Once completed, the financial assessments are then presented to Placement & Provision Panel for approval by a Head of Service.
9. The quality of assessments presented to Panel varies and often calculations are incorrect. This is not surprising when taking into account the potential for individual interpretation of the supporting written guidance, particularly in relation to the discretion to be applied to 'exceptional circumstances', and when acknowledging that Social Workers are not trained financial officers. Also, the greater the number of people completing the assessments, the increased likelihood there is for inconsistency and human error.

## **Impact(s) of recommended decision(s)**

### **Legal**

10. Implementation of the government recommended standardised means testing model would reduce the unnecessary making of Care Orders, resulting in a reduction in the number of children looked after by the Local Authority. Consultation with the Council's Legal Service, has confirmed that the Courts continue to grant Care Orders in order to secure an element of financial support for family & friends carers, whether they have been positively assessed in accordance with the Fostering Regulations, or not.
11. The introduction of a standardised means testing model would also reduce the potential for legal challenge as the proposed model brings the Council in line with the Department for Education guidance, a standardised framework which is nationally recognised. The credibility of the Council within the legal arena would further withstand criticism if the assessments were undertaken by a trained financial officer, independent of Children's Services.

### **Financial**

12. The estimated budget within Children's Services for Family and Friends Allowances for 2018/19 is £943,000. We anticipate that the implications in the revised means tested model will be in the existing budget.

### **Model for Financial Assessment**

13. The Children's Services Finance Team has re-assessed, using the Department for Education model, a number of financial assessments that were previously assessed using the Council's own model.

14. As both models are means tested and therefore subject to many variables relating to a family's income and expenditure, the overall financial effects to the Council of the adoption of the Department for Education model are difficult to accurately determine. It should however be noted that the maximum amount that is payable under the Department for Education model is the relevant fostering allowance relating to the age of the child, plus any enhancements linked to, for example, special needs.
15. There are a number of significant differences between the two models. Firstly there is the disregarding of the first 20% of the calculated monthly family income by the Department for Education model, which is not currently allowed for in the Local Authority's model. This is likely to lead to an increase in eligibility for allowances paid by the Council should the Department for Education model be adopted.
16. A further significant difference is that the Department for Education model recommends that child benefit is deducted from the payments to be made to Family & Friends Carers. Currently within the Council's own model the child benefit is not consistently deducted from the payment to be made. This will produce a saving in the payments to be made.
17. Also in the Department for Education model where the family's monthly disposable income is higher than £0 the model calculates that for every pound of monthly disposable income a family is found to have, they will have 50 pence deducted from the monthly maximum payment. This deduction is currently not always made using the Council's own model.

#### Appointment of a Finance Officer

18. The appointment of a designated Finance Officer to undertake all financial assessments would not only reduce the level of involvement of Social Workers and/or Family Resource Workers, it would also improve the overall quality and consistency of the financial assessments and outcomes for the children, young people of Middlesbrough and their families as financial support can be provided without the need for social care intervention.
19. When completing the financial assessment, the Finance Officer could undertake a full welfare benefits check to ensure that all entitlements are claimed, maximising the household income and thus reducing the level of eligibility for financial support from the Council. Should benefit entitlement be identified, support could be provided to the special guardian through the application stage.
20. In addition, the special guardians/family & friends carers could be asked to sign a declaration to the effect that the information given is true to the best of their knowledge and that they understand that any change of circumstances must be reported to the Finance Team, allowing for payments to be adjusted accordingly and for any overpayments to be recovered when there is a failure to inform the Local Authority of any changes.

21. Based on an assessment of the current level of financial assessments (approximately 140 per annum) it should be possible to provide the role of Finance Officer within existing resources.

### **The Mayor's Vision for Middlesbrough**

22. The decision to adopt a fair and standardised financial means test model is aligned to the Mayor's Vision for a fairer, safer Middlesbrough; ensuring that children and young people are protected and have the best start in life and that, where required, families are supported to enable children to be safe, health and achieve, by increasing the number of children and young people whose needs are met at an earlier stage.

### **Policy Framework**

23. The proposals would be managed within existing budgets and no amendments to the Policy Framework would be required as a result of this report.

### **Equality and Diversity**

24. An Impact Assessment has been undertaken on the proposal. It found that the proposal is particularly relevant to the age protected characteristics. It found no concerns that the proposal could have an adverse impact, it should have a positive impact, ensuring that friends and family carers are better supported to care for children, reducing the need for them to become looked after by the Local Authority. A copy of the Impact Assessment is attached to this report at Appendix 6. This assessment has been informed by feedback to date from families affected by previous policies, complaints data, good practice examples elsewhere case law and practitioner engagement. We will undertake a four week consultation and delegate to the Executive Member of Children's Services the approval of any changes.

25. Adoption of the suggested model will ensure that Family and Friend's carers are not disadvantaged because of the child's legal status and will ensure they have access to a fair and equitable assessment of their financial circumstances.

### **Risk**

26. The proposal would support work to address the following risks in the Strategic Risk Register:

- If the Council is unable to provide robust safeguarding arrangements, particularly during the period of transformation, then there is an increased risk of harm to children and young people. (05-009)
- If the Council fails to support the adults and children in most need of help at an early enough stage, due to an inability to identify, prioritise, target or respond to their needs, then the escalation of problems will lead to greater demand on public services. (09-005).

## **Actions to be taken to implement the decision(s)**

- Agreement of Finance Officer within current resources.
- Identification of Finance Officer.
- Agreement and publication of proposed model and supporting policies and procedures.
- Launch of the new model and supporting policies and procedures.

## **8. Appendices**

Appendix 1 - Family and Friends Care Policy Guidance

Appendix 2 - Middlesbrough Child Arrangement Order Policy

Appendix 3 - Special Guardianship Order Policy

Appendix 4 - DFE Means Test Guidance

Appendix 5 - DFE Means Test Calculator

Appendix 6 - Impact Assessment

## **9. Background papers**

No background papers were used in the preparation of this report.