

MIDDLESBROUGH COUNCIL

Child Arrangements Order and Residence Order Allowance Policy

Date: June 2018

Review Date: June 2019

Child Arrangements Order and Residence Order Allowance Policy

Introduction

1. The purpose of this policy is to set out Middlesbrough Borough Council's ("the Local Authority") approach to Child Arrangements Order Allowances. The scheme of the policy is as follows:
 - Legislative context;
 - eligibility criteria;
 - the allowance;
 - duties of notification by the Local Authority and by those in receipt of a Child Arrangements Order Allowance;
 - commencement of payment;
 - review, variation and termination of the allowance;
 - overpayments; and
 - appeals

2. This policy shall be reviewed [six months after it comes into force] [on the first anniversary of its coming into force] and thereafter at the discretion of the Local Authority.

Legislative Context

3. Under the Children and Families Act 2014, Residence Orders were replaced by Child Arrangements Orders. All Residence Orders are deemed to be Child Arrangements Orders for the purpose of this policy and decisions made under it.

4. Applications for child arrangements orders are usually between private individuals, under s.8 Children Act 1989. A Child Arrangements Order (Residence) is an order setting out with whom the child is to live or when the child is to live with any person. A Child Arrangements Order may also set out the details of a child's contact with

specified persons. Child Arrangements Orders (Contact) do not fall within the scope of this Policy.

5. Under Schedule 1, paragraph 15, of the Children Act 1989 where a child lives, or is to live, with a person as the result of a Child Arrangements Order, a Local Authority **may** make contributions to that person towards the additional cost of caring for the child. These contributions are known as a Child Arrangements Order Allowance.
6. The power to make contributions does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife or civil partner of a parent of the child.

Eligibility Criteria

7. Whether payments are made, including the amounts of any such payments, remains at the discretion of the Local Authority. There is no automatic entitlement to a Child Arrangements Order Allowance and, if deemed eligible, any payments agreed are likely to be made only until such a time as carers are in receipt of the appropriate state benefits. The carer will be supported to claim state benefits.
8. A holder of a Child Arrangements Order must apply, in writing, to the Local Authority if they wish to be considered for a Child Arrangements Order Allowance.
9. A Child Arrangements Order Allowance **may** be paid where:
 - the child is Looked After or was Looked After by the Local Authority immediately prior to the making of the Child Arrangements Order; and
 - the Local Authority supports the placement of the child with the person(s) in whose favour the Child Arrangement Order is made; or
 - the Local Authority is satisfied, having regard to all the circumstances, that, but for the making of a Child Arrangements Order, the child would have become Looked After by the Local Authority; and

- the Local Authority supports the placement of the child with the person(s) in whose favour the Child Arrangements Order is made.
10. Requests for financial support from other persons, not falling within paragraph 9 above, will be considered, but unless the Local Authority is satisfied that there are exceptional circumstances, a financial assessment, including a means test, will not be conducted and no allowance will be paid. It is not possible to specify the sort of circumstances which might be regarded as exceptional because case by case consideration is required.
11. In all cases, the applicant must live within the United Kingdom in order to qualify for the allowance.

The Allowance

12. The Child Arrangements Order Allowance will, as a starting point, and where the child has **not** previously been looked after by the Local Authority,
- Be likely to be set at the equivalent to the state benefit entitlement, which will be assessed having regard to DWP guidance (<https://www.gov.uk/benefits-calculators>)
 - be paid for a period normally limited to 12 weeks or up until the carer is in receipt of the appropriate state benefits for the child, whichever is sooner. Any extension to this period would require evidence to be provided that appropriate state benefits have been applied for (with support from the local authority, if required) and that there has been a delay in receipt of these
- or, where a child **has** been previously looked after by the Local Authority, and to enable carers a period of financial adjustment, will
- be set at the equivalent age related national minimum weekly allowance payable to foster carers (minus any state benefit entitlements, eligibility to the social fund, maintenance payments received for the child that would not be available to a foster carer and any other forms of income or capital arising from

the placement of the child), with the exception of carers, mobility/attendance allowances and any disability related benefits);

- be paid for a maximum period of 12 months;
- cease thereafter, unless the carer approaches the Local Authority, in writing, for continued financial support, enclosing evidence to support their request;
- not include any reward or remuneration or fee element which may be available to a foster carer;
- not include any additional sum in respect of birthdays, religious festivals, holidays or school uniform, all of which are expected to be provided for from the allowance and /or family resources.

or, where the care arrangement is **at risk** of breaking down due to financial hardship, and to prevent the need for the child/young person to become looked after, will

- be subject to financial assessment using the DfE means tested model to gauge the family's financial situation;
- be paid for a period of 12 months;
- cease thereafter, unless the carer approaches the Local Authority, in writing, for continued financial support;
- and, in any event, be subject to financial reassessment by the Finance Team.

13. The Local Authority will consider any applications for one off payments under s.17 of the Children Act 1989. These are discretionary payments to be decided on a case by case basis following assessment of the needs of the child and family.

14. The level of allowance may be adjusted to include an enhanced payment where the Local Authority considers that the child needs special care which requires a greater expenditure of resources than would otherwise be the case because of illness, disability, emotional or behavioural difficulties, the consequences of past abuse or neglect, or other exceptional circumstances. This applies where the child's condition is serious and long-term. For example, where a child needs a special diet or where items such as shoes, clothing or bedding need to be replaced at a higher rate than

would normally be the case with a child of similar age who was unaffected by the particular condition.

15. In considering the applicability and amount of this adjustment, the Local Authority will have regard to any disability related benefits or other sources of funding available to the family in respect of the child. Payments will only be made for the child after all other alternatives in terms of provision of specialist services, direct payments, eligibility to the social fund, benefits and grants have been explored. The level of the child's needs will be reviewed annually at Resources Panel.
16. An enhanced payment may be made, exceptionally, in circumstances falling outside the scope of the criteria detailed above at the discretion of the Head of Service.

Notification of the Local Authority decision

17. If the Local Authority decides not to pay an allowance in cases where they have the discretion to do so, the Local Authority will write to the holder of the Child Arrangements Order setting out the decision made and the reasons for that decision.
18. Where the decision is made to pay a Child Arrangements Order Allowance the Local Authority will write to the holder of the Child Arrangements Order setting out:
 - the amount of the allowance;
 - the date of the first payment;
 - the method and frequency of payment and
 - when the payments will cease

Notifications by those in receipt of an allowance

19. Those in receipt of a Child Arrangements Order Allowance must promptly notify the Local Authority of changes in their circumstances or those of the child. In particular, the Local Authority must be notified if:

- once carers are in receipt of all relevant state benefits
- the child dies;
- the child ceases to live with the holder of the Child Arrangements Order/ Residence Order;
- the Child Arrangements Order/ Residence Order is revoked; or
- there is a change of address.

20. The notification should take place promptly and in any event within 28 days of the relevant change in circumstances.

21. An applicant for, or person in receipt of, an Allowance must provide such information as is reasonably requested by the Local Authority to enable it to be satisfied that the Allowance should be paid/ continued. Failure to do so may result in non-payment or cessation of an Allowance.

Commencement of payment

22. The payment of a Child Arrangement Order Allowance will begin from the date of the making of the order, when granted upon the issuing of, or during the course of, care proceedings.

23. In cases whereby a Child Arrangement Order has been granted during private proceedings, a Child Arrangement Order Allowance, if payable, will begin from the date the request for a financial support was made by the child/young persons' carer.

Review, variation and termination

24. Eligibility for the allowance, and the proportion payable to a particular Child Arrangement Order holder, is subject to annual review, upon request by, or on receipt of notification of a change in circumstances from, the carer. Failure to do so may result in payment being suspended or terminated and recovery of any payments made. Additional conditions on the provision of support may be imposed by the Local Authority as considered appropriate in such circumstances; for example payments will

not be back dated in circumstances whereby the carer(s) allow the annual review to lapse or fail to inform the Local Authority of any changes to personal/financial circumstances.

25. For those children previously looked after, the Child Arrangements Order Allowance will be varied as the child moves into the next age related band, from the date of the child's birthday.

26. The Child Arrangements Order Allowance will cease if:

- the child dies;
- the child ceases to live with the holder of the Child Arrangements Order;
- the Child Arrangements Order is revoked;
- The child ceases full time education or training and commences employment, qualifies for universal credit, income support, jobseekers allowance or employment support allowance in his own right; or
- The child becomes 18 (unless he is in full time education or training, in which case the allowance may continue until the end of the course or training he is then undertaking).

Overpayment

27. If an over payment has been made the Local Authority will be entitled to recover the overpayment.

Appeal mechanism

28. If dissatisfied with a decision as to payment or amount of allowance, the holder of the CAO may appeal the decision, in writing, within 28 days of written notification of the decision. The holder of the CAO must address their appeal in writing to the Chair of the Decision & Review Panel, Safeguarding & Children's Care, Middlesbrough House, 50 Corporation Road, Middlesbrough, TS1 2RH. The letter of appeal must detail the

reason(s) for the appeal and include any supporting evidence i.e. financial documents to justify the 'exceptional' or change in circumstances.