
Report To:	Health and Social Care Committee	Date:	7th January 2016
Report By:	Brian Moore Chief Officer Inverclyde Health and Social Care Partnership (HSCP)	Report No:	SW/06/2016/SMcA
Contact Officer:	Sharon McAlees Head of Children's Services & Criminal Justice	Contact No:	715282
Subject:	KINSHIP CARE ALLOWANCE		

1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Health and Social Care Committee of Scottish Government policy to increase and extend eligibility to kinship allowances for certain categories of kinship carers and the implications of this for Inverclyde.

2.0 SUMMARY

- 2.1 The Children and Young People (Scotland) Act 2014 introduces a number of changes to how children and young people in Scotland are to be cared for. In particular the act introduces changes to the financial assistance to eligible kinship carers.
- 2.2 Specifically the act introduces what is described as a parity model and involves increasing the financial support to kinship carers to a level that is equivalent to foster carers. The act also extends eligibility to kinship care allowances to certain categories of carers holding a residence order in respect of Section 11 of the Children (Scotland) act 1995. It should be noted that parity is in respect of the fostering allowance element only and does not include the fee element paid to registered foster carers.
- 2.3 Eligible kinship carers are currently defined within the Children and Young People (Scotland) Act Guidance as those who:
- I. Are caring for a child statutorily defined as a looked after child
 - II. Have been granted a Section 11 order by the court and where
 - a) The child had previously been looked after and
 - b) Placed by the Local Authority or
 - c) Is at risk of becoming looked after

The definition is currently subject to ongoing dialogue between COSLA, Social Work Scotland and the Scottish Government as it is widely accepted that greater clarity is required.

It should be noted that clarification of these issues is central to setting the future direction of Kinship Care Policy and until these matters are settled the content of this report should be considered interim.

- 2.4 The Scottish Government has agreed revenue funding of £10.1 million for all Scottish local authorities to fund allowances to achieve parity between foster carers and kinship carers in Scotland. This includes 50% of the estimated cost for formal care (£3.3million) and 100% of the estimated cost for holders of a Section 11 Order

(£6.8million). The funding is in addition to the £2.6million already allocated to local authorities through the local government finance settlement 2015/16 to assist with the implementation of Part 13 (Kinship Care Order) Children & Young People (Scotland) Act 2014 which is due to commence in April 2016. The specific allocation for Inverclyde equates to £91,688 for 2015/16 and annual allocation of £183,376

- 2.5 The current model proposes to bring about parity in payment between fostering allowances and kinship payments within each local authority. The Scottish Government have intimated that there is an intention to bring together the work commenced by the Foster Care Review and the Kinship Care Financial Review Groups to develop a sustainable national minimum allowance rate that local authorities can use to financially support looked after children.
- 2.6 In October the Scottish Government wrote to every local authority asking, that in light of the equality issues raised by the Equality and Human Rights Commission, each local authority publish as soon as possible a revised Kinship and Fostering Allowances Policy with details of eligibility criteria, assessment process and complaints procedures. In conjunction local authorities were asked to publish their current fostering allowance rates by the 1st of November. Work is at an advanced stage in updating the Inverclyde's kinship policy and procedures to include the introduction of a kinship approval panel which should contribute to a robust level of scrutiny around the approval of kinship carers Inverclyde's fostering rates are available to view within the HSCP website.

3.0 RECOMMENDATIONS

- 3.1 The Health and Social Care Committee acknowledge and note the implications of the extension of duties on local authorities to increase and extend payment of allowance to kinship carers.

Brian Moore
Chief Officer
Inverclyde HSCP

4.0 BACKGROUND

- 4.1 Getting it Right for Every Child In Kinship and Foster Care was published by the Scottish Government in 2007 introducing a wider focus on the needs of children who could not be looked after by their parents and on the needs of the carers of these children. This included a commitment to pay parity between kinship and fostering allowance
- 4.2 In 2009, the Looked After Children (Scotland) Regulations came into force giving kinship carers of looked after children a formal and statutory basis. The implication of this was that there was little incentive for kinship carers to obtain a residence order in terms of Section 11 Children (Scotland) Act 1995 as kinship allowance was paid only in respect of looked after children.
- 4.3 Inverclyde launched a Family Placement Strategy in 2010. This strategy sought to achieve a level of parity in allowances between foster carers and eligible kinship carers. This included a commitment to continue to pay allowance to kinship carers caring for children who had been placed by the local authority secured via a compulsory supervision order and who had subsequently obtained a Section 11 Order. The approximate cost of obtaining an order if uncontested is £2000. Inverclyde contributes £499 towards the costs and some families if eligible receive the balance from Legal Aid.
- 4.4 In addition to financial support, Inverclyde provides other forms of support and advice to kinship carers. This includes a monthly Family Ties support group, short break holidays funded via carers strategy monies and individual support to young people in kinship placement. Feedback from our carers suggests that this is of equal importance to the financial support they receive.
- 4.5 Inverclyde HSCP currently pay allowances to 61 kinship households comprising 81 kinship carers and 83 children.
- 4.6 As noted, since 2011 there has been a duty on councils to pay formal kinship carers the same allowance as their local foster carers. This was the position in Inverclyde following the implementation of the Family Placement Strategy, and Inverclyde was one of a small number of authorities who had achieved approximated parity. However local practice was that payment ceased when a young person reached their 16th birthday and no uplifts were funded when the foster carers received a 2% increase in fostering allowance rate in 2014, meaning a slight differential existed between kinship and fostering allowances.
- 4.7 In 2014 the Equalities and Human Rights Commission (EHRC) commenced legal proceedings against a small number of local authorities for failure to meet what they perceive to be an existing statutory commitment to pay local kinship carers parity with foster care allowances. The current proposal is an interim solution to resolve these issues until a longer term solution is agreed by the National Allowance Review Group.
- 4.8 In 2015 Scottish Government and COSLA agreed that councils should adopt parity in relation to informal and formal kinship carers. The payment of allowances to eligible informal kinship carers was viewed as a commitment to encourage wider use of Section 11 Orders underpinned by the Kinship Order provision in the Children & Young People (Scotland) Act 2014 which will come into force in April 2016. The aims being to promote commitment of ensuring children and young people have security and permanence. Scottish Government and COSLA recommended that Local Authorities across Scotland adopt what has become known as the "Inverclyde Model"
- 4.9 Local authorities submitted information to COSLA and the Scottish Government identifying the number of kinship carers holding Section 11 Orders. Inverclyde currently pays allowance in respect of 61 kinship households with 60 children the

subject of Section 11 Orders and 23 subject of Compulsory Supervision Orders with condition of residence. Nationally the current number of Section 11 Orders varies widely and does not directly correlate with number of looked after children suggesting that obtaining Section 11 Orders is often determined by local practice. It should also be noted that across Inverclyde there will be a number of families who have obtained Section 11 Order whom the local authority has no current knowledge of or involvement with. Based on current analysis of the available guidance, these carers are not eligible for financial support.

- 4.10 The Settlement and Distribution Group agreed that the preferred option for local authority funding monies was based on a 70/30 weighting of children age 0-18yrs in Income Support/Job Seekers Allowance households and general population respectively. Inverclyde was subsequently awarded £183,376 per annum in conjunction with a pro rata payment of £91,688 for 2015/16.

The Health and Social Care Committee approved the use of £75,000 from this funding allocation for the prudential borrowing for the replacement of Neil St Children's Home.

- 4.11 When considering the financial impact of current proposals around kinship allowances it is important to take account of a number of factors.

- Wider changes contained within the Children and Young People (Scotland) Act. This specifically relates to Part 11 (Continuing Care) providing certain care leavers including those in kinship with the opportunity of continuing care until 21yrs of age. Presently Inverclyde ceases kinship payments when a young person reaches their 16th birthday. As of 1st October 2015, payments to those reaching 16yrs will require to continue until at least the 18th birthday.
- Presently a Section 11 Order can remain in force until a young person's 16th birthday. When the Children & Young Person (Scotland) Act 2014 comes into force, an eligible young person may also be entitled to kinship care assistance in their own right. The current fostering allowance rate for 16- 18yrs is £220.05 however previously looked after 16-18yrs young people currently receive a weekly allowance of £57.90 thus creating a future parity issue.
- Inverclyde's Family Placement Strategy introduced a level of parity. With the exception that foster carers were awarded 2% uplift on the fostering allowance in 2014, this was not extended to kinship carers. Fostering allowance is paid over 57 weeks to take account of holiday periods. This will also require to be extended to kinship carers.
- Current calculations for kinship allowance require an individual assessment by a welfare rights officer. A proportion of Inverclyde kinship carers are eligible for child tax credit and child benefit benefits, intended to cover accommodation and maintenance. These benefits are deducted from the amount of allowance payable to the carer and any shortfall of allowance that brings the amount payable up to the fostering allowance is paid to promote the wellbeing of the child or young person. All kinship carers will require a further financial assessment to take account of any changes in benefits paid which may incur further cost for the council. In the longer term the move to roll out Universal Credit across Inverclyde is anticipated to impact further on kinship carers caring for looked after children.

- 4.12 Taking the above into consideration, it is estimated that the additional annual cost of kinship allowance amounts to £132,000, depending on the work currently underway to establish definitions and parameters of formal kinship care. The figure has the potential to rise significantly both in year and cumulatively.

5.0 IMPLICATIONS

FINANCE

- 5.1 Financial Implications:

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments
Children & Families	Kinship Payments	2015/16	47	N/A	Estimated Costs from 01/10/15 to 31/03/16. Funded from Scottish Government Funding.

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £000	Virement From (If Applicable)	Other Comments
Children & Families	Kinship Payments	2016/17	132	N/A	Estimated annual cost funded from Scottish Government funding.

LEGAL

- 5.2 There are/are no legal issues within this report. The report seeks to align practice with new legislative requirements.

HUMAN RESOURCES

- 5.3 There are/are no human resources issues within this report.

EQUALITIES

- 5.4 There are/are no equality issues within this report.

Has an Equality Impact Assessment been carried out?

	YES (see attached appendix)
	NO – This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

REPOPULATION

- 5.5 There are/are no repopulation issues within this report.

6.0 CONSULTATION

6.1 This report has been prepared by the Chief Officer, Inverclyde Health and Social Care Partnership (HSCP) after due consultation with children and families services.

7.0 BACKGROUND PAPERS

7.1 Children and Young People (Scotland) Act 2014.