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**To: Education and Children Policy Board**

**On: 10 March 2016**

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**Report by: Director of Children's Services**

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**Heading: Kinship Care and Foster Care Allowances and Fees**

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## **1. Summary**

- 1.1. Foster Care is the term used when a child or young person is cared for by a person or people who are not members of their birth family and have no pre-existing relationship with that child. Renfrewshire Council currently make payment to 88 internal foster carers in respect of 134 children and young people. Foster carers receive a single payment of £385.95 per week per child which includes a fee and allowance.
- 1.2. Kinship Care is the term used to describe the placement of children with extended family members or friends when they can no longer live with their parents. Kinship Carers are always known to the child and nearly always have a significant relationship with that child. In Renfrewshire, we financially support carers only when we have asked them to assume the care of a child/children. Renfrewshire Council currently provides financial support to 180 carers in respect of 239 children and young people in kinship care arrangements. Kinship Carers receive an age-related weekly allowance for each child ranging from £70.51 for a child aged 0 to 4 years to £141.02 for a young person aged 16 to 18 years.
- 1.3. In 2014 seven local authorities in Scotland (not including Renfrewshire) were contacted by the Equalities and Human Rights Commission (EHRC) to challenge the level of payment of allowances made to kinship carers. They argued that kinship carers should receive parity in the level of allowance paid per child compared that paid to foster carers.
- 1.4. Since that time all local authorities have been working with the Scottish Government and other stakeholders to agree a new national model which seeks to ensure parity in the allowances paid to kinship carers.
- 1.5. This report sets out the proposed changes in the structure and level of kinship care allowances in order to address the current EHRC challenge and achieve parity for kinship carers.

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## **2. Recommendations**

- 2.1. Members of the Board are asked to
- a) Approve the new model for the payment of kinship care allowances
  - b) Note that this local model will be reviewed after the first 12 months of operation
  - c) Note that Scottish Government plans a national review of the arrangements in place for the payment of both foster and kinship care.
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## **3. Background**

- 3.1. Kinship Care is the term used to describe the placement of children with extended family members or friends when they cannot live with their parents. The Local Authority only has responsibility for those children it places with family members who may or may not be subject to statutory orders. Kinship Carers are approached by the Service to care for children when they cannot remain living with their birth parents. They are always known to the child and nearly always have a significant relationship with that child. At the point they are asked to care for a child, basic checks are undertaken regarding their suitability and then a fuller kinship care assessment is undertaken to access the kinship care allowance. This is then reviewed on an annual basis by the child's social worker completing a review report.
- 3.2. Foster Care is the term used when a child or children is cared for by a person or people who are not members of their birth family and have no pre-existing relationship with that child. Renfrewshire Council recruits foster carers from the community via media campaigns and word of mouth between existing foster carers. Prior to being assessed as a foster carer, interested people are asked to attend preparation groups which run for at least 6 weeks and then participate in an assessment process which takes on average 6 months. Their assessment is then presented to the fostering panel and a recommendation is made to the agency decision maker regarding their suitability to be a foster carer. Once approved, there is a statutory requirement that registered carers are formally reviewed on annual basis. They must also attend mandatory training and there is a requirement that one carer is at home full time. Foster carers are also on stand-by to take children 24/7.
- 3.3. Foster Carers and Kinship Carers are given allowances by Renfrewshire Council to undertake the care of the children placed with them. At the current time there is a significant difference between the rates paid.
- 3.4. In 2014 the Equalities and Human Rights Commission (EHRC) indicated an interest in the level of payment of allowances made to kinship carers. They highlighted that the legal status of a looked after child placed with foster carers was the same as a looked after child placed with kinship carers. Accordingly they argued kinship carers should receive parity in the level of payment. This argument followed a Court decision in England that supported this position. EHRC indicated that they would seek a judicial review if parity was not achieved in respect of allowances paid to Kinship Carers and Foster Carers.

- 3.5. The 'type' of carer - be it foster care or kinship care - was immaterial to the concern of EHRC, with only the amount of money paid to support the child, i.e. the allowance, being of relevance. The Commission was not, for this reason, interested in exploring foster care fees which are payments made directly to carers for the service they provide.
- 3.6. Renfrewshire Council currently has 259 of children in paid kinship care arrangements. Kinship Carers allowances are based on 4 age bands. Allowances range from £70.51 per week for a child aged 0-4 to £141.02 per week for a child aged 16-18. Over the years, the Council has undertaken benchmarking exercises with other local authorities and we have consistently found that the allowances we pay put us in the group of councils which is paying higher levels of kinship care allowance. In addition to the Kinship Care allowance, they receive from the Council, Kinship Carers can claim Child Benefit for each child in their care and other benefits for which Child Benefit needs to be in place in order to access.
- 3.7. Renfrewshire Council currently pays Foster Carers £383.95 per child per week regardless of the age of the child. Unlike many other Councils we do not split this payment into fee and allowance elements. This was previously our practice however this was changed following the Best Value review of Fostering in 2005.
- 3.8. In 2005, a Best Value Review of Renfrewshire Council's Fostering and Adoption Service was completed. The review made a number of recommendations with the aim of increasing the number of Renfrewshire foster carers available therefore reducing our reliance on more expensive external fostering agencies. The Council also wished to recruit more local carers to ensure greater oversight of the care arrangements for children in foster care and to ensure that children remained as close to Renfrewshire as possible to enable them to remain connected to their communities. One of the main recommendations from the Best Value review was that a revised scheme of payments for foster carers was put in place to replace the tiered fee levels and COSLA maintenance rates. This flat fee for carers was approved at Board in September 2005 and has continued to be the way we pay foster carers.
- 3.9. The changes made to the fostering service as a result of the Best Value review have been an overwhelming success. In the past decade, the Council has trebled the number of fostering households and we have also significantly reduced our use of the external fostering agencies and as a consequence saved the Council in excess of 5 million pounds. Renfrewshire Council now has 86 registered fostering households with 133 children placed with our own carers in comparison to 92 children placed with external carers, with many of these external placements scheduled to end in the next 3 years.
- 3.10. In February 2015, the 32 Scottish Local Authorities, along with the Scottish Government, Social Work Scotland and other interested representatives met to agree a consistent approach to the issue of how Kinship Carers should be paid. The Scottish Government were clear that parity needed to be achieved in respect of the allowances for the child in which are paid to Kinship and Foster Carers. The fee element which only foster carers are entitled to due to the unique role they fulfil for Councils is not a matter for consideration.

- 3.11. Renfrewshire Council has been involved in these national discussions and has been committed to finding a solution to ensure local parity of allowance between our Foster Carers and Kinship Carers however this has been complicated in Renfrewshire by the flat rate payment arrangement we have for foster carers.
- 3.12. The Scottish Government has recommended a model used by Inverclyde and North Ayrshire to ensure parity between their kinship and foster carers. Through this model, kinship carers are supported to maximise their income for the child via the Benefits Agency i.e. child benefit and Tax Credits. Having done so, the Local Authority “tops up” this income to ensure parity with the allowance paid to foster carers. Foster carers cannot claim state benefits in respect of children placed with them.
- 3.13. This is a complicated model which would require extensive financial assessments to be undertaken for each new kinship application and will also mean that the amount the Local Authority pays each kinship carer will differ according to their individual circumstances. It is also recognised that this would only be a temporary solution. The introduction of Universal Credit will preclude kinship carers claiming any state benefits for looked after children – these costs being seen as the responsibility of the Local Authority. When Universal Credit is implemented this will have a far greater financial impact on Local Authorities.
- 3.14. The other complicating factor within this parity model is the potential for detriment to be caused to current kinship carers in Renfrewshire because we currently disregard all benefit entitlement. If we move to a position of “topping up” it could mean that some kinship carers are entitled to less kinship care allowance because they are in receipt of maximum benefits. Furthermore, not all kinship carers are in receipt of benefit, therefore applying a parity model that has at its main component access to benefits could potentially make some kinship carers worse off than others.
- 3.15. It is therefore proposed that we move to a position of paying kinship carers and foster carers the same allowance per child that they have placed with them. It is also proposed that we return to paying foster carers an allowance for the child they care for and a fee for their professional services.
- 3.16. It is recommended that we no longer have the 4 age bands regarding kinship care allowances and begin paying all kinship carers £122.59 per child per week minus the lower rate of Child Benefit. This is £13.70 per week therefore resulting in a weekly payment of £108.89 per week. This is the current rate paid for children aged 11-15. All Kinship Carers with children aged below 11 would move up onto this rate effective from the 1<sup>st</sup> of October 2015. As a transitional protection, Kinship Carers who have children in the age band 16-18 and who are currently receiving a higher rate of payment for these children will continue to receive this higher rate until the children are no longer in the kinship care arrangement. There are currently 30 young people this would apply to, however this arrangement would naturally come to an end for the majority of them by December 2016 because of the age profile of the young people involved.

3.17. It is also proposed that children who are currently 15 and due to become 16 in the calendar year 2016 are moved onto the 16-18 rate as planned. This is in recognition that carers of children aged 15 years who are soon to become 16 will be expecting an increase in allowance but would not receive one if this new payment model is progressed

3.18. Current Kinship Rates and Number of Children

Age Band	Rate	Number	Cost per year per child	Total Cost Per Year
0 - 4	£70.51	21	£3,676.60	£77,209
5 - 10	£87.48	89	£4,561.46	£405,970
11- 15	£108.89	99	£5,677.84	£562,106
16 - 18	£141.02	30	£7,353.19	£220,596
	<b>TOTAL</b>	<b>239</b>		<b>£1,265,881</b>

3.19. Total Cost of Children on £108.89 once transferred (Including Children currently on 16-18 rate and 15 year olds moving onto 16-18 rate)

Age Band	Rate	Number of Children	Total Cost Per Year
0 - 14	£108.89	183	£1,038,987
15 - 18	£141.02	56	£411,779
	<b>TOTAL</b>	<b>239</b>	<b>£1,450,766</b>

3.20. This approach will cost the Council an additional £184,875 per annum based on the current profile of the children in kinship care in Renfrewshire. The Scottish Government has provided additional funding to Local Authorities on a pro rata basis depending on the numbers of Kinship Carers they have and our award will cover the costs associated with the changes to the payments.

3.21. The rate a foster carer receives as an allowance per child per week will be matched to the figure which includes the child benefit amount, £122.59. As indicated previously in this report, foster carers do not receive child benefit for the children they care for whereas all kinship carers are entitled to apply for this benefit and in nearly all circumstances are awarded it. The balance of the current amount paid to foster carers will become the professional fee they receive for providing a service to the Council. This will be £261.25 per week. Foster Carers could be eligible to pay tax on this fee if it exceeds a certain amount over the course of the tax year but they are advised of this when they sign the partnership agreement with the Council. A new partnership agreement will be developed to reflect a return to a fee and allowance payment structure.

3.22. It is critical that Renfrewshire Council achieves parity in the allowances we pay Kinship and Foster Carers in order to be compliant with the guidance issued by the Scottish Government but it is also crucial that there is no detriment to either existing kinship cares or foster carers. The Council relies heavily on both types of carers to do very different tasks. It is important that children who can remain living within their family of origin are supported both emotionally and financially to do so but it is also absolutely critical that we have a varied and flexible group of foster carers who can look after children who cannot remain within their extended family. The Council cannot pay foster



carers less competitive fees / allowances and run the risk of current carers leaving our organisation to become carers for the independent agencies or for recruitment of new carers to once again become the issue it was in the past. This interim arrangement ensures this until we are clearer about the impact of changes to the overall benefits system.

- 3.23. A dedicated team is being developed which will provide bespoke support to Renfrewshire's Kinship Carers and the children they care for. The Kinship Care Support team will undertake assessments of kinship carers, provide ongoing support once approved and will also deliver training and offer practical and financial advice to carers. Recruitment is underway and it is envisaged that the team will be operational by April / May 2016.

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## **Implications of this report**

### **1. Financial Implications**

There are additional costs of £184,875 associated with increasing the rates of allowances paid to Kinship Care; however these can be met from the additional funding provided by the Scottish Government to support this change.

### **2. HR and Organisational Development Implications**

None.

### **3. Community Plan/Council Plan Implications**

None.

### **4. Legal Implications**

None.

### **5. Property/Assets Implications**

None.

### **6. Information Technology Implications**

None.

### **7. Equality and Human Rights Implications**

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because for example it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

### **8. Health and Safety Implications**

None.

### **9. Procurement Implications**

None.

**10. Risk Implications**

There are no risks identified from moving to the position outlined in the report however as outlined in the body of the report there are significant risks associated with a “do nothing” position.

**11. Privacy Impact**

None.

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**List of Background Papers**

- (a) Background Papers : None

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DH/LG

11 February 2016

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