

	<h2>Children, Education, Libraries and Safeguarding Committee</h2> <h3>17 November 2016</h3>
<p style="text-align: right;">Title</p>	<p>Review of Special Guardianship policy and support – Consultation Feedback</p>
<p>Report of</p>	<p>Commissioning Director, Children and Young People</p>
<p>Wards</p>	<p>All</p>
<p>Status</p>	<p>Public</p>
<p>Urgent</p>	<p>No</p>
<p>Key</p>	<p>Yes</p>
<p>Enclosures</p>	<p>None</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.

A paper putting forward recommendations for amendments relating to Special Guardianship Order (SGO) support and allowance was presented to the June meeting of this Committee. At that meeting, the Committee approved the recommendation to consult on a new SGO allowance rate and corresponding changes to the maintenance rates for kinship foster carers and foster carers, and for the consultation findings and any amendments to be return to the Committee for final decision.

Recommendations

- 1. That the Committee approve the proposal to introduce new rates for special guardianship orders that will apply to existing and new special guardianship orders.**
- 2. That if the Committee do not agree to introduce the new rates for existing and new special guardianship allowances (recommendation 1), the Committee approve the rates for new special guardianship orders (Option B).**
- 3. That the Committee delegate authority to the Commissioning Director, Children and Young People, the undertaking of an annual review on special guardianship allowances.**

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.

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 families through appropriate and secure placement options such as special guardianship.

A paper putting forward recommendations for amendments relating to Special Guardianship Order (SGO) support and allowance was presented to the June meeting of this Committee. At that meeting, the Committee approved the recommendation to consult on a new SGO allowance rate and corresponding changes to the maintenance rates for kinship foster carers and foster carers, and for the consultation findings and any amendments to be returned to the Committee for final decision.

1.2 Initial proposal under consultation

The council consulted with the public on a proposal to introduce new financial allowance rates for SGOs and corresponding changes to the maintenance rates for kinship foster carers and foster carers. This proposal would align the current allowance rates to the recommended minimum London rates set out by the Department for Education (DfE).

This amendment would enable the council to address the overspend of circa £106,000 projected for this area of service, as well as contribute to the overall CELS MTFS savings target of £14,547M by 2019/20. The savings would be achieved through an average reduction of £38.50 per week, per SGO allowance paid.

1.3 Current and proposed rates for special guardians

Table 1: 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 ¹
Current Barnet rates	£185 (0-12)			£244 (13-17)	

¹ In rare circumstances a child will be under an SGO past their 18th birthday; in this case the 16-17 rate applies.

Proposed rates ²	£142	£145	£163	£184	£216
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Kinship foster carers who have not undertaken fostering training and are not approved fostering households do not received a skills based fee and will see an average reduction of £38.50 per week as a result of these changes.

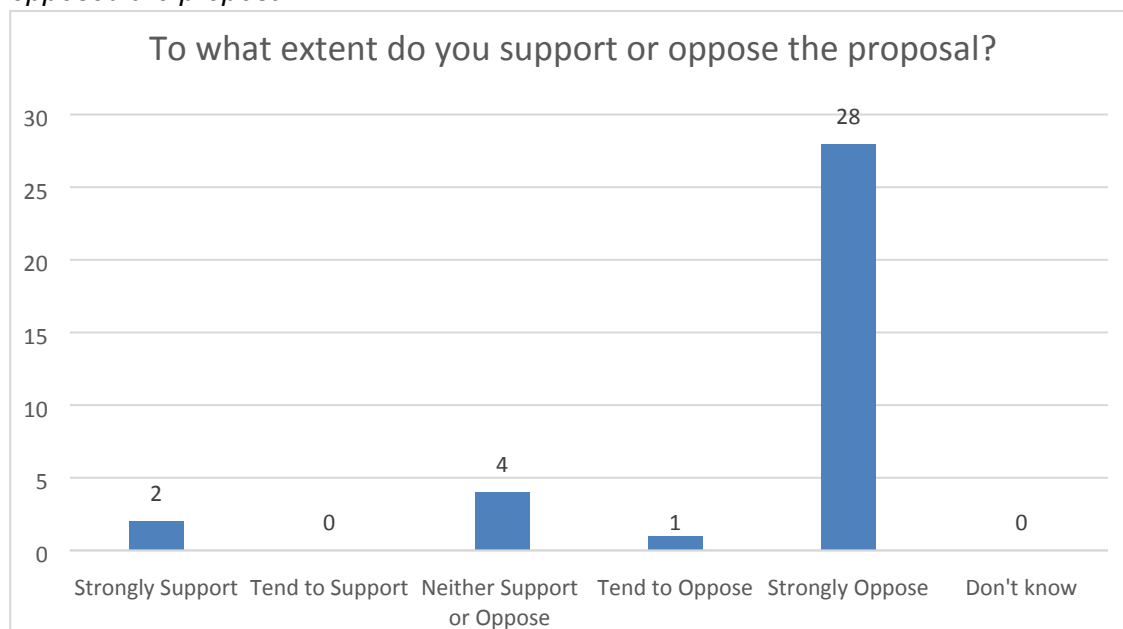
1.4 Consultation feedback

The formal consultation period ran from 30 June to 10 August 2016; during this time, affected parties and the general public were invited to share their views on the proposal. This could be done so through the online survey tool, during either of the two consultation meetings, or by phone, email or post. Feedback was received through all of these means, but the majority of responses were received through the online survey tool.

Table 2: Consultation feedback methods

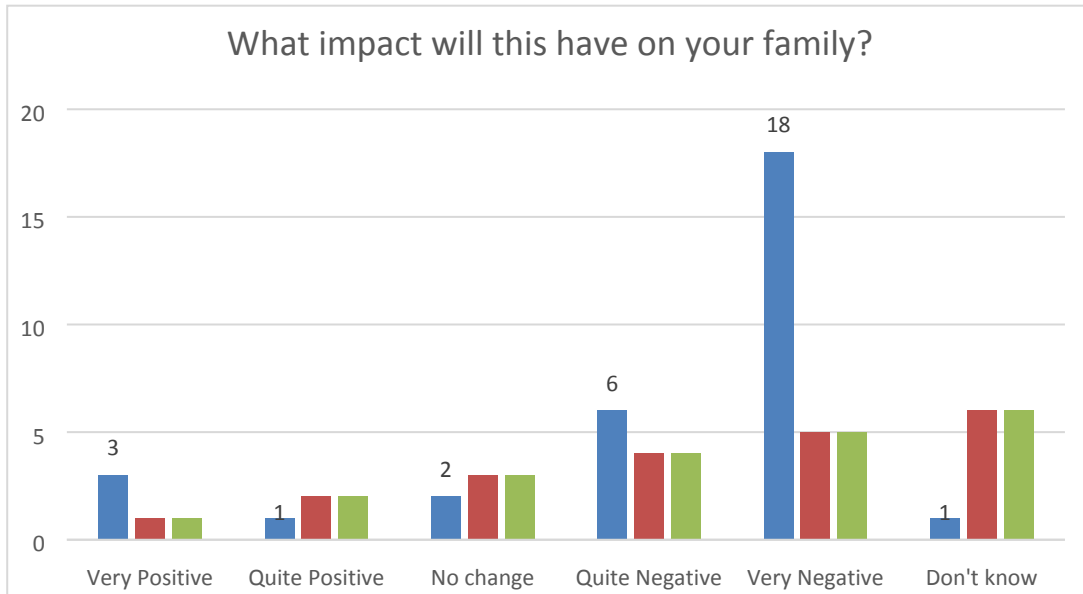
Method	Online Survey	Consultation Meeting	Phone, email, post	Total
Number of responses	35	11	6	52

Table 3: Online survey response on the extent to which respondents supported or opposed the proposal



² Based on the DfE recommended minimum fostering rates for London

Table 4: Online survey response on the likely impact of this proposal on their family



1.4.1 Commonly raised issues

The majority of the responses, across all methods of feedback, were strongly opposed to the proposal. There were some recurring issues which emerged from the responses:

- Barnet should honour the court orders and continue to pay the allowance which was agreed at the time the SGO was granted.
- Special guardians are already struggling to support and care for children on the current allowance rates.
- Barnet have already introduced means-testing and deduction of child tax credit and child benefit allowances, which results in the originally agreed rate being reduced.
- The current allowances are not a realistic representation of the financial support which is required. Many responses noted that the allowance was insufficient to cover additional expenses such as counselling, any contact arrangements, legal fees, school uniforms and extra-curricular activities.
- A reduction in the financial support provided will not only impact the child and family financially but also emotionally as this will increase the pressure already felt by many families.
- Many special guardians are unclear of the level and type of support that was available to them. They cited the high turnover of staff and inconsistency of information as a reason for this.
- Many special guardians felt their role and the support service they provide is undervalued. They felt it was unfair that foster carers, who they view as providing a similar if not the same service, received a higher level of financial support.
- Many special guardians have given up or reduced their own full-time or part-time employment in order to care for the child or children; any further reduction in rates would result in greater financial hardship.
- Any reduction in allowance rates will potentially deter prospective special guardians.

- There was an acknowledgement that the council has to be prudent in spending public funds, however this should not be an area which is targeted for savings.

1.5 Response to key issues raised

1.5.1 *Insufficient funds to meet the needs of the child*

There is no assumption that all special guardians will be eligible for support, but where they are eligible, the amount provided must be sufficient to meet the needs of the child. The council accepts the minimum fostering rate for London set by the DfE as a benchmark for a sufficient allowance which will be appropriate in most cases. However, there will be some circumstances where additional support may be required – these will be assessed on a case by case basis and appropriate additional support will be provided to meet the child's needs.

1.5.2 *Better information around additional resources*

The council provides a range of support services for special guardians which include the following:

- North London Adoption, Fostering and Special Guardianship Training programme
- Monthly special guardian support groups
- Monthly special guardian 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)
- Assistance to apply for Adoption Support Fund for children to access therapeutic support
- PACT-UK contract which offers adult counselling for birth families
- Annual celebration part for all special guardians and children
- Settling In Allowance, where assessed as necessary

The feedback received during the consultation highlighted that many special guardians were either unaware of the additional support services available or found some of the services unhelpful. The council will amend relevant training and support provisions to ensure these are meeting the needs of special guardians, and provide more information around how to access other services.

1.5.3 *Requirement for financial reviews*

The council completes financial reviews as they are a statutory requirement under regulation 13 of the Special Guardianship Regulations; a local authority must take into account each special guardian's financial resources and any other grants and benefits available to them when determining the amount of financial support given. The feedback has highlighted that the council needs to better inform allowance recipients of the obligations on both parties to ensure all requirements are understood and met.

1.5.4 *Role of court in special guardianship orders*

The court has power to grant a special guardianship order if the following conditions are met:

- a. the person making the application is “entitled” to make application, s14A(5) Children Act 1989; or
- b. the person making the application has obtained the leave of the court to make the application, s14A(3)(b) Children Act 1989; or
- c. where the court considers that a special guardianship order should be made even though no such application has been made, s14A(6)(b) Children Act 1989; and
- d. there is a Special Guardianship Report before the court which includes an assessment of: the prospective special guardian; such matters as prescribed by the Secretary of State, including the family’s financial circumstances and the child(ren) or family’s need for support services to meet the child(ren)’s needs; and any other matters the Local Authority considers relevant, s14A(8) Children Act 1989.

The court cannot stipulate what the relevant financial allowance should be. The financial support to be provided and specifically the amount of the Special Guardianship allowance is determined by reference to the Government’s statutory guidance: “*The Department for Education and Skills Special Guardianship Guidance to the Regulations*”; and is calculated using the “*Department for Education and Skills model means test for adoption and Special Guardianship financial support*” which can be found on the Government’s [website](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/503547/special_guardianship_guidance.pdf); https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/503547/special_guardianship_guidance.pdf and http://kinshipcarers.co.uk/documents/Means_test_guidance.pdf

The support, whether financial or practical, may be subject to change and will adapt with the needs and circumstances of the child and their family.

2 REASONS FOR RECOMMENDATIONS

2.1 Introduce the proposed rates to existing and new special guardianship allowances

At the June meeting of the Committee, the council presented the proposal to align the current allowance rates to the recommended minimum London rates set out by the DfE. The council has completed consultation on this proposal and in light of the feedback, would recommend implementing this proposal due to the potential benefits to be gained.

Barnet is paying special guardianship allowance rates that are significantly higher than the recommended minimum inner-London rates as recommended by the DfE. Maintaining high rates, which are a product of historical decisions, is not sustainable in a climate of financial austerity and does not offer parity with other types of care support. Aligning the rates for all existing and any new special guardians will also ensure there is parity across the whole cohort.

This amendment would enable the council to address the overspend of circa £79k projected as at the end of quarter 2 for this area of service, as well as contributing towards the overall CELS MTFS savings target of £11.959M for 2017-2020. The savings

would be achieved through an average reduction of £38.50 per week, per SGO allowance paid.

Table 5: Estimated savings based on the new rate for existing cases

Financial Year	Projected Savings
2016/17	NA
2017/18	£379,576
2018/19	£379,576
2019/20	£379,576
Total	£1,138,728

A response to the key issues raised during the consultation period have been outlined in section 1.5.

3 ALTERNATIVE OPTIONS

3.1 Continue with the current rates paid for special guardianship allowances (Option A)

This option would represent no changes being made to the current allowance arrangement. Barnet would continue to pay a rate that is significantly higher than the Department for Education (DfE) recommended minimum rates for London, and many of the other London based local authorities. The feedback from the consultation has not changed the council's view that this option is not sustainable in a climate of financial austerity.

The council would be unable to address the overspend of circa £79K projected for this area of service, or contribute to the overall CELS MTFs savings target of £11.959M by 2019/20.

3.2 Introduce the proposed rates for new special guardianship allowances (Option B)

3.2.1 This option was raised but not recommended in the initial paper presented to Committee in June as it would mean that Barnet continue to pay a rate that is significantly higher than the DfE recommended London minimum rate for existing special guardianship allowances. Applying the proposed new rate for new cases only would create inequality between new and existing special guardians, however this is considered justifiable since some hardship in current cases is inevitable and maintaining the existing allowance rate at the current time would mitigate adverse consequences.

The financial benefits of this option are lower than those to be gained from the recommended option as savings will only be realised from new cases. Assuming the proposed new rate is introduced for all new cases at the beginning of the 2017/18 financial year, the estimated saving for 2017/18 – 2019/20 is £562,562.

This takes into account the number of cases each year where the allowances will end (as the child turns 18) and the approximate 15% increase in the number of new SGOs granted each year due to:

- The government's intentions to further speed up and streamline adoption, and
- The increased awareness of SGOs through training for all special guardians in Barnet.
- Barnet's own recorded growth since the introduction of SGOs in 2005.

Table 6: Projected savings based on the proposed rate for new cases only

Financial Year	Total cases (based on projected 15% growth)	Cases on Existing Rate	Cases on Proposed New Rate	Weekly Saving (based on average £38.50 reduction)	Annual Saving
2017/18	202	145	57	£2,195	£114,114
2018/19	232	143	89	£3,427	£178,178
2019/20	267	132	135	£5,198	£270,270
3 year total				£10,819	£562,562

4 POST DECISION IMPLEMENTATION

- 4.1 The council would implement the rate change for both existing and new special guardians in April 2017, at the beginning of the 2017/18 financial year.

If this proposal is approved, the new rates will be updated and communicated to staff, existing special guardians, and potential special guardians through:

- Updated special guardianship policy on the Barnet Tri-X manual
- Briefing for all delivery unit staff outlining new rates and transitional processes
- Letter to all affected parties outlining new rates and transitional processes
- Special guardianship training sessions and documentation

All prospective special guardians in Barnet attend preparatory training, which is delivered by Family Services social care and finance teams. All training and information materials will be updated to reflect the new rate. This is to ensure that any potential special guardians understand the requirements of the role, and the council's offer before committing to special guardianship.

4.2 Existing special guardians and transitional arrangements

During this allowance review, there have been no annual financial reviews completed. It is proposed that as part of the implementation of the new rates, all allowances which are eligible for review (have been in place for over a year) will be completed in January – March 2017. During this process, financial information for all existing special guardians eligible for an allowance is sought and assessed for changes in circumstance. The financial systems will also be updated to reflect the payment changes which will be required.

This course of action has two main benefits: it will streamline the review process by allowing all reviews to be completed at the same time of year, and ensure that new rates can be implemented for the financial year.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

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

Table 7: Implications for Corporate Priorities

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

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 8: 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.

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 total budget for Special Guardianship orders is £1.154M with a projected overspend as at the end of quarter 2 of £79K. Under each proposal, the estimated savings will help to reduce the pressure on the existing budget by £379K under the first proposal or £114k under the second proposal in year 1. The savings are set out in table 5 and table 6 above.

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 has engaged with current special guardians in consultation for a period of at least 28 days.

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

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').

When making policy decisions, the Committee must take into account all relevant information, including consultation results and the equality impact of the proposals. In a proposal that involves the reduction in allowance rates, it will not be uncommon for the majority of the respondents to disagree with the proposal. The Committee must consider the consultation results and the impact that the consultees believe the proposal will have on them, however there may still be other reasons for proceeding with the proposal. Other information such as financial implications, Government guidance, and practice from other local authorities are all relevant to the determination of policy decisions.

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 was not subject to the correct formal procedures and consultation, the council may be subject to challenge. In order to ensure that affected cohorts were involved in the decision, formal consultation was held with special guardians to both inform them about the proposed changes, and gather their views. Family Services have

followed all relevant guidance on undertaking the consultation, however there is still a risk of legal challenge given the negative response to the proposal.

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

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

Table 9: 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 ^[1]
Current Barnet rates	£185 (0-12)			£244 (13-17)	
New Proposed rates ^[2]	£142	£145	£163	£184	£216
% Affected children based on age	2%	15%	41%	32%	10%

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

- Females
- Children aged 6-10 & aged 11-15

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

^[1] In rare circumstances a child will be under an SGO past their 18th birthday; in this case the 16-17 rate applies.

^[2] Based on the DfE recommended minimum fostering rates for London

- 40% are from Black/BME Background
- 60% are designated White British/White Other

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

- White adults
- Females
- Adults aged 50-64

The reduction in allowance rates will present some level of negative impact, however this impact is deemed to be justified as the proposal is following best practice established by the DfE. Changes in the rates will be discussed with special guardians. If there are instances where the impact is disproportionate, steps will be taken to address this as and when required, within the service area e.g. via annual review of allowances to carers; annual reviews taking into account needs of children with special needs/disability.

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.

5.7 Consultation and Engagement

The formal consultation period ran from 30 June to 10 August 2016; during this time views on the proposal could be shared through the online survey tool, during either of the two consultation meetings, or by phone, email or post. Feedback was received through all of these means, but the majority of responses were received through the online survey tool. Details of the feedback received are outlined in section 1.4 of this report.

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**

Review of Special Guardianship policy and support; June 2016 CELS Committee, item 8: <https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=697&MId=8684&Ver=4>