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Agenda Item 3b

**DERBYSHIRE COUNTY COUNCIL  
CABINET MEMBER FOR YOUNG PEOPLE**

**3 March 2020**

**Report of the Executive Director of Children's Services**

**CHILD ARRANGEMENT ORDERS**

**1. Purpose of the Report**

To approve the policy for Child Arrangement Orders including the financial support payable under this policy.

To note the work undertaken to ascertain the adequacy of the current allowance rates payable to carers with Child Arrangement Orders who have requested assessment for financial support.

**2. Information and Analysis**

The existing policy covering Child Arrangement Orders (formerly Residence Orders) and Derbyshire Support Scheme was last revised in 2013/14.

A review has been undertaken of the existing policy and a number of changes are proposed as a result of that review. (See appendix 1 policy document). The proposed changes do not alter the categories of who may apply, the process and assessment of applicants, the eligibility for a financial allowance, the methodology for calculating the financial allowance payable or the payment processes. The changes ensure that the policy is clearer to carers and others that need to refer to the policy. No current recipients of financial support will experience a change to the level of support and there is no expectation that the changes will result in restricting or increasing the scope of the allowances in the future.

Under common law, a Council has a duty to consult where the Council proposes to take action that would adversely affect persons who have an interest of a kind that the courts have held to be sufficient to found an expectation of consultation or where the failure to consult would be

conspicuously unfair. The proposed changes do not alter the operation of the current policy in an adverse way for any persons currently affected by the policy and therefore there is no recommendation to consult on the proposed changes prior to implementation. Careful consideration will though be given to any comments during reviews of the policy.

In addition to the review of the wording of the policy, work has been undertaken to assess the appropriateness of the allowances currently being paid. The existing policy states that the maximum allowance payable to eligible carers is set at 66% of the Fostering Network recommended minimum fostering allowance and sets out the rationale for there being a differential between the allowance paid to foster carers and the allowance paid to carers who hold a child arrangements order and are financially supported by the Authority. These were set out in the report to Cabinet 10 September 2013 and are detailed below:

A *Child Arrangements Order* confers parental responsibility on the holder but this is shared and thus does not effectively place the ultimate decision making burden on any one individual. It is also a private law order, reflecting the family care arrangements often determined by the family members and arrangements which do not entail an obligation to work within the looked after children's system which is an onerous and specialised task requiring assessment and training. It is perhaps for these reasons that there is currently no obligation to meet the National Minimum Fostering Standards 2011 which mean carers under Child Arrangement Orders are not subject to on-going monitor and review. This is reflected in there being a differential with the Child Arrangements Order allowance being set at 66% of the equivalent fostering allowance within that age band. It also reflects the added burdens and responsibilities which are assumed by those who choose to be special guardians by virtue of a Special Guardianship Order (SGO) for children and the role they play. SGO allowances reflect the level of the allowance paid to foster carers which is based on the Fostering Network's calculation that it costs 50% more to raise a child in foster care than in their own home and in formulating this policy due consideration has been given to the responsibilities, roles and duties underpinning the respective orders and arrangements.

*Fostering allowances* are paid to carers who have undergone the most rigorous assessment process and who meet the National Minimum Standards 2011 and remain subject to monitoring and review. Foster carers are generally not known to the children and there is the added complexity of providing care to a child who is a stranger in the foster family. Whilst they do not have parental responsibility for the children in their care, they are required to act in accordance with fostering procedures and as directed by the Local Authority.

Whilst the previous report to Cabinet in 2013 set out the rationale for a differential between the rates payable to carers with a child arrangements

order and foster carers, the Authority has still received challenges to the level at which the child arrangements order allowances have been set and has therefore also undertaken a review to consider the adequacy of the allowances currently payable to carers with child arrangements orders.

### Review of adequacy of allowances payable to carers with Child Arrangement Orders

Officers have looked at the usual cost of looking after children of different ages and how means testing will apply in Derbyshire to see if they remain reasonable and fair. Derbyshire County Council is consistent with the Department for Education (DfE) recommended approach which is to apply a means test when assessing eligibility for allowances payable as a contribution towards the additional costs expected to be incurred following the confirmation of a child arrangements order. The means test approach means that the rate of allowance is withdrawn on a proportionate basis as the net disposable income available to the household in which the child resides increases.

In calculating the net disposable income available to a household, the Authority follows the recommended DfE process however the Authority's calculation of net disposable income excludes 20% of the income available to the household for the purposes of calculating entitlement to the allowances. In addition, a further 50% of the net disposable income remaining after allowing for normal household expenditure and the allowances for expenditure for each household occupant is disregarded for the purposes of calculating entitlement. This approach ensures that there is some capacity for a household to absorb unforeseen or increased expenditure between when it might arise and when the allowances can be next reviewed

The calculation reflects normal household expenditure as advised by each household at the time of application and also makes an allowance for the anticipated normal expenditure for each occupant of the household, including the children who are joining the household as a result of the child arrangements order.

The resultant remaining disposable income, net of the 50% disregard as described above, is then compared to the rate payable for each child. Income is topped up by child arrangement order allowance payments if it is below the rate payable for the child/children.

In order to review the current arrangements, figures published in "The Cost of a Child in 2019"<sup>1</sup> by Donald Hirsch have been consulted. This is the latest in a series of assessments published by the Child Poverty Action Group (CPAG). The report provides detailed information on two estimates of the costs of a child – one based on the incremental costs of a child being added to an

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<sup>1</sup> <https://cpag.org.uk/policy-and-campaigns/report/cost-child-2019>

existing household, the other based on the overall costs of a child being added to a household, including housing costs. The report provides information on the variation in these values based on whether the household comprises a couple or a lone parent, the age of the additional child and whether that child is the first, second or third addition to the household.

To assess this, the existing Derbyshire means-testing process outlined above was applied to establish the disposable income point at which the maximum weekly allowance payable per child (before deduction for Child Benefit payable) was triggered and the disposable income point at which no allowance was payable. This used a set of assumptions about typical household expenditure and income. Finally, the total annual allowance payable, based on entitlement to the full rate for that age group, was compared to the estimated incremental costs of a child as contained in the CPAG report. As the information in the CPAG report was provided for children by age in individual years and by position in the family, this was grouped and averaged to provide a comparative figure against the current Derbyshire allowance rates which are shown in the table below.

Age of Child (years)	Maximum weekly allowance payable per child (before deduction of applicable child benefit)	Maximum weekly allowance payable per child (net of deduction of applicable child benefit)
0-4	£87.12	£66.42
5-10	£96.36	£75.66
11-15	£110.22	£89.52
16+	£128.04	£107.34

As the key value for establishing the ‘trigger’ points for the maximum and minimum allowance is a household’s disposable income, assumptions were made on reasonable levels of household expenditure. This was based on:

£540 per month for rent/mortgage/mortgage protection/endowment policies  
 £1,500 per year for council tax  
 £200 per year for buildings insurance  
 TOTAL £8,180 per year.

For couples where at least one individual is at least 60 (a trigger point because the DWP assumed core expenditure rate increases), household expenditure is assumed to be £1,700 in the calculations as the rent/mortgage costs are assumed to be zero on the assumption that any mortgage would be paid off.

If the assumed level of household expenditure was increased to a higher value, the derived income figures in the table below would also increase.

Two calculations have been carried out using the calculation methodology and the assumed household expenditure described above. The calculations were to establish the 'household income' point for which the maximum allowance would be payable and the household income point at which no additional allowance beyond child benefit would be payable.

The calculations assumed 1 child being placed at each of the four age ranges to reflect the variations in weekly allowance and to three categories of household – couple both below 60, couple at least one aged 60 or above and a lone parent (assumed to be 25+).

The calculations are summarised in the table below:

Table 1

Category of Household	Assumed Age of Child placed under a CAO (years)	Household Income up to which maximum allowance payable (annual)	Household Income above which no allowance is payable (entitlement to Child Benefit remains)	Assumed Household expenditure – housing etc as defined above (annual)
Couple <60	0-4	£26,410	£35,045	£8,180
Couple <60	5-10	£26,410	£36,246	£8,180
Couple <60	11-15	£26,410	£38,047	£8,180
Couple <60	16+	£26,410	£40,364	£8,180
Couple, 1 60+	0-4	£29,718	£38,352	£1,700
Couple, 1 60+	5-10	£29,718	£39,553	£1,700
Couple, 1 60+	11-15	£29,718	£41,355	£1,700
Couple, 1 60+	16+	£29,718	£43,672	£1,700
Lone parent 25+	0-4	£23,017	£31,652	£8,180
Lone parent 25+	5-10	£23,017	£32,853	£8,180
Lone parent 25+	11-15	£23,017	£34,655	£8,180
Lone parent 25+	16+	£23,017	£36,972	£8,180

The maximum allowances payable by Derbyshire per year, per child (including child benefit at £20.70 for first child) and the estimated incremental cost of a child per annum from the Child Poverty Action Group report (averaged for age and position) are as follows:

Table 2

Age of Child (years)	Maximum allowance payable (including child benefit received from DWP)	Estimated Incremental Cost per child per year (couple) [CPAG}	Estimated Incremental Cost per child per year (lone parent) [CPAG}
0-4	£4,530	£2,979	£3,728
5-10	£5,011	£3,776	£4,424
11-15	£5,731	£5,916	£7,093
16+	£6,658	£5,838	£8,471

Table 2 shows that for a couple, the maximum allowance receivable (including the additional child benefit) is very close to or exceeds the estimated incremental cost of a child. Table 1 shows the income points at which the allowance starts to be withdrawn and the income point beyond which it is completely withdrawn except for the child benefit allowance (Note: entitlement to child benefit is currently withdrawn on a sliding scale once individual earnings exceed £50,000). Median average income in the East Midlands is estimated at £23,868 (House of Commons Briefing Paper, household incomes by region published April 2018) therefore the table demonstrates that any household with income below the median income for East Midlands and with household expenditure in line with that assumed or greater would be entitled to receive the full allowance.

Using this information, it can be seen that the greatest difference in Table 2 between the allowance payable at full rates and the estimated costs per child from the CPAG report is for older children (age 11+) with lone parents. The reason that the CPAG give for the higher incremental costs associated with a child for a single parent is because for those areas where parents have lower spending requirements than adults without children, this offsetting benefit is only felt once for a single adult rather than twice for a couple.

The CAPG report figures show an increasing incremental costs as the child gets older because of the need for more expenditure on leisure and transport. This increase is calculated by CPAG to be highest for lone parent households with children aged 15 and above.

The Fostering Networks recommended rates, on which our allowances are based, do take into account the increasing costs of caring for older children but apply the same age related increase to all households.

The policy includes the provision of additional financial support by exception and this would be available where there is a demonstrable need for financial support above that of standard recommended rates. This can be applied to, but is not limited to, lone parent households, and gives the flexibility to

respond appropriately to both short-term and longer term additional support needs.

It is important to note that the CPAG report does not include estimates for the cost of childcare which can be a significant cost. Each request from carers with a Child Arrangements Order is assessed individually and there may be circumstances where additional financial support is required in the best interests of the child. In mitigation of these circumstances, up to 15 hours childcare per week (term-time) is provided free to eligible two year olds with up to 30 hours childcare per week (term-time) provided to 3 and 4 year olds. Further, the revised policy now specifically includes discretion for additional financial support to be provided in exceptional circumstances.

Table 1 shows the income levels of single person households where entitlement to any support above the statutory child benefit allowance is withdrawn is lower than that of couples. The reason that income levels are lower for a single person household category in this calculation is because the core expenditure of maintaining a single person is estimated to be half that of maintaining a couple therefore although income trigger points are lower, the underlying net disposable income trigger point for withdrawal of the allowance remains the same or similar.

Officers have taken into account the CPAG figures and the national minimum fostering allowances; the extra duties undertaken by foster carers; the absence of any clear justification for the national minimum fostering allowances referring to the actual cost of looking after children; their own experience and expertise as to the usual cost of looking after children; the need to treat the best interests of the child as primary, to safeguard and promote the welfare of children, to advance the equality of opportunity of children who need additional help and to eliminate any discrimination against them; and the discretion that the policy gives for allowances to be paid in cases that do not fall within the usual criteria and for allowances to be paid at rates higher than the usual rates and are satisfied that the policy as to when allowances will usually be paid and as to the rates at which allowances will usually be paid is reasonable and fair in all the circumstances.

An adequacy review will be undertaken each year on the allowance rates for child arrangement orders using the CPAG reports or other similar sources.

The proposed policy is attached as Appendix 1.

### **3. Financial Considerations**

No changes to the current level of payments are expected as a result of the update to the policy.

#### **4. Other Considerations**

The Council is under a duty to take into account the need to safeguard and promote the welfare of children and to treat the best interests of the child as a primary consideration. This Report has been prepared on that basis and decision-makers are under a duty to reach a decision on that basis.

This Report has also been prepared in a way that discharges the Council's public sector equality duty, which also applies to decision-makers, and which in this context, in practical terms, requires decision-makers to give very careful consideration to the need to eliminate discrimination against vulnerable children who need local authority help, to advance their equality of opportunity and to foster good relations between them and others.

In preparing this report the following factors also have been considered: legal, prevention of crime and disorder, equality of opportunity, environmental, health, human resources, property, social value and transport considerations.

#### **5. Key Decision**

No

#### **6. Call-in**

No

#### **7. Background Papers**

Held on file within Children's Services Department. Officer contact details – Karen Gurney, extension 38755.

#### **8. Officer Recommendations**

That the Cabinet Member:

approves the policy for Child Arrangement Orders including the financial support payable under this policy.

notes the work undertaken to ascertain the adequacy of the current allowance rates payable to carers with Child Arrangement Orders who have requested assessment for financial support.

**Jane Parfremment**  
**Executive Director - Children's Services**



## Residence Order/Child Arrangements Order Policy

**Note:** from April 2014, Residence Orders and Contact Orders were replaced by Child Arrangements Orders. Prior to April 2014, a Residence Order was a Court Order made under section 8 of the Children Act 1989, settling the arrangements as to the person with whom a child was to live.

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## 1. Introduction

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Residence Allowances were introduced as part of the Children Act 1989 and the purpose of them was to enable a child to be legally cared for by another family where otherwise financial constraints would prevent this. From April 2014, Residence Orders and Contact Orders have been replaced by Child Arrangements Orders

### Criteria for payment of an allowance

Derbyshire County Council will only pay Residence Order/Child Arrangements Order allowances in respect of children:

- Who immediately prior to the Residence Order / Child Arrangements Order being made, were **Looked After** by Derbyshire County Council;  
  
and/or
- Where a child is subject to a **Residence Order / Child Arrangements Order** as part of a disposal of **Care Proceedings**;  
  
and/or
- Where a child would otherwise have to be **Accommodated** by Derbyshire County Council; and
- Derbyshire County Council supports the placement of the child with the person(s) taking the Residence Order / Child Arrangements Order;

In all situations where Derbyshire County Council is involved in care proceedings, consideration should be given as to whether the child could more appropriately be placed with a relative or friend as an alternative to being placed with foster carers, pending the final hearing. If permanency is agreed as the **Care Plan** consideration should be given to placing the child with a relative or friend under a Child Arrangements Order or **Special Guardianship Order** as an alternative to placing the child in care or for adoption.

Derbyshire County Council will only provide financial assistance for legal advice for a Child Arrangement Order once it has been assessed that the child **cannot** be cared for by parents/Parental Responsibility holders because it would be unsafe to do so. In cases where the Child Arrangement Order is the better option for the child and/or the carers/parents preferred option but not the only option then support will be progressed via a private family arrangement. Whether or not legal advice is funded it will be clearly documented that this is a family choice that the Local Authority are facilitating and that the child would not otherwise be in care and therefore not eligible for other support

## 2. Who May Apply

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Applications for Child Arrangements Order may be individual or joint. Joint applicants do not need to be married. Applicants must be 18 or over.

The following people may apply:

- a. A parent or guardian;
- b. A step-parent who has treated the child as 'a child of the family';
- c. Any other person who has obtained the consent of all those with parental responsibility;
- d. Any person who, if the child is in care, has the consent of the local authority;
- e. Any person who has obtained the permission of those who already have a Residence Order/Child Arrangements Order for the child;
- f. Anyone who the child has lived with for at least 3 years;
- g. A local authority foster parent if the child has lived with them for at least 1 year immediately preceding the application to court.

**The following people may apply with the leave of the court:**

- a. The child him/herself if the court is satisfied that he/she has sufficient understanding to make the application;
- b. Any person with a genuine interest in the child's welfare.

## 3. Parental Responsibility

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The holder of a Residence Order/Child Arrangements Order has **Parental Responsibility** for the child and will have clear responsibility for the day-to-day decisions about caring for the child.

The child's parents continue to hold Parental Responsibility. The parents retain the right to consent or not to the child's adoption or placement for adoption.

In addition there are certain steps in a child's life which require the consent of everyone with Parental Responsibility, for example:

- Change of the child's name;
- The removal of the child from the United Kingdom for longer than three months;
- The sterilisation of a child.

## 4. The Circumstances in which a Child Arrangements Order may be Made

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The Court may make a Child Arrangements Order in any family proceedings concerning the welfare of the child. This applies even where no application has been made and includes adoption proceedings.

## 5. Approval of Child Arrangements Order for Looked After Children

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Where a child is a **Looked After Child**, Derbyshire County Council will consider whether to support the making of a Child Arrangements Order at the Looked After Child Review. The child's social worker and the child's independent reviewing officer (IRO) will be responsible for determining who should attend the Looked After Child Review. This decision whether to approve the Child Arrangements Order option will be taken by a social work team manager. If supported, this will be endorsed as part of the child's permanence plan. If the child is the subject of on-going legal proceedings, the child's social worker will reflect the review decisions in the child's **Care Plan** and in the recommendation to the Court. The applicant(s) will be advised by the child's social worker whether Derbyshire County Council supports the application.

If the child is looked after under **Section 20** of the Children Act 1989, and a plan for an application for a Child Arrangements Order has been agreed at the Looked After Children Review, the child's social worker will support the applicant in making the application for a Child Arrangements Order. The Local Authority cannot apply for a Child Arrangements Order.

Where there are child protection concerns and the child is not yet a Looked After Child, Derbyshire County Council will consider whether the application for a Child Arrangements Order by a relative or friend will avoid the child being a Looked After Child. In this instance, the intending applicant will need to make the application to court, but if Derbyshire County Council supports the plan, the child's social worker will provide information and guidance to assist with the application.

## 6. Process for assessing and approving applicants

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Processes for assessing and approving applicants who seek Child Arrangements Order in respect of children who are LAC or who are at risk of becoming a Looked After Child are as rigorous as arrangements made for assessing and approving other alternative carers.

In reaching the decision to approve and support a person applying for a Child Arrangements Order, the authority will have due regard to research findings relating to the placement of children with relatives, the proven benefits and desirability of continuity for children and the other potential gains that may accrue from placement within the extended family, with a known carer or within the child's wider community network.

If the application is being made in support of a child who is a Looked After Child and Derbyshire County Council supports the application, financial assistance may be granted to pay for the application. The decision on whether to approve financial support is the responsibility of the Head of Service Locality. Applications for financial support should be submitted to the child's social worker who will then arrange for these to be considered.

When an application for a Child Arrangements Order is requested or considered for a Looked After Child, the child's social worker will:-

- Have regard to the need to safeguard and promote the welfare of the child and to treat the child's best interests as paramount;

- Provide full information in writing to the prospective applicants which will explain the effects a Child Arrangements Order will have with regard to the applicants relationship with the child, the birth parents and the local authority;
- Consider any special needs of the applicant that require information to be shared in another format, e.g. large print, different language, use of an interpreter;
- Obtain the views of people who hold parental responsibility for the child including birth fathers who do not hold parental responsibility, of the intention of the foster carers or other persons, to apply for a Child Arrangements Order;
- Ascertain the child's wishes and feelings regarding the proposed application and consider the child's need for support and /or counselling;
- Undertake an assessment of the proposed applicants to determine whether the placement will meet the child's long term needs;
- Consider if Section 17 support may apply if the child is deemed a Child in Need
- Advise the prospective applicants that they can seek independent legal advice;
- Arrange for an assessment of financial/on-going support, by the Financial Team (financial support does not apply if the child is to live with a parent or step-parent);
- Ensure information is given in a way that takes into account any special needs of those people being interviewed, e.g. use of interpreter, large print.
- Clarify and communicate the Court timescales
- Commence a Social Care Assessment (see below)

All of the above information will be recorded by the child's social worker on the child's electronic record.

In all cases, there will need to be an assessment of the needs of the child, the suitability of the applicant(s), the proposed contact arrangements and the support needs of the child, parents and the applicant. The information gathered will form a Social Care Assessment.

The assessment of the applicants will include their medical history, the references received and the **Disclosure and Barring Service (DBS)** of all adults in the house over the age of 18 years, and other statutory checks undertaken for the assessment.

The applicants will be advised of the personal information which will be required for the Court report.

The applicants will be visited at home both jointly and separately. The child will also be visited in the company of the applicants to enable an assessment of the interaction and relationships. Any other members of the household will also be interviewed. If assessed as required, appropriate counselling will be provided.

The child will be visited and invited to express their wishes and feelings.

The child needs to know and have an understanding of his/her birth origins as well as to be aware of the implications of Residence Order/Child Arrangements Order. She /he will be seen alone if the child is old enough (e.g. over 5

years) and it is important to note that even young children can understand the difference between a 'parenting' parent and a 'birth' parent. It is essential that the child's views are recorded and taken into account. Where a child has strong bonds with the birth parents it is crucial that this matter is given careful consideration and contact issues addressed.

Counselling the birth parent or anyone who has Parental Responsibility for the child is essential. The social worker for the child is responsible for undertaking this. In addition the birth parent will be advised of the availability of independent support arrangements and how to access these. Any birth parent not agreeing to the application will be advised to engage a solicitor as soon as possible.

## 6.1 Contact

Issues of any on-going contact will be discussed fully with all parties. Such arrangements may be made informally if all parties are in agreement. However there may be child protection concerns and consideration may need to be given to on-going supervisory arrangements, how able the applicants are to supervise contact and ensure the child's safety. A recommendation regarding contact may be made to the Court.

## 7. Report to the Court

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If the child is a Looked After Child, or known to the Local Authority, the Court will order a report from the local authority.

The social worker or social workers preparing the Court report will be suitably qualified and experienced. If the applicant is an existing foster carer, the supervising social worker will complete the sections on the carers and the child's social worker will complete the sections on the child and birth family.

In cases where the child is already subject to Court proceedings, the social worker will need to reflect the plan for a [Child Arrangements Order](#) in the [Care Plan](#) and in the recommendation of the final court report.

If the child is not already subject to on-going court proceedings and an application for a Child Arrangements Order is made, the Court will request a [Section 7](#) or a [Section 37](#) report from the Local Authority. If the child is already known to Derbyshire County Council, the report will be completed by the child's social worker. The author of the report must attend the court with the applicants.

## 8. Discharge or Variation of Residence Order / Child Arrangements Order

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A Residence Order / Child Arrangements Order can be varied or discharged on the application of:

- Holder of the Residence Order / Child Arrangements Order;
- The local authority in whose name a [Care Order](#) was in force before the Residence Order / Child Arrangements Order was made;
- Anyone with a Residence Order / Child Arrangements Order in respect of the child before the current Residence Order / Child Arrangements Order was made; or
- With the leave of the court:
  - The child's parents or guardians;

- Any step parent who has **Parental Responsibility**;
- Anyone who had Parental Responsibility immediately before the current Residence Order / Child Arrangements Order was made;
- The child (if the court is satisfied that the child has sufficient understanding).

Where the applicant is not the child and the leave of the court is required, the court may only grant leave if there has been a significant change in circumstances since the Residence Order / Child Arrangements Order was made.

The court may during any family proceedings in which a question arises about the welfare of a child who is subject to a Residence Order / Child Arrangements Order, vary or discharge the Order in the absence of an application.

## 9. Residence Order/Child Arrangements Order Allowances

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### 9.1 General Principles

Residence Order Allowances were introduced as part of the Children Act 1989 and the purpose of them was to enable a child to be legally cared for by another family where otherwise financial constraints would prevent this. They were superseded in April 2014 by the Children and Families Act 2014 which introduced Child Arrangements Order Allowances. The Order comes to an end when a child reaches 18 unless the Court specifies that it should end earlier or another order is made that discharges it. (This is an amendment by Section 37 of The Children and Young Person's Act 2008 to the Children Act 1989 (Section 9(6) - duration of Residence Orders where this type of Order is in force).

Residence Order / Child Arrangements Order allowances are considered where there are financial or support needs in respect of a child which will be recognised through the payment of an allowance. Financial support from Local Authorities must complement and not duplicate financial support available through benefits and tax credits systems.

### 9.2 Residence Order / Child Arrangements Order Allowances

Unless there are exceptional circumstances, Derbyshire County Council will only pay such allowances in respect of children:

- Who immediately prior to the Residence Order / Child Arrangements Order being made, were **Looked After** by Derbyshire County Council;
- and/or
- Where a child is subject to a **Residence Order / Child Arrangements Order** as part of a disposal of **Care Proceedings**;
- and/or
- Where a child would otherwise have to be **Accommodated** by Derbyshire County Council; and
  - Derbyshire County Council supports the placement of the child with the person(s) taking the Residence Order / Child Arrangements Order;

The general principle is that where a person/s is seeking to make a permanent and substantial commitment towards a child by means of a Child Arrangements Order, this commitment should be taken to include a willingness to meet costs associated with such a commitment, subject to the ability to do so and means testing. **Payments are subject to discretion and a degree of professional judgment.**

Derbyshire's usual current payment rates per child are as detailed in the table below. Entitlement to the full rate is subject to a means test to take into account the individual circumstances of each household. Derbyshire reviews its rates annually to ensure that they are normally sufficient to contribute to the costs of raising a child.

Age of Child (years)	Maximum weekly allowance payable per child (before deduction of applicable child benefit)	Maximum weekly allowance payable per child (net of deduction of applicable child benefit)
0-4	£87.12	£66.42
5-10	£96.36	£75.66
11-15	£110.22	£89.52
16+	£128.04	£107.34

The amount of the Residence Order allowance / Child Arrangements Order allowance will:

Be calculated individually;

- Taking into account the need to safeguard and promote the child's welfare and treat the child's best interests as a primary (particularly important) consideration;
- Be assessed by completing a 'Residence Order / Child Arrangements Order Financial Support Means Test';
- This is assessed via the DfE calculation methodology;
- Not include any reward element;
- Take into account the financial resources of the Residence Order / Child Arrangements Order holder including any financial benefit arising from the placement of the child i.e. Child Benefit, Tax credit;
- Take into account the financial needs /resources of the child, if any, excluding mobility/attendance allowance;
- Take into account any special needs or expenditure that may justify a higher rate than one based on the usual full rates in the table above (e.g. childcare) (such decision to be made by the Head of Service Locality)

The payment of a Residence Order / Child Arrangements Order allowance may affect receipt of benefits and advice should be sought from HMRC.

It is not the function of the Derbyshire County Council to accept responsibility for income maintenance.

There are no leaving care services available to young people who are subject to a Residence Order / Child Arrangements Order, unless they are Looked After beyond 16 years of age



### **9.3 If an Allowance is Payable**

Once a decision has been made that an allowance is payable, the carer will be informed in writing of the details:

- How the decision was reached;
- The amount of the allowance;
- The date of the first payment;
- The method and frequency of the payment;
- The arrangements for review, variation and termination of the allowance and the requirement for full financial detail to be provided;
- The carer's responsibility to notify us of any changes in your circumstances or those of the child.

The allowance will be fixed at the calculated rate at the point of the order being made. It will be paid 52 weeks of the year and is intended to contribute to related costs of caring for the particular child.

### **9.4 Payment and Review**

Payment commences as from the date of the Residence Order / Child Arrangements Order, or if the child is placed after this date, from date of placement.

The allowance is reviewed annually and this is to determine that the allowance is still appropriate. If information is not shared with Derbyshire County Council in a reasonable timeframe by carers then any resulting overpayments will be recovered by the Authority.

The Authority will contact the carers with the Residence Order Allowance / Child Arrangements Order to confirm that the arrangement is still in existence.

Derbyshire County Council will review allowances payable and in order for allowances to continue up to 18 years of age and in certain circumstances, we will need to confirm that the young person:

- Continues to reside full time in your care - up to 18 years;
- Is not in receipt of any benefits other than EMA (or equivalent) for training/education in their own right.

And in addition that the financial circumstances of the carers in receipt of the allowance remain unchanged.

Payment of the Residence Order Allowance / Child Arrangements Order Allowance will automatically end when:

- The child ceases to live with the family with the Residence Order / Child Arrangements Order;
- Reaches 18 years of age. For young people in employment a contribution to the residence order allowance will be considered as part of the annual review of the allowances.

## 9.5 Notifications

The Residence / Child Arrangements Order allowance is payable in respect of the child who is subject to a Residence Order / Child Arrangements Order who is resident with you. If your circumstances alter so that this is no longer the case you must notify Derbyshire County Council of any significant changes in the family:

- The child ceases to have a home with you;
- The child ceases full time education or training and commences employment;
- The child qualifies for welfare benefits in his/her own right;
- The child attains the age of 18 and is not in education or training;
- Change of address;
- The child dies;
- There is a change in financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable to the carer.

## 9.6 Foster Carers Applying for a Child Arrangements Order

Where foster carers are applying for a Child Arrangements Order, in respect of a child they have been fostering, and Derbyshire County Council supports this plan, the carers will receive a Means Tested Residence Order / Child Arrangements Order allowance until the child is 18, minus Child Benefit and Child Tax Credits that become payable to the foster carer on obtaining a Child Arrangements Order.

## 9.7 Child Arrangements Order Allowances to Prevent a Child Becoming a Looked After Child (LAC)

Derbyshire County Council has discretion under paragraph 15 of Schedule 1 to The Children Act 1989 to make payments, to support a placement which prevents a child becoming a LAC. Child Arrangements Order may be sought by a member of the child's family or anyone the child has lived with normally for a period of one year before the order is made.

In cases where the child is not a LAC and a prospective applicant for a Child Arrangements Order makes an enquiry about support services, this will be the subject of a Social Care Assessment. If it is felt that without financial assistance, the child would be likely to become a Looked After Child, a request to undertake a financial assessment can be made to the Locality Head of Service.

## 9.8 Residence Order / Child Arrangements Order Allowances where Applicant is not a Former Foster Carer of the Child

Payment of a Child Arrangements Order Allowance is at the discretion of Derbyshire County Council and paid in line with the criteria laid out in [Section 9.2, Residence Order Allowances / Child Arrangements Order](#). The allowance is paid upon the making of an Interim Order or Child Arrangements Order following an assessment.

## **10. Matters to be Considered in Determining Eligibility for a Residence Order Allowance/Child Arrangements Order Allowance**

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The decision whether applicants for a Residence Order/Child Arrangements Order and the payment of an allowance is required in order to maintain the placement will be based on the following criteria:-

- The criteria in paragraph 9.2 above;
- Needs of the child/ren, including age, number of children placed, assessed cost of caring for the child/ren, the need to safeguard and promote the welfare of the child and the best interests of the child;
- Information that all State Benefits have been explored and applied for where appropriate;
- All legal steps to obtain parental contribution have been explored.

Applicants for Residence Order/Child Arrangements Order should be helped to access any benefits to which they are entitled; this includes Child Benefit and Child Tax Credit which has been or can be claimed for that child.

The Local Authority must also take account of any other grant, benefit, allowance or resource available to the person in respect of his needs as a result of being granted a Residence Order/Child Arrangements Order in respect of a child. Financial support cannot duplicate any other payment available to the holder of the Residence Order/Child Arrangements Order.

The Local Authority will consider discretionary payments for all carers with a Residence Order / Child Arrangements Order who are experiencing financial problems or where the child is assessed as having additional needs that require financial support...Decisions on discretionary payments will be made by Head of Service Locality.