

Item No. 10	Classification: Open	Date: November 19 2008	Meeting Name: Corporate Parenting Committee:
Report title:		Kinship Policy 2008/09	
Ward(s) or groups affected:		All	
From:		Assistant Director of Specialist Children's Services and Safeguarding	

RECOMMENDATIONS

1. That the Corporate Parenting Committee endorses the Department's approach to placing children with family and friends.

BACKGROUND INFORMATION

2. The Council recognises the important contribution family and friends make in providing Kinship care for children. It is accepted that the majority of children living with families and friends do so without any intervention by the local authority. However in some circumstances assistance is requested by Kinship carers for children who without their support would be dependant on statutory care through fostering or residential care, or who would be children in need without support.
3. 'Kinship Care' can be defined in a number of ways. There are three different types of Kinship care covered in this policy. These are:
 - Family and Friends foster care - (carers who have been assessed and approved by the council under Part IV of the Fostering Services Regulations 2002 referred to as FSR) AKA "Kinship Foster Care";
 - Family and Friends arrangements - whereby the carers have not been approved by the Council's Fostering Panel and the Council has not placed the child with the carer (which can be supported under Section 17 Children Act 1989 – referred to as CA);
 - Kinship carers holding a special guardianship order/residence order (referred to as SGO/RO) (ss8 & 14 CA)
4. There is an important distinction between children in family and friends foster care and those who are subject to a family and friends arrangement or a special guardianship/residence order. Children who are 'looked after' by being subject to a care order (s31 CA), or accommodated (s20 CA) may be placed by the council with a relative or friend, either on an emergency (immediate) basis (Reg. 38 FSR) or as approved foster carers (Reg. 28 FSR).: S 23(2) CA. Alternatively they can enable or make arrangements for a child to live with a relative or friend (S 23(6) CA), in which case the arrangement will have been made between the proposed foster carer and the child's parent(s) or person with parental responsibility. This latter scenario may result in a private fostering arrangement.
5. Southwark currently has 192 approved foster carers providing 285 current placements for Southwark Looked After Children (as at 30 April 2008).
6. Southwark's policy is to place children wherever possible with families, which is recognised as providing the most appropriate environment for children to flourish

and achieve positive outcomes. It is also recognised that through a comprehensive range of corporate parenting initiatives that in-house placements are becoming highly resilient and readily able to access additional supports.

7. Remuneration for carers has been recognised alongside support as being a key indicator for attracting and retaining carers. Southwark has always sought to be in the top quartile for fostering allowances.
8. Since the introduction of the 2002 Adoption Act, the implementation of a special guardianship order has significantly changed the way courts are viewing the extended family as an option for permanent planning.
9. A number of court rulings over the last 6 years (including the Manchester and Lewisham rulings) have offered specific guidance as to how payments to family members (whether remaining in care or subject to special guardianship or residence orders) should be assessed and remunerated.
10. Since the implementation of Southwark's current policy relating to kinship arrangements and residence orders (1992) the changes in the legislation and court practice have caused significant confusion for social work staff. On occasion this has led to inaccurate advice and confusion in court. It therefore became necessary to undertake a comprehensive review of Southwark's kinship policy drawing upon specialist legal advice.
11. Since the Adoption Act 2002 a number of foster carers have come forward to adopt or become special guardians for children placed with them for a number of years. Where possible Southwark encourages carers to be available for children throughout the week and therefore pays fostering allowances, which facilitate carers not always having to work. Whilst fostering allowances are not to be seen as a replacement for paid income, many carers use the fostering allowance (up to 3 children) as a means of being able to maintain a sound standard of living whilst being able to provide intensive support for very needy children and young people. Under the current guidance Southwark carers would experience a significant drop should they change the legal status of the child in their care. Southwark therefore needs a clearly defined policy which provides a "bridging mechanism" which provides a gradual financial transition between fostering and national adoption/special guardianship allowances.

KEY ISSUES FOR CONSIDERATION

12. Southwark is to adopt a new kinship policy which offers comprehensive policy and procedural guidance for social workers, management, finance, fostering and legal services.
13. S 23 CA places a duty on a local authority looking after a child to provide accommodation and maintenance for him/her. The child should be placed with a parent, someone who has parental responsibility, a family, a relative of his, or any other suitable person unless 'it would not be reasonably practicable or consistent with his welfare' (s23(6)). This authority seeks to ensure that wherever possible, children are able to grow up with secure attachments to relatives or friends, and that such carers are capable of providing safe and effective care for them. Research has shown that when children cannot live with their birth parents they like to live with their extended family. The council wishes to promote the minimum statutory intervention in children's lives for whom it has a duty of care by seeking alternative arrangements with family or friends through the use of the

Kinship Care Policy.

14. In any kinship care arrangements, the child's best interests are paramount and must take precedence over the interests of others involved. This authority seeks to encourage the use of Family Group Conferences where appropriate to allow the family to take the lead in establishing the best solution for the child, although the authority remains responsible for child protection issues.
15. The key components of the revised kinship policy will be as follows:
 - When to apply section 17 (1989 Children Act) to support family and friend arrangements, including the use of family group conferences.
 - The status payment regimes assessment and support processes for children remaining in Southwark care who are placed with family friends or relatives.
 - The status payment schemes and assessment and support processes for looked after children who are discharged from care in favour of a special guardianship order.
 - Clear guidance as to the range of payments and allowances, which are available under the various kinship categories (including enhancements).
 - The kinship policy is outlined in full in *Appendix 1*.
16. The fostering service needs to have a clear policy and financial scheme, which encourages and supports Southwark's accredited carers in considering and applying to adopt or assume special guardianship care for children placed with them.

Policy implications

17. The kinship policy is a requirement as it is a core tool for determining how many children subject to interim care orders can achieve a satisfactory outcome through interventions by extended family. Without a clear and current policy, Southwark will increasingly be subject to challenge in the court system and through the complaints process.
18. Southwark does not currently have a policy for assisting current carers to apply for special guardianships as this has only recently been introduced under the 2002 Adoption Act.

Community Impact Statement

19. Southwark needs to provide a motivated, loyal and resilient base of in-house foster carers. It is the role of all agencies working with Southwark children to assume parenting responsibility for looked-after children who are recognised as being amongst the most vulnerable. Whilst over 55% of looked-after children are placed outside the Southwark boundary nearly 80% of placements are within 7 miles. This enables Southwark's looked-after children to maintain positive links with Southwark and their host communities, which is crucial when considering over 95% return to live in Southwark post 18. Delivery of effective local placements will result in care leavers being able to make a more positive contribution as they return to Southwark's community in adult life.

RESOURCE IMPLICATIONS

20. The range of allowances payable to kinship carers and special guardians under the revised kinship policy have been anticipated since the implementation of the 2002 Adoption Act. The new proposals which are being implemented will reduce the risk of the council being taken to judicial review. It may require additional commitment This has been included in the councils planning process for 2009/10 and beyond.
21. The implementation of the fostering “conversion scheme” will not have an impact upon current resources as the payment scheme will relate to a modest number of children – all of whom are currently in the care system and are allocated budgets for on-going allowances.

Human Resource Implications

22. There are none arising from this report.

CONSULTATION

23. Southwark’s fostering services are in continuous dialogue with Southwark’s foster care association to monitor pan-London allowances to maintain Southwark’s competitiveness.
24. The revised kinship policy has been subject to extensive consultation including the quality assurance unit, specialist services business units, legal services and finance.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal & Democratic Services

25. A key principle in the Children Act 1989 is that of encouraging the placement of a child with a person connected with that child: a family member or relative, or “other suitable person”. This should be the case unless “it would not be reasonably practicable or consistent with his welfare”: s23(6). This concept is often referred to as “kinship care” and encompasses the following different types of care:
 - Family and Friends Foster Care (regulated by the Fostering Services Regulations 2002);
 - Family and Friends Arrangements (support for which is provided via s17 Children Act 1989);
 - Residence Orders (s8 Children Act 1989) and increasingly since the Adoption & Children Act 2002, Special Guardianship Orders (s14 Children Act 1989).
26. In addition to the need for clarity and transparency with regard to how local authorities assess and determine what type of care is appropriate for a child in need in their area, local authorities are also required to assess and provide financial support and support services. Local authorities’ policies vary, but all need to follow the regulations and guidance which entitle family and friends carers who are approved foster carers under the Fostering Services Regulations 2002 to receive fostering allowances, and means-tested financial support to help facilitate a suitable Special Guardianship arrangement where such an

arrangement cannot be readily made because of the financial obstacles: regulation 6 Special Guardianship Regulations 2005. For those subject to s8 Children Act Residence Orders, local authorities have a discretion to make a residence order allowance.

27. Southwark Children's Services, with assistance in drafting from Legal Services, has formulated a policy designed to encompass the different types of kinship care referred to above. The purpose of this is to provide a clear and transparent statement of policy and how this is applied in practice. This is not only to assist social workers in their practice, but also family and friends who may be considering what type of legal status would best suit their circumstances and those of the child they are caring for, or proposing to care for.
28. Increasingly local authorities are being legally challenged in Courts of Law with regard to decisions they have made in individual cases, usually by Judicial Review Proceedings. Consequently, it is important that local authorities have policies to which they can refer to enable fair and consistent decision-making to take place. Such policies need to be robust enough to withstand scrutiny both from the general public and from the judicial fora. As this delegated item mentions, the Courts have shown that they will require local authorities to produce evidence of how they make decisions in cases, particularly those involving financial support to family and friend carers, and a policy document should provide the foundation for such evidence, whilst deterring legal challenges to the authority where possible.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Fostering Allowances 08 / 09 - Appendix One	CLA Services	Nicholas Ajaegbu Chris Saunders
Kinship Policy - Appendix Two	Children's Specialist Services	Sarah Feasey Chris Saunders
Southwark Fostering Conversion Scheme – Appendix Three	CLA Services	Susan Sinclair Jeff Kite

APPENDICES

No.	Title
Appendix 1	Kinship Policy

AUDIT TRAIL

Lead Officer	Chris Saunders	
Report Author	Susan Sinclair	
Version	Final	
Dated	November 11 2008	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director for Legal and Democratic Services	Yes	Yes

Finance Director	No	No
Executive Member	Yes	Yes
Date final report sent to Constitutional/Community Council/Scrutiny Team		