



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

Monday 29 April 2024

Report of the Executive Director - Children's Services

Permission for consultation for the contribution to care policy
(Cabinet Member for Children and Families)

1. Divisions Affected

1.1 County-wide

2. Key Decision

2.1 This is not a key decision.

3. Purpose

3.1. To seek approval to commence public consultation on the introduction of a financial contribution within the care policy under Section 20 of the Children Act 1989.

4. Information and Analysis

4.1 The Local Authority has a statutory duty to protect children who are at risk of significant harm and when risks are unmanageable within a home context take the necessary actions under the Children's Act 1989 to remove a child from their parents' care. When a court order is requested and issued the Local Authority will take responsibility for the care of the child and all associated costs.

4.2 In some instances, a family will agree to a child coming into the care of the Local Authority and the parent or parents will have 'parental

responsibility' for their child under S20 of the Childrens Act 1989. The local authority may not seek to share parental responsibility in relation to these children accommodated in accordance with Section 20 Children Act 1989.

- 4.3 Paragraph 21 of Part III of Schedule 2 of the Children Act 1989 states that "Where a local authority is looking after a child (other than under section 21, interim care order or remanded into their care) they shall consider whether they should recover contributions towards the child's maintenance from any person liable to contribute.

An authority may only recover contributions from a contributor if they consider it reasonable to do so.

The persons liable to contribute are:

- (a) where the child is under sixteen, each of his parents.
 - (b) where he has reached the age of sixteen, the child himself.
- A parent is not liable if in receipt of specified tax credits or social security/welfare benefits.

- 4.4 To date Derbyshire County Council has not previously consistently sought a contribution from parents under this legislation. The Council is now experiencing unprecedented financial challenges which are impacting on the Council's ability to meet demands for services. The position is highlighted within the Derbyshire County Council Charging Policy which states, 'The Council is faced with severe financial pressures as funding from more established sources fails to meet the cost of delivering services. As a consequence, maximising alternative sources of income is crucial if Council Tax is to remain at an acceptable level and service reductions are to be minimised.'

- 4.5 Therefore, the implementation of a contribution to care policy which aligns with the immediate risks and needs of a family's circumstances is being considered. The intent is to ensure that parents are encouraged to work with support and services to fulfil their responsibilities and that accommodation is utilised only where this is necessary and proportionate to the risks and needs identified.

5 Consultation

- 5.1 It is proposed to begin an 8-week period of consultation with the public

and staff within children's services as to their views on the policy. This will also include some targeted awareness raising with families currently working with Childrens Services via social workers where it's considered appropriate, so as not to raise unnecessary anxiety or confusion to families. Appropriate partner agencies and voluntary sector organisations will also be made aware of the consultation to ensure they can respond. The public will be invited to comment on the proposed policy and the consultation will be publicly available on the Derbyshire County Council website.

- 5.2 The consultation, including an online questionnaire, will be promoted through a public awareness campaign.

6 Alternative Options Considered

- 6.1 The alternative option would be no public consultation to be undertaken which could lead to potential reputational risk, Judicial Review of the policy if adopted, potential complaints and/or representations. Undertaking consultation provides an opportunity for representations to be gathered from those impacted or affected by the policy and for the policy and decisions relating to this to be informed by this information.

7 Implications

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

8 Background Papers

- 8.1 None identified.

9 Appendices

- 9.1 Appendix 1 – Implications

10 Recommendation

That Cabinet:
Approves the commencement of public consultation, and engagement with relevant staff and families as well as partner agencies for an 8-week period.

11 Reasons for Recommendation

- 11.1 Approving the commencement of the consultation will allow the public and targeted groups to comment on the proposed contribution to care policy and for this information to inform the policy, EIA and decision making.
- 11.2 Once the consultation is completed the comments and feedback will be carefully reviewed and considered in order to determine if any revision is required to the policy. The information will be incorporated into EIA and the proposal for the contribution to care policy under section 20 of the Childrens Act 1989 which will be brought back to cabinet for a decision.

12 Is it necessary to waive the call-in period?

- 12.1 No

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Appendix 1

Implications

Financial

- 1.1 There are no financial implications of the consultation as this will be managed within existing resource.
- 1.2 The contribution to care policy has the potential to contribute to reducing costs of care borne by the Council by bringing in financial contributions from parents and encouraging parents to work with support services.

Legal

2.1 Paragraph 21 of Part III of Schedule 2 of the Children Act 1989 states that “Where a local authority is looking after a child (other than under section 21, interim care order or remanded into their care) they shall consider whether they should recover contributions towards the child’s maintenance from any person liable to contribute.

An authority may only recover contributions from a contributor if they consider it reasonable to do so.

The persons liable to contribute are:

(a) where the child is under sixteen, each of his parents.

(b) where he has reached the age of sixteen, the child himself.

A parent is not liable if in receipt of specified tax credits or social security/welfare benefits.

2.2 In considering the introduction or reintroduction of such a charging policy the Council should consider whether a period of public consultation is necessary. The necessity may be required as a result of statutory requirement for consultation or based on the common law principles of fairness or legitimate expectation. Whilst there is no statutory requirement to consult in relation to the proposed policy there is a common law duty to consult.

2.3 The proposed consultation should follow the Gunning Principles of good practice and should be undertaken at a point in the decision-making process where changes could be made to the proposed policy should this be appropriate having fully considered the responses to the consultation. The proposed plan should be sufficiently clear to enable responders to express a view in relation to the proposals.

2.4 The timescale for the consultation should be sufficient to enable responses and particularly to enable those likely to be affected by the policy to have the opportunity to respond. The proposed timescale is reflective of the fact that the cohort affected by the proposals is relatively small and that the consultation will be targeted to them to enable them to be aware of the proposals and to have an opportunity to respond. The proposed consultation focuses both on those likely to be affected and also agencies and organisations who work alongside the families likely to be impacted.

2.5 The financial pressures being experienced by Children’s Services has resulted in an urgency to their review of services and the timescale proposed for the consultation is reflective both of this and also the measures proposed to ensure engagement within the eight-week period.

2.6 If the proposed consultation is approved then an Equalities Impact Analysis should also be undertaken during this period in order to inform future decision making.

Human Resources

3.1 No relevant implications for this report

Information Technology

4.1 No relevant implications for this report

Equalities Impact

5.1 An equalities impact analysis ("EIA") will be prepared to assist Cabinet in considering any subsequent request for the introduction of the proposed policy. The EIA will provide evidence and analysis which is designed to help organisations ensure that their policies and decision-making processes are fair and do not present disadvantage to any protected groups.