	<p>Children, Education, Libraries, Safeguarding Committee</p> <p>14th June 2016</p>
Title	Review of Special Guardianship policy and support
Report of	Commissioning Director, Children and Young People
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	<p>Appendix A: North London and DfE Recommended Minimum Rates</p> <p>Appendix B: LBB Permanency Policy</p> <p>Appendix C: LBB SGO policy</p> <p>Appendix D: Memoriam of Understanding for the North London Adoption and Fostering consortium</p> <p>Appendix E: LBB Financial Review Form</p> <p>Appendix F: LBB Special guardian Preparation Training slides</p> <p>Appendix G: Support Plan Template</p> <p>Appendix H: New SGO Regulations (2016)</p> <p>Appendix I: Equalities Impact Assessment</p>
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Summary

The London Borough of Barnet is committed to ensuring the appropriate and secure placement for children who are no longer able to live within their birth family. Special Guardianship Orders are a legal arrangement, but unlike Adoption, the Order does not sever the child's legal ties with their birth parents.

This commitment is in line with Barnet's Corporate Priority of building resilient communities in which children can thrive and achieve, and guided by the Corporate Plan principles of fairness, responsibility and opportunity.

Barnet currently pays its special guardians an allowance that is significantly higher than the Department for Education (DfE) recommended London minimum rates. This paper proposes a reduction of the allowances to correspond to the DfE rates, to ensure greater parity across all London boroughs, and special guardians supported by Barnet.

Since the introduction of Special Guardianship Orders (SGOs) in 2005, the number of children provided with permanence through SGOs has steadily increased nationally and locally. This increase is expected to continue, putting increased pressure on resources.

Statutory guidance states that the means-tested allowance given to special guardians for care of the child must take into account the allowance that foster carers receive, which is reinforced by case law.

If this proposal is approved by the CELS Committee, special guardians and foster carers will be consulted with on the proposal. The final proposal will return to the CELS Committee for final sign-off with the consultation findings included.

The Committee is also asked to note the policy for Special Guardianship Orders (Appendix C), and that we will be consulting on the section relating to the allowances only.

Recommendations

- 1. That the Committee note the SGO policy.**
- 2. That the Committee approve the proposal to consult on a new SGO allowance rate and corresponding changes to the maintenance rates for kinship foster carers and foster carers, with a paper incorporating the consultation findings, along with any amendments following such consultation, returning to CELS Committee for final sign-off. The costs of consultation are minimal and will be met within the project budget.**

1. WHY THIS REPORT IS NEEDED

1.1 Introduction

Barnet is recognised as a great place to live for most families, children and young people. The council's vision is focused on making Barnet an even better place to live for all families - whether a couple with dependent children, a single-parent family, a foster family, a blended family or a family with special guardians to children in care.

A theme of resilience has been chosen to drive our ambition for strong communities in which children can thrive and achieve. Resilience is used to describe a situation when good outcomes occur for individuals or families in the face of adversity.

Barnet is committed to enhancing resilience for children who are no longer able to live with their birth parents through appropriate and secure placement options such as special guardianship.

This paper puts forward recommendations for amendments relating to Special Guardianship Order (SGO) support and allowance. It is recommended that Barnet SGO rates are brought in line with the recommended London rates for fostering, as issued by the Department for Education and updated on 31 March 2016.

These amendments would have a direct impact on rates for the following cohorts:

- Existing special guardians
- New special guardians
- Kinship carers who have not undertaken fostering training and are not approved foster carers

There will also be an indirect effect on rates for the following cohorts of Barnet carers, although these carers will not see an overall reduction in rates received as a result of these proposals:

- Approved foster carers

There is also a need for a SGO policy, which is provided in Appendix B.

1.2 Special Guardianship Orders

The Prime Minister's Review of Adoption identified the need for an alternative legal status for children that offered greater security than long-term fostering but without the legal severance from the birth family that stems from an Adoption Order. As a result of this, Special Guardianship Orders were

introduced under an amendment to the Children Act 1989, and came into force in 2005.

Special guardianship offers a long term placement within the family or friend network, and will often offer the child a better sense of personal identity than long-term fostering. A SGO lasts until the child reaches 18. The special guardian obtains parental responsibility (PR) for the child through the order, and is charged with making day-to-day decisions for them. Critically, parents do retain PR for the child however their ability to exercise this is restricted. Although the order can be discharged, any person seeking to apply to do this would need leave of the court, which results in this order being a more secure placement than that under a child arrangements order (previously known as a residence order).

The objectives for special guardianship in the Government's White Paper were identified as:

- Give the carer clear responsibility for all aspects of caring for the child and for taking the decisions to do with their upbringing
- The child will no longer be looked after by a local authority
- Provide a firm foundation on which to build a lifelong permanent relationship between the child and their carer
- Be legally secure
- Preserve the link between the child and their birth family
- Be accompanied by access to a full range of support services, including where appropriate, financial support

A SGO is one of the ways in which the borough enables children to achieve greater permanency, thus leading to better outcomes for those children and young people. An SGO may be the desired option for the following cohorts:

- An older child who is wishing to retain legal links with his or her birth parents and does not wish to be adopted but would like security.
- Foster carers wishing to achieve permanency for a child in a long-term fostering placement where Family Services is in agreement that this plan is in the best interests of the child.
- A case in which there are cultural or religious objections to adoption.
- A child of any age whose parents cannot effectively exercise parental responsibility due to learning disability, long term history of substance abuse, mental illness, domestic violence or they live permanently abroad.
- Unaccompanied Asylum Seeking Children who prefer the SGO to Adoption as a result of their cultural background and/or religious beliefs and/or strong ties with families in their country of birth.

SGOs are granted by the court following care planning processes, in line with the Barnet permanency policy (see Appendix B) and using the support plan

template to set out the needs of the child (Appendix G). A flow chart depicting the process is available in the training slides (Appendix F).

Despite the government's drive to ensure that more children are adopted, the rigorous application by the courts of the principles set out in the case Re-BS has led to there being an increased number of children receiving the less interventionist special guardianship order instead of being adopted. This includes younger children, for whom the SGO was not originally intended.

1.3 National and Local Context

Since the introduction of SGOs, the number of children being provided with permanence through SGOs has steadily increased nationally as have the number of local authority areas in which it is used through the court process to secure placements for looked after (and other) children.

Less than one-third of local authorities made early use of this provision compared to 97 per cent of local authorities in 2011-12¹.

Table 1: Numbers of SGO orders nationally 2005-06 to 2011-12

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Total SGOs in year	98	807	1,180	1,332	1,421	1,960	2,173

In Barnet, there has been a significant increase in the number of SGOs over the past 4 years. As at February 2016 there are 153 children under a SGO, with an attached financial allowance.

Table 2: Number of SGOs granted in Barnet 2005-06 to 2015-16

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
No of SGOs granted	2	5	8	11	13	19	32	15	26	21	28
Year on year % change	N/A	150	60	38	18	46	68	-53	73	-19	33

In Barnet, there is a rolling programme of training for all special guardians throughout the year which is provided as part of the North London Adoption

¹ 4.2 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/377448/DFE-RR372_Investigating_special_guardianship.pdf

and Fostering Consortium. There is a duty phone line during office hours for special guardians to access advice, signposting to services and support, often with regard to court proceedings and child and adolescent mental health support. A monthly support group takes place in the evening to provide face-to-face support.

All prospective special guardians in Barnet now also attend preparatory training, which is delivered by Family Services Finance and Social Care teams. This is to ensure that they understand the requirements of being a special guardian and the council's offer before committing to special guardianship (see Appendix F).

1.4 Special Guardian Allowances

Special guardians are financially assessed to determine their eligibility for an allowance from the council (see Appendix E).

Statutory guidance states that the means-tested allowance given to special guardians for care of the child must take into account the allowance that foster carers receive. This does not include the skills fee that foster carers receive.

Case law has been clear that special guardians are entitled to the same allowance as foster carers depending on how the child(ren) came into their care and their and the children's circumstances and needs.

As part of the review of SGO support in Barnet, the SGO allowance has been compared against the published DfE recommended minimum inner-London rates and this paper proposes a revision of these rates to ensure parity with recommended minimum rates for inner-London (see Appendix A).

2. REASONS FOR RECOMMENDATIONS

2.1 Recommendation 1: That the Committee note the SGO policy

Given the changing legal landscape, it is timely to ensure that there is a clear and transparent Special Guardianship Order policy. Family Services has a bank of refreshed policies that span most areas of work. It is important that an up-to-date policy also exists for Special Guardians, in order to provide a clear, defined offer of support and expectations.

2.2 Recommendation 2: That the Committee approve the proposal to consult on a new SGO allowance rate and corresponding changes to the maintenance rates for kinship foster carers and foster carers, with a paper incorporating the consultation findings, along with any amendments which arise from the consultation period, returning to CELS Committee for final sign-off. There is a strong case for reducing the rates paid to SGOs in Barnet.

Barnet is paying rates to special guardians that are significantly higher than the minimum inner-London rates as recommended by the DfE. Maintaining high rates, which are the product of historical decisions, is not sustainable in a climate of financial austerity and does not offer parity with other types of caring support.

There is an overspend of circa £106,000 projected for this area of the service² and a high risk level attached to this area of spend. This is because demand is set to rise and recent court decisions suggest that SGOs are being favoured as an alternative to adoption.

Efficiency savings and greater streamlining of processes have taken £75k out of the budget from June 2015 until 31 March 2016 (benefits realisation to take place), but additional savings will not be realised without a realignment of rates. There is a need to make further, more transformative savings from this area of the service in order to meet overall CELS MTFS savings targets of £14,547m by 2019/20.

There has been a significant increase in the number of special guardians in receipt of a maintenance allowance in Barnet over the past 4 years, and there has been a corresponding cost increase of 123% over this time period.

There is scope to reduce SGO rates whilst providing sufficient support to SGO carers, whilst ensuring that this amount is within the inner-London minimum recommended rates, and also ensuring that the decision to do so is lawful.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 Continue with the current rates paid to SGOs (Option A)

An alternative option is to continue with the current rates paid to SGOs.

This would mean that Barnet continues to pay a rate that is significantly higher than the DfE recommended London minimum rates, and many of the other London based local authorities.

² Projection for 2015-16 year end as at month 11

3.2 Introduce the proposed rates for new SGOs only (Option B)

Another option is to introduce the proposed rates for new SGOs only.

This would mean that Barnet continues to pay a rate that is significantly higher than the DfE recommended inner-London minimum rate to the existing cohort of special guardians.

This is not recommended, as savings would only be realised for new SGOs, resulting in a lack of parity between new and existing Special Guardians and continued overspend. There is potential for legal challenge in respect of this option as the amounts would not be applied fairly across the board.

With regard to both alternative options considered and not recommended, cost pressures at present contribute to the £105,488 overspend that the service is forecast to reach at the end of the 2015/16 financial year. Given the current pressures and increased demand, this overspend is forecast to continue, unless action is taken.

4. POST DECISION IMPLEMENTATION

4.1 Pre-decision timescales

The timescale leading up to the final decision is provided below.

Table 5: Timescale Pre-Decision

Targets	Milestone
Late May 2016	Affected cohorts contacted in order to inform them of the review of special guardianship policy and support, the forthcoming Committee paper and draw their attention to the forthcoming consultation.
Mid June 2016	SGO Rate Amendment proposal paper presented to CELS Committee.
Mid June 2016	SGO Rate Amendment consultation period commences; consultation will last 6 weeks.
Late July 2016	SGO Rate Amendment consultation period ends.
Early August 2016	Review of consultation response.

September 2016	Final SGO Rate Amendment proposal paper with consultation findings, and any proposed amendments presented to CELS Committee.
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4.2 Post-decision timescales

A high-level timescale of the post-decision implementation is provided below:

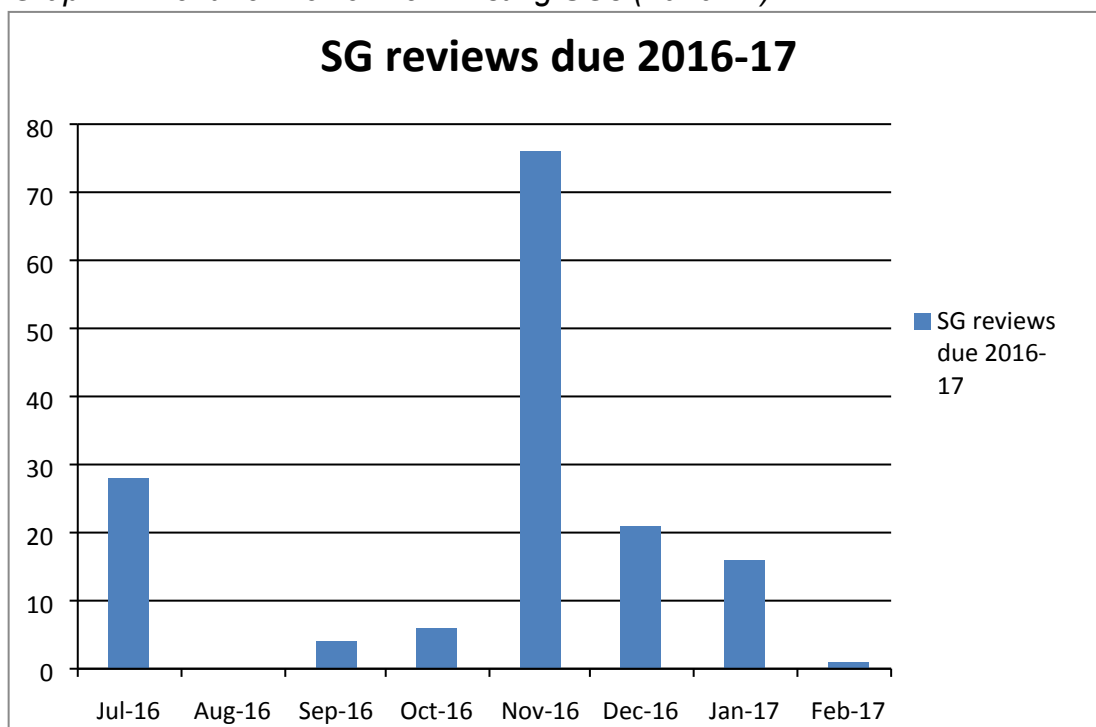
Table 6: Timescale Post-Decision

Targets	Milestone
October 2016	New SGO rates come into effect; programme to implement new rates begins (subject to outcome of consultation and approval).
October 2016 to October 2017	All existing special guardians, kinship foster carers and foster carer rates are reviewed and new rates are implemented. All new special guardians, kinship foster carers and foster carers receive the new rates.

Subject to approval, the new rates will be introduced for each special guardian, kinship foster carer and foster carer following their financial review.

The time at which this review takes place is dependent on when the carer was last reviewed. Legislation stipulates that this must be a period of at least 12 months following the last review. Graph A below shows the month in which allowances for the 153 children under Special Guardianship Orders will be reviewed.

Graph A: Month of Review for Existing SGs (2016-17)



The Financial Assessment will be fully processed an average of 1 month following the scheduled review, at which point the new rates would be introduced.

5. IMPLICATIONS OF DECISION

5.1.1 Corporate Priorities and Performance

The table below demonstrates how the decision will advance a number of LB Barnet's Corporate Priorities.

Table 9: Implications for Corporate Priorities

Corporate Priority	Implications
Ensure that Barnet is a place of opportunity, where people	Special Guardianship Orders provide the opportunity for children in Barnet to enjoy a more secure placement without severing the

can further their quality of life	legal ties to their birth parents. A fair and sustainable offer to Barnet special guardians will ensure that this option is available to current and future cohorts of children and young people.
Where responsibility is shared, fairly	Special Guardianship Orders allow carers looking after children in particular placements, such as long-term fostering, to take on greater responsibility for the child and thus allow them to have greater security in their placement. Special Guardianships allow responsibility for the child to rest with members of the child's family or existing network, which is a community-based way of ensuring that the child's needs are met. A new policy ensures that the responsibility borne by the council, and Special Guardians, is clear and unambiguous.
Where services are delivered efficiently to get value for money for the taxpayer.	The proposals put forward result in better value for money for the taxpayer, and good outcomes for increasing cohorts of children who require a Special Guardianship Order.

5.1.2 Needs Assessment

The population of children and young people in Barnet is estimated to grow by 6% between 2015 and 2020 when it will reach 98,914. This growth necessitates a clear, sustainable offer for special guardians as population growth may provide an additional pressure.

5.1.3 CELS Commissioning Plan Outcomes

The Committee's priorities are to;

- Ensure Barnet remains one of the best places in the country for children to grow up.
- Support children and families who currently do less well in life to overcome barriers to success allowing all children the opportunity to thrive
- Children and young people are safe in their homes, schools and around the borough.

The proposals will also help to achieve the CELS commissioning plan outcomes, in particular the following:

Table 10: CELS Commissioning Objectives

Objective	Description	Proposal
Health and wellbeing	Every child in Barnet has a great start in life, with the security and safety to grow in a nurturing environment.	Special Guardianship Orders offer security and safety in a placement that is more permanent than fostering. Barnet special guardians have access to training and support to enhance their ability to care for children in their care.
Preparation for adulthood	All young people are ambitious for their future, ready to contribute to society and have the ability to plan for the future.	Special guardianship is recommended by the local authority and/or chosen by the courts as the right legal order for a cohort of children who would benefit from this arrangement. It is important that Barnet is able to finance this arrangement in a sustainable way, so that future cohorts can benefit.
Parenting	All parents and carers are able to develop high quality relationships with their children, establishing effective boundaries and support physical and emotional well-being.	For children who are unable to remain with their birth families, special guardianship enables them to be cared for and parented within another family.

5.1.4 Health and Wellbeing Plan proposal

The proposals support a number of outcomes of the Joint Health and Wellbeing Strategy 2015-2020, namely improving outcomes for babies, young children and their families and wellbeing in the community for those children and young people for whom a Special Guardianship Order or Foster Care is the most appropriate option.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

There are no significant direct or indirect resource implications for

Procurement, Staffing, IT and Property.

The implications for finance, and value for money are discussed in detail throughout this report.

5.2.1 Resources Provided to Special Guardians

Barnet provides a comprehensive level of support alongside the financial allowances which includes access to:

- North London Adoption, Fostering, and Special Guardianship Training Programme.
- Monthly special guardianship support groups.
- Monthly special guardianship preparation groups.
- Duty phone line during Monday to Friday in core hours.
- SGO consortium leaflets and North London Adoption, Fostering and Special Guardianship website (www.specialguardiansnorthlondon.co.uk).
- Adoption Support Fund for children to receive therapeutic support.
- PACT-UK contract which offers adult counselling for birth families involved in SGO cases.
- Annual Celebration Party for all Special Guardians and their children.
- Settling in Allowance, if assessed as necessary on a case by case basis.

The current and proposed SGO allowances are set out in Table 11 below:

Table 11: Current and proposed Barnet rates for Special Guardians

Age	SGO rate per week 0-2	SGO rate per week 3-5	SGO rate per week 6-10	SGO rate per week 11-15	SGO rate per week 16-17 ³
Current Barnet rates	£185 (0-12)			£244 (13-17)	
Proposed rates ⁴	£142	£145	£163	£184	£216
Average saving per week per child	£38.50 ⁵				
Average saving	£165.55				

³ In rare circumstances a child will be under an SGO past their 18th birthday; in this case the 16-17 rate applies.

⁴ Based on the DfE recommended minimum fostering rates for London

⁵ Average saving is based on the ages of children within the existing cohort.

per month per child	
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5.2.2 Existing Special Guardians and Transitional Arrangements

The recommended option is to revise rates for all Barnet Special Guardians at their next Financial Review. At least 12 months must elapse since the previous review, so reviews will take place throughout the year, on a case by case basis.

If the special guardian is eligible for the means-tested allowance, they will start receiving the new rate of support approximately 1 month following the completion of their Financial Review.

For 2016/17, part-year savings across the 153 children under a Special Guardianship Order would be based on when Financial Reviews are due.

All annual reviews for the current cohort will be completed by August 2017 and all Special Guardians will therefore be subject to the new rates from August 2017 onwards. The full-year saving would be recurrent on an annual basis. Based on October 2016 implementation of the new rates for reviews due at this time, the annual savings of this policy change are set out in Table 12.

Part of the savings will address the budget overspend, while the continued savings will enable Barnet to manage future demand. The savings projected for the 2017/18 and 2018/9 are estimates based on an assumption that the inflow of cases will match the outflow as this is a cohort which is constantly in transition.

Table 12: Savings relating to existing Special Guardians 2016/17-2018/19

Financial Year	Saving
2016/17	£57,322
2017/18	£337,824
2018/19	£379,576
3 year saving	£774,721

5.2.3 New Special Guardians

The table below shows the cost that can be avoided by introducing the proposed new rates for all new special guardians over the next four years.

Modelling for numbers of new special guardians was originally forecast at a 20% increase year-on-year. However, this has been modified to a 15% increase because of the following:

- The Government's intentions to further speed up and streamline adoption
- The increased awareness-raising through training for all new Special Guardians in Barnet

5.2.4 Foster Carers and Kinship Foster Carers

Approved foster carers will not experience a reduction in rates. This is because they receive a skills based fee which will increase, resulting in no overall impact of this change on their allowance

Kinship foster carers who have not undertaken fostering training and are not approved fostering households do not receive a skills based fee and will see an average reduction of £38.50 per week as a result of these changes.

5.3 Social Value

A Special Guardianship Order helps to secure a long term placement for children which can assist in children's sense of security. Greater permanency leads to better outcomes for children and young people, which can advance their opportunities and impact within the community. The proposal will enable the local authority to better support this growing cohort to reach their potential with limited resources in the future.

5.4 Legal and Constitutional References

Under the Special Guardianship Regulations 2005, Regulation 18, a local authority must review the financial support provided either on receipt of the annual statement of financial status, a change in relevant circumstances, or any stage in the implementation of the plan which they consider appropriate. The regulation also makes it clear that if, as a result any review, a decision to reduce or terminate financial support is made, the local authority must give the person notice of the decision and an opportunity for that person to make representations.

In line with these regulations, Barnet intends to engage current special guardians in consultation for a period of 28 days, and implement any new rates at the point of each individual financial review.

Responsibility for Functions, Annex A, in the council's constitution states that

the Children, Education, Libraries and Safeguarding Committee has the responsibility for powers, duties and functions relating to Children's Services. In addition to this, the committee has responsibility for overseeing the support for young people in care and enhancing the council's corporate parenting role

New Statutory Special Guardianship Regulations came into force on 29 February 2016 (see Appendix H).

Section 22G of the Children Act 1989 requires local authorities to take steps that secure, so far as reasonably practicable, sufficient accommodation within the authority's area which meets the needs of children that the local authority are looking after, and whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the local authority's area ('the sufficiency duty').

5.5 Risk Management

There is a risk that special guardians and affected kinship foster carers will not positively receive the information regarding the new rates and this may potentially compromise a child's permanency. This is unlikely, as feedback suggests that the motivations of becoming a special guardian or kinship foster carer are not financial. Special guardians do not receive a fee and support is not only financial in nature. Past adjustments to rates in Family Services have not resulted in children's permanency being disrupted. Professionals in the Adoption and Post-Permanency team will support special guardians through the transition period.

Reducing rates could result in fewer special guardians and kinship foster carers coming forward to care for children. This would result in a greater number of children having to be placed in long-term fostering placements or adoptions. However, the probability of this risk being realised is unlikely because special guardians and kinship foster carers are motivated by the desire to care for a child within their family rather than financial gain, and they do not receive a fee for fulfilling this duty. Furthermore, the new allowance rate proposed is the minimum rate recommended by the DfE for inner-London, which gives assurances that the rate is sufficient to cover the costs of looking after a child in London.

If the proposal is not subject to the correct formal procedures and consultation, the council may be subject to challenge. In order to ensure that affected cohorts are involved in the decision, formal consultation will be held with special guardians both to inform them about the proposed changes, and gather their views. Family Services will follow all relevant guidance on undertaking the consultation.

5.6 Equalities and Diversity

The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies **to have due regard** to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups
- foster good relations between people from different groups

The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services.

Data used in the Equalities Impact Assessment for this review was sourced from ICS (Children Social Care system).

Across the cohorts of children under a Special Guardianship Order, the following groups are most likely to be affected:

- Females
- Children aged 0-4

Across the cohorts of children in care, the following groups are most likely to be affected:

- Children with a disability
- Young people aged 15-18

Across the cohort of adult Special Guardians, the following groups are most likely to be affected:

- White adults
- Females
- Adults aged 50-64

Across the cohorts of adult Foster Carers, the following groups are most likely to be affected:

- BAME adults
- Females
- Adults aged 50-64
- Christians
- Married adults

The rates proposed are the recommended minimum DfE rates for London, so a negative impact is not expected on children of any age or background. If the disproportionate impact is negative, steps will be taken to address this as required within the service area.

All communities will be reassured that Barnet is taking measures to ensure a sustainable, robust offer for children who are unable to live with their birth families. This proposal brings Barnet's rates in line with the DfE recommended rate for Inner London to ensure greater parity across London's communities.

Following the consultation period, it may be that other issues come to light that will require consideration.

5.7 Consultation and Engagement

If the recommendations of this report are approved by Committee, formal consultation will be undertaken for 6 weeks with Barnet special guardians and foster carers. There will be a minimum of 2 information sessions to which special guardians and foster carers will be invited, to learn more about the proposals and ask questions. Alongside this, a consultation paper and survey will be disseminated to these affected cohorts to gather their feedback, the findings of which will be incorporated into the final paper. Engagement with special guardians and foster carers to clarify the new support offer and rates will take place following consultation if the new rates are approved.

5.8 Insight

Data has been used to inform the number and cohorts of special guardians, foster carers and children that changes to the Barnet SGO offer would affect. Past data and current insight was used to inform the forecast modelling for future SGO rates.

Data has been collected from the Department for Education and London boroughs to inform the proposed new rates.

Data on the characteristics of Barnet's cohort of special guardians and children under a SGO has been analysed to inform the SGO policy and the Equalities Impact Assessment.

6. BACKGROUND PAPERS

There are no additional background papers.