

The Highland Council
Education, Children and Adult Services Committee
20 January 2016

Agenda Item	16.
Report No	ECAS 12/16

Kinship Care – Update on Policy

Report by Director of Care and Learning

Summary

This report is a further update to the report provided to the August Committee on the policy on Kinship Care, and the allocation and distribution of funding. This is following national changes as a result of the Children and Young People (Scotland) Act 2014 - Part 13. The Scottish Government has not yet issued guidance in respect of Part 13, but a letter to Chief Executives provides information in relation to intended changes.

1. Background

- 1.1 Kinship care is provided where a relative or friend takes on the care of a child/young person when their parents cannot look after them.
- 1.2 There are many children who live with friends or family without the involvement of statutory services. These carers are often referred to as informal kinship carers, and the children are not Looked After.
- 1.3 Formal kinship care is when a child/young person is legally looked after by the local authority, and the child is placed in the care of relatives or friends by the local authority.
- 1.4 When a child is looked after and cared for by formal kinship carers, the local authority has the same responsibilities as with any other looked after child. The Looked After Children (Scotland) Regulations 2009 outlines these responsibilities and these include the need for the carers to be formally assessed and approved.
- 1.5 Highland Council has had a Kinship Care scheme since 2003. A Kinship Panel was established in August 2011. Social workers present their assessment to the panel, which makes a recommendations to the Agency decision maker in relation whether the carers should be approved based on the assessment.
- 1.6 The Looked After Children (Scotland) Regulations define a kinship carer as a person who is related to the child (through blood, marriage or civil partnership) or a person with whom the child has a pre-existing relationship. This can include a person related to the child by the half blood.
- 1.7 Overall, the outcomes for children and young people in kinship placements are better than for those in other forms of care, and therefore family and friends should always be considered as carers for children and young people who are not able to live with their parents.
- 1.8 The Children and Young People (Scotland) Act 2014 enhanced support

available for kinship placements. Part 13 of the Act enables eligible kinship carers to get help and advice if they apply for, or are considering applying for, a Kinship Care Order, and following the granting of an order.

- 1.9 A Kinship Care Order is an order made under Section 11 of the Children (Scotland) Act 1995. It is an order made by the court which grants a person parental rights and responsibilities for a child, and the order can specify where the child is to live. It is most likely to be a residence order with the addition of parental rights and responsibilities.

2. Update

- 2.1 On 1st October 2015, the Scottish Government confirmed an additional £10.1m funding for Kinship Care. This is provided on a pro-rata basis for the remaining months of this financial year. Highland Council received £176,281 for 2015/16. It is expected that the Council will receive £352,561 for the next financial year.
- 2.2 This additional funding was to fund the extension of the support to kinship carers who would not previously have been eligible, and to ensure that Councils pay eligible kinship carers at the same rate as foster carers.
- 2.3 Highland Council has paid kinship carers at the same rate as foster carers since the start of the kinship scheme in 2003. This has been for children who are looked after and those who were previously looked after - and are now subject to a Section 11 order where an allowance was agreed. Prior to the establishment of the Kinship Panel, payment of the residence allowance was agreed by the Permanence Panel. It is now agreed by the Kinship Panel.
- 2.4 Kinship carers currently qualify for some benefits that are not available to foster carers (for example, child benefit) and in Highland this is deducted from the rate paid to the kinship carers. The rates paid to kinship carers have been published on Highland council's website, at http://www.highland.gov.uk/downloads/file/15607/kinship_fees
- 2.5 Children who were formally looked after also receive a Christmas, summer and birthday payment; whereas those children who are subject to a residence order, do not.
- 2.6 Highland Council pays kinship carers of looked after children under Section 50 of the Children Act 1975. Some other local authorities pay under Section 22 of the Children's (Scotland) Act 1995, or Regulation 33 of the Looked after Children regulations 2009.
- 2.7 Payments made under Section 50 and Regulation 33 impact on other state benefits, whereas payments made under Section 22 do not (as long as this is not for accommodation and maintenance).
- 2.8 It is proposed that Highland Council adopt the policy that any Section 22 payments would be one-off or short-term payments to deal with a crisis situation. Ongoing payments to kinship carers would be paid from Section 50.
- 2.9 It should be noted that a kinship payment would necessarily cover accommodation and maintenance. The benefit situation is complex. Kinship

carers are advised to seek advice from the Citizen Advice Bureau, who are funded by central government to provide this service.

- 2.10 Those eligible to receive kinship care allowances has now been extended to include carers of non-looked after children are entitled to allowances equivalent to those paid to foster carer in certain specified circumstances.
- 2.11 In terms of children who are not looked after, those who would be eligible are kinship carers who are caring for a child who is the subject of a Section 11 order under the Children's (Scotland) Act 1995, and who:
- is or was previously looked after;
 - was placed with the involvement of the local authority;
 - is at risk of becoming looked after.
- 2.12 In terms of looked after children, this includes children who are not on a statutory order through a children's hearing but where the local authority was involved in placing the child. In Highland, the recommendation would be that "involved in placing the child" should be defined as situations where, had there not been a kinship carer available, the local authority would have been seeking to place the child in foster care or residential care.
- 2.13 The term "at risk of becoming looked after" is difficult to define. The recommendation would be that this should refer to children who are at risk of being accommodated away from their current carer, and that the reasons for them being at risk of being looked after is clearly outlined in the Child's Plan.
- 2.14 Highland Council currently has 48 children (38 approved carers) who are supported financially in kinship care placements, where the children are looked after. There are a further 16 looked after children with 14 carers who are currently in the assessment process. In addition the council financially supports 72 children (56 approved carers) who were previously looked after, through a Residence Order.
- 2.15 Carers in Highland have been encouraged and supported to apply for a Section 11 order (which in the case of residence orders or an order conferring parental rights and responsibilities will be known as a kinship care order) when it is clear that a child cannot return home. If the order is granted, the carers have parental rights and responsibilities, and the child's placement is legally secure without the need for children's hearings and looked after reviews.
- 2.16 Highland Council has provided financial support to Kinship Carers who are not entitled to legal aid, to support them in pursuing a Residence Order when this is considered appropriate. There is currently no limit to payments. It is suggested that support be provided up to a maximum of £1,500 for uncontested cases and up to a maximum of £3,000 for cases which are contested.
- 2.17 The Scottish Government has sought a review of fostering and kinship allowances. This will be the remit of a National Allowance review group. The details of this have yet to be announced. There has been discussion about there being a national rate for fostering and kinship allowances. Currently Highland Council's rates are lower than the national average.

3. Implications

3.1 Resources

- 3.1.1 Highland Council was already paying kinship care allowances at the same rate as foster care allowances so there are no implications in this respect.
- 3.1.2 There will be some additional children who will now meet the criteria to be supported as formal kinship carers who did not previously meet the criteria. It is difficult to predict the number of children involved and therefore what the financial impact may be. There is an expectation that the carer of any child meeting the criteria who has asked for assistance from Highland Council would be entitled to an allowance from 1st October 2015, and that money would be backdated to this date.
- 3.1.3 Carers of children who are eligible to be kinship carers who approach the local authority seeking support and have not previously been assessed as carers for the child, would require to be assessed in line with the kinship care procedure. Payments would be made during the assessment period
- 3.1.4 Kinship carers who approach the council seeking support and who are not considered eligible for assessment will be able to use the complaint procedure to seek a resolution if they believe they should be eligible.
- 3.1.5 There could be further resource implications from the work of the National Allowance review group.
- 3.2 There are no **equality, legal, risk, climate change/carbon clever, Gaelic or rural** implications.

4. Recommendations

- 4.1 Members are asked to note the updated information in relation to kinship care, and to agree:
1. Payments for carers of eligible children in this financial year will have their payments backdated to 1 October 2015.
 2. Payments for children who are looked after will continue for as long as the child is looked after.
 3. Payments for children who are subject to a Kinship Care Order as outlined in Section 2.7 will continue to receive an allowance until the child is 16 years old or until their 18th birthday if they remain in full time education.
 4. Support for carers of looked after children to pursue a residence order if appropriate up to a maximum of £1,500 for uncontested cases and £3,000 for contested cases.

Designation: Director of Care and Learning

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