

Southend-on-Sea Borough Council

Report of Executive Director, Children & Public Health
to
Cabinet

on
15th June 2021

Report prepared by: Chris Sandercombe, Head of Service,
A&I, CWD, Placements & Resources

Agenda
Item No.

Special Guardianship Order (SGO) Updated Policy

People Scrutiny Committee
Cabinet Member: Councillor Burton
Part 1 (Public Agenda Item)

1. Purpose of Report

This report sets out changes and updates to the Special Guardianship Order (SGO) Policy including changes to the financial support provided by the Council when a Special Guardianship Order (SGO) is made by the Family Court. The updated policy also sets out how the Council will respond to requests for financial support throughout the term of an SGO.

2. Recommendations

Cabinet is asked to:

- 2.1 Endorse the revised SGO policy attached as Appendix 1.
- 2.2 Note the need to revise the Policy following the recommendation from the Local Government Ombudsman.
- 2.3 Cabinet note the financial implications of the new policy for previous years and also for new cases going forwards

3. Background

- 3.1 A SGO, is an order made by the Family Court that is one of the options for permanency for children and means that children will not remain looked after by the Council (LAC).
- 3.2 A SGO can be recommended by the Council when a family member is assessed to be an appropriate carer, or when a family member makes it known to the Court that they wish to be a special guardian. It is intended to be irrevocable like adoption although the effect does not continue into adulthood. Nevertheless, the making of such an order attracts an enhanced

level of scrutiny by the court which is why a robust policy is necessary to underpin the support services plan.

- 3.3 It is usually an option considered as part of care proceedings rather than a free-standing private law application. Any potential special guardian is assessed by the Council which reports their assessment to the court.
- 3.4 Regulations and the Government statutory guidance provide that the Council should as part of any SGO support services plan consider and provide when necessary financial support. So as part of the assessment to the Court the Council is required to include a SGO support services plan including details of the financial support to be provided to support the SGO.
- 3.5 The changes within the revised SGO Policy relate to how financial support is calculated on a transitional basis. If financial support is included within the SGO support services plan then this Council is required to respond to a request from a special guardian at any time during the term of the SGO even if they move to another area.
- 3.6 The other change is the way in which the Council responds to requests for financial support. The updated Policy now requires the Council to include a financial means test when a special guardian requests financial support at any time during the SGO term.

4. Other Options.

4.1 The change in Policy coincides with how the LGO has interpreted the Government Statutory Guidance.

5. Reasons for Recommendations

- 5.1 The recommendations enable the Council to comply with a recommendation made by the Local Government Ombudsman's (LGO) following a finding from the LGO that the Council's Special Guardianship allowance practice was not fully in line with legislation, statutory practice, and case law. The updated SGO policy, attached as appendix 1, has been accepted by the LGO.
- 5.2 The recommendations will ensure that special guardians receive the correct financial payment and following a review of all special guardians who did not receive the correct payments, for the 2-year transitional period, under the previous SGO policy, backdated payments are currently being arranged.

6. Corporate Implications

N/A

6.1 Contribution to the Southend 2050 Road Map

N/A

6.2 Financial Implications

- 6.2.1. A review of all cases where the two-year transitional arrangements were in place, dating from 2013 until the date of the LGO findings has been completed. The reviewed calculations, as directed by the LGO have been applied to all new cases, calculated and restitution will be made to the 46 children where the two-year transitional payments were applied.
- 6.2.2 The amount calculated as a liability is approximately £200,000. Given, this £200,000 is a back dated liability, the cost has already been accounted for within the 2020/21 Children Social Care overall financial position and therefore total balances of the Councils General Fund. This then also means as the payments will be made post 1st April 2021, it will have no impact on the 2021/22 Children Social Care financial position as they have already been previously accounted for in 2020/21.
- 6.2.3 Moving forward, as part of the budget setting process for 2021/22, Council in February 2021 agreed a new investment of £50,000 per year for SGO kinship allowances. The Funding and allowance rates due are based on eligibility and will be administered in accordance with this updated policy, but this new approved investment will enable up to 25 child cases to be supported each year from the new annual budget of £50,000.

6.3 Legal Implications

The LGO has already indicated his agreement with the proposed revisions to the SGO policy to bring this into line with regulations statutory guidance and case law. If the changes to this policy are not implemented this will leave the Council with the continuing prospect of future challenges.

6.4 People Implications

N/A

6.5 Property Implications

N/A

6.6 Consultation

N/A

6.7 Equalities and Diversity Implications

N/A

6.8 Risk Assessment

Noncompliance would leave the LA open to Judicial Challenge or further referrals to the Ombudsman.

6.9 Value for Money

N/A

6.10 Community Safety Implications

N/A

6.11 Environmental Impact

N/A

7. Background Papers

N/A

8. Appendices

Appendix 1: Revised SGO Policy