



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

REPORT TO CABINET MEMBER FOR CHILDREN AND FAMILIES

12 September 2024

Report of the Executive Director of Children's Services

Introducing the Contribution to Care under Section 20 of the Children Act 1989 Policy.

1. Divisions Affected

1.1 County-wide.

2. Key Decision

2.1 This is a Key Decision.

3. Purpose

The purpose of this report is to consider the proposal and supporting business case contained in Appendix 1 that outlines the rationale and options that have been considered in preparing the contribution to care policy.

3.1 Cabinet is asked to:

- a) Approve the policy to facilitate the financial contribution towards care under S20 of the Childrens Act 1989 for those parents who are eligible.

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."
- 4.4 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 themself.
- A parent is not liable if in receipt of specified tax credits or social security/welfare benefits.
- 4.5 Derbyshire County Council has not previously consistently sought a contribution from carers or 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.'
- 4.6 Therefore, the implementation of a contribution to care policy which aligns with the immediate risks and needs of a family's circumstances is

being proposed. 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 The 8 week consultation was agreed by cabinet on 29 April 2024 and took place between 7 May 2024 and 7 July 2024 on the Derbyshire County Council website. The proposal was outlined in the consultation with two key questions about the policy and an opportunity to add general comments. The summary report from the consultation is attached to this report in Appendix 2.
- 5.2 The consultation asked people how strongly they agreed or disagreed with the policy; 49% of all respondents said they agreed or strongly agreed with the proposal and 41% of all respondents said they disagreed or strongly disagreed with the proposal. Therefore, there was a higher level of support for the policy from the respondents.
- 5.3 Respondents were asked what effect they felt the policy would have and 49% of all respondents felt that this would make people take financial responsibility for their children. Additionally, 31% of all respondents felt it may also encourage families to accept support so they can continue to keep their children at home.
- 5.4 In terms of the effects of the policy there is some concern from 59% of respondents that it would worsen relationships between families and Derbyshire County Council. Another concern expressed by 56% of all respondents is whether this policy would make life more difficult for some families. These concerns have been considered and there will be detailed guidance for social workers alongside management oversight to ensure the policy is being applied fairly and without broader adverse impact on families. The assessment and decisions to request a financial contribution would be part of a qualified social worker's role. Any decisions to accommodate children require highly skilled conversations in challenging situations but part of a social workers assessment which will also be monitored and supervised by managers.
- 5.5 Whilst 41% of respondents felt that this was an opportunity for the Council to increase income, 49% were concerned that there would be an increase in administration costs for the council. This concern has been considered in the business case for this proposal. Given it is anticipated that there will be small numbers of families eligible for

financially contributing to their child's care and the council has systems in place to receive these via direct debit it is not anticipated that the costs will outweigh the benefits of receiving the contribution. Should families not fulfil their agreed contributions decisions will have to be made on a case by case basis as to the efficiency and effectiveness of recouping the amount alongside any legal costs.

6. Alternative Options Considered

6.1. As per the business case, the alternative options considered are:

- a) **Do Nothing:** Derbyshire could decide that they do not wish to implement this policy as there are some reputational and financial risks as outlined. There are a small cohort of families who will be in a position to make a contribution and there may be some disruption across the social worker workforce with the process of charging parents and concerns about the impact on relationships with families when there are challenging conversations already taking place.

However, the Children's Act 1989 defines that it is reasonable for Local Authorities to request contributions in certain circumstances and Derbyshire's charging policy is clear that there should be maximising of income where possible. Given the full costs of care will not be reflected in the contributions from parents it would seem reasonable that these are made when appropriate. Feedback from social work teams has also been positive in that most social workers would support this policy and are prepared to engage in these conversations with families, particularly around the consequences of care. There may also be an additional benefit that this acts as an additional deterrent to those parents not taking up their responsibilities appropriately.

- b) **Charge 50% of the age based fostering allowance:** This has more complexity in that it requires an annual review of age-based costs and potential changes in contribution amounts as the child gets older. It also does not recoup the full amount of costs which are likely to exceed the allowance costs by some margin.

However, it does allow a more reasonable and realistic amount for parents to contribute that is more likely to be paid. It is also compliant with the authority's statutory duty to provide accommodation and ability to request a reasonable

contribution. This will give confidence to the department and social workers that this policy is achievable and can be reviewed.

- c) Charge the full age based fostering allowance:** This would allow more costs to be recompensed by the council and equate to a more proportionate contribution to the full costs of care. However, this would equate to a contribution of £982 per month for those parents with children aged 11-15 which is anticipated to be the largest cohort. It is anticipated that a lot of parents, even with a higher income would struggle to pay this in addition to the current cost of living pressures. This could have an impact on the care of younger siblings if they remain in the family home and also the relationships of the family with the Local Authority. The likelihood of default and non-payment would also be higher. There could also be challenge as to the Local Authorities duty of care and statutory responsibilities to provide accommodation for those children who meet the criteria for S20 care.

7. Implications

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

8. Background Papers

- 8.1 Background Papers:
- Derbyshire Corporate Charging Policy
 - Paragraph 21 of Part III of Schedule 2 of the Children Act 1989
 - Charging Policy for Children Looked After by Brighton and Hove City Council under Section 20 Children Act 1989
 - Charging Policy for Children Looked After by East Sussex County Council under Section 20 Children Act 1989
 - Charging Policy for Children Looked After and cared for in residential placements under S20 of the Children Act 1989

9. Appendices

- 9.1 Appendix 1-



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business casefinal.doc

Appendix 2-



Report on
Contribution to Care (

10. Recommendation(s)

10.1 That Cabinet:

- a) Agree the contribution to care policy that those eligible parents will contribute 50% of the age based fostering allowance for their children placed into care under S20 of the Children Act 1989.

11. Reasons for Recommendation(s)

- 11.1 As per the charging policy '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.' 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.'
- 11.2 The Children Act 1989 defines that these contributions should be reasonable and therefore the recommended policy is meeting this consideration as it will not be the full cost of care nor an unreasonable amount for parents to pay.

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

12.1 No

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