



Adoption Allowances Scheme

1. Introduction

- 1.1 The Moray Council is an Adoption Agency. Adoption Agencies are obliged in terms of section 71 of the Adoption and Children (Scotland) Act 2007 to prepare an Adoption Allowances Scheme.
- 1.2 This Adoption Allowances Scheme applies to persons who have adopted or intend to adopt a child where arrangements were or are to be made by The Moray Council.
- 1.3 The Adoption Support Services and Allowances (Scotland) Regulations 2009 set out the circumstances in which an adoption allowance may be payable. The Regulations also specify matters relevant to the determination of the amount of an adoption allowance.

2. Circumstances in which an adoption allowance may be payable

- 2.1 An adoption allowance is payable to an adoptive parent for the purpose of supporting the placement of an adoptive child or the continuation of adoption arrangements after an adoption order is made.
- 2.2 An adoption allowance is payable only in the following circumstances: -
 - (a) where it is necessary to ensure that the adoptive parent can look after the adoptive child; or
 - (b) where the adoptive child needs special care which requires expenditure of resources by reason of illness, disability, emotional or behavioural difficulties or the continuing consequences of past abuse or neglect; or
 - (c) where it is necessary for the Council to make any special arrangements to facilitate the placement or the adoption by reason of either:-
 - (i) the age or ethnic origin of the adoptive child; or
 - (ii) the desirability of the adoptive child being placed with the same adoptive parent as the adoptive child's brother or sister (whether of full or half blood) or with a child with whom the adoptive child previously shared a home; or
 - (d) where an allowance is required to meet recurring costs in respect of travel for the purpose of visits between the adoptive child and a relative; or
 - (e) where the Council considers it appropriate to make a contribution to meet the following kinds of expenditure: -
 - (i) expenditure on legal costs including fees payable to a court in relation to adoption;
 - (ii) expenditure for the purpose of introducing an adoptive child to the adoptive parents;
 - (iii) expenditure necessary for the purpose of accommodating and maintaining the adoptive child, including the provision of furniture and domestic equipment, alterations and adaptations of the home, provision of means of

transport and provision of toys, clothing and other items necessary for the purpose of looking after the adoptive child.

- 2.3 The existence of any of the circumstances in paragraph 2.2 above does not automatically entitle the adoptive parents to an adoption allowance. There may be occasions where, after the Council has decided that an adoption allowance may be payable in principle, payment of the adoption allowance cannot be justified because the Council must take account of any other grant, benefit, allowance or resource which is available to the adoptive parent in respect of their needs as a result of the adoption of the adoptive child.

3. Determining the amount of an adoption allowance

- 3.1 In determining the amount of an adoption allowance where the Council decides an allowance is necessary to ensure that the adoptive parent can look after the adoptive child, or where the Council considers it appropriate to make a contribution towards expenditure necessary for the purpose of accommodating and maintaining the child, the Council must carry out a financial assessment which will examine:-

- (a) the person's financial resources, including any tax credit or benefit, which would be available to the person if the child lived with the person;
- (b) the amount required by the person in respect of their reasonable outgoings and commitments (excluding outgoings and commitments in respect of the child); and
- (c) the financial needs of the child.

- 3.2 In determining the amount of an adoption allowance where the Council is considering providing an allowance in respect of expenditure on legal costs including fees payable to a court and/or expenditure for the purposes of introducing an adoptive child to the child's adoptive parent, the Council must disregard:-

- (a) the person's financial resources, including any tax credit or benefit, which would be available to the person if the child lived with the person;
- (b) the amount required by the person in respect of their reasonable outgoings and commitments (excluding outgoings and commitments in respect of the child); and
- (c) the financial needs of the child.

- 3.3 In determining the amount of an adoption allowance where the Council is considering providing an allowance in respect of initial costs of accommodating the adoptive child or recurring costs in respect of travel for the purpose of visits between the child and a relative, the Council may disregard:-

- (a) the person's financial resources, including any tax credit or benefit, which would be available to the person if the child lived with the person;
- (b) the amount required by the person in respect of their reasonable outgoings and commitments (excluding outgoings and commitments in respect of the child); and
- (c) the financial needs of the child.

3.4 In determining the amount of an adoption allowance where the Council decides the child needs special care which requires expenditure of resources by reason of illness, disability, emotional or behavioural difficulties or the continuing consequences of past abuse or neglect; or where the Council decides it is necessary for the Council to make any special arrangements to facilitate the placement or the adoption by reason of the age or ethnic origin of the child; or the desirability of the child being placed with the same adoptive parent as the child's brother or sister (whether of full or half-blood) or with a child with whom the child previously shared a home, the Council may disregard:-

- (a) the person's financial resources, including any tax credit or benefit, which would be available to the person if the child lived with the person;
- (b) the amount required by the person in respect of their reasonable outgoings and commitments (excluding outgoings and commitments in respect of the child); and
- (c) the financial needs of the child.

4. Remuneration for former foster carers

4.1 Former foster carers may be entitled to an element of remuneration included in an adoption allowance. The Council must decide whether to include the element of remuneration in the adoption allowance **before** the adoption order is made. The remuneration element will only be available if the Council considers it necessary to facilitate the adoption where:-

- (i) the adoptive parent has been a foster carer in respect of the adoptive child; **and**
- (ii) an element of remuneration was included in the payment made by the Council to the prospective adoptive parent in relation to the fostering or caring of the adoptive child.

4.2 The remuneration element of the allowance will reduce at six monthly intervals and will cease to be payable at the end of two years from the adoption order. The only exception to this rule will be where the Council considers the remuneration is necessary. The continuation of the remuneration element beyond the period of two years will only be considered necessary where the adoptive child has exceptional needs or where there are any other exceptional circumstances.

4.3 Where the Council is considering including an element of remuneration as outlined above, the Council may disregard:-

- (a) the person's financial resources, including any tax credit or benefit, which would be available to the person if the child lived with the person;
- (b) the amount required by the person in respect of their reasonable outgoings and commitments (excluding outgoings and commitments in respect of the child); and
- (c) the financial needs of the child.

4.4 Calculating remuneration for foster carers

If a remuneration element for the foster carer who is seeking to adopt the child, for whom they have been caring, is assessed necessary to facilitate the adoption, decisions about this issue will be made by the agency Decision Maker. This decision will form part of the adoption support plan, required to facilitate the adoption and meet the specific needs of the child.

In those rare cases where remuneration is an issue, (the rarity is based on past evidence and statistics), the process that will be applied for reducing remuneration will be that the equivalent rate to the fees that would have been payable within the fostering scheme, will continue at that rate for the initial six month period following the adoption order being granted. After six months that sum will reduce by one quarter and this process will repeat at six monthly intervals until two years following the order being granted the adopter will receive no ongoing remuneration, i.e. fee.

In exceptional circumstances the Council may continue the remuneration for a longer period. The continuation of the remuneration (equivalent to fee) element beyond the period of two years will only be considered necessary where the adoptive child has exceptional needs or where there are any other exceptional circumstances. Decisions will be made by the agency Decision Maker, on advice from the Placement Services Team Manager, and will be part of the detail of the adoption support plan agreed as being required to facilitate the adoption and meet the specific needs of the child and carers.

5. Payment of adoption allowances

5.1 Where an adoption allowance is provided to meet a need which is likely to give rise to recurring expenditure it may be paid periodically. In any other case an adoption allowance will be paid by a single payment, or if the Council and the adoptive parent agree, by instalments.

6. Notifications about adoption allowances to adoptive parents

6.1 Once the Council has made a decision to pay an adoption allowance, the Council will provide the following information to the adoptive parents:-

- (i) the amount of adoption allowance to be paid to the adoptive parents;
- (ii) the method by which an adoption allowance has been determined;
- (iii) the date on which the payment will be made or, in the case of an adoption allowance to be paid periodically or by instalments, the date of first payment;
- (iv) the frequency of payments and the period of an adoption allowance (where applicable);
- (v) the arrangements and procedures for review, variation and termination of an adoption allowance;

- (vi) the responsibilities of the adoptive parents with regard to their obligation to notify the Council of changes in their circumstances as noted in paragraph 7 below.

7. Conditions for payment of adoption allowances

7.1 An adoption allowance which is to be paid periodically or by instalments will not be payable unless and until the adoptive parents both agree to the following conditions for payment. The adoptive parents must advise the Council as soon as possible:-

- (i) of any change of their address;
- (ii) if the adoptive child dies;
- (iii) if the adoptive child ceases to have a home with the adoptive parent (unless the adoption agency consider its continuation to be necessary having regard to the needs of the child or any other exceptional circumstances);
- (iv) if the adoptive child ceases full-time education or training and commences employment;
- (v) if the adoptive child qualifies for income support or job-seekers allowance in his or her own right;
- (vi) when the adoptive child attains the age of 18 unless he or she continues in full-time education or training in which case the adoption allowance may continue until the end of the course or training that the adoptive child is then undertaking;
- (vii) that the period agreed between the adoption agency and the adoptive parent for the payment of the adoption allowance has expired;
- (vii) if there is a change in the adoptive parent's financial circumstances or the financial needs or resources of the child which may affect the amount of the allowance payable to the adoptive parent.

7.2 Where this information is given orally the adoptive parents must confirm it in writing within seven days.

7.3 The adoptive parents must complete and supply the Council with an annual statement of the following:-

- (i) their financial circumstances;
- (ii) the financial needs and resources of the adoptive child; and
- (iii) their address and whether the adoptive child still has a home with them.

7.4 The Council may specify the timescale within which, and the purposes for which any payment of an allowance should be utilised.

7.5 Where any of the conditions in 7.1 and 7.2 above are not complied with the Council may vary, suspend or terminate payment of an allowance and seek to recover all or part of an allowance they have paid.

7.6 Where the adoptive parents fail to provide an annual statement under 7.2 the Council will not take any steps until the adoptive parents have been sent a written reminder of the need to provide the statement. No steps will be taken

by the Council until the expiry of 28 days after the date the written reminder was sent. Where the annual statement remains outstanding at the expiry of this period the Council may take any of the steps mentioned in 7.4.

8. Review of allowances payable periodically or by instalments

8.1 The Council is required to review adoption allowances paid periodically or by instalments as follows:-

- (i) annually after receiving the annual statement (referred to in 7.2) from the adoptive parents;
- (ii) if any change of circumstance or breach of a condition mentioned in 7.1 or 7.2 above comes to the attention of the Council;
- (iii) at any stage in the preparation of the adoption support plan if the Council considers it appropriate.

8.2 The purpose of the review is to ascertain whether there is a continuing need for the adoption allowance and if so whether it should be maintained at the same level, increased or reduced.

8.3 The Council may decide as a result of the review to reduce or terminate an adoption allowance. However, before making that decision the Council must give the adoptive parents an opportunity to make representations. The Council will give the adoptive parents notice of the proposed decision and the period allowed for making representations. The Council may suspend the adoption allowance pending any decision in this regard.

8.4 Any notice provided by the Council to the adoptive parents under paragraph 8.3 above will contain the following information:-

- (i) the basis upon which the adoption allowance is calculated;
- (ii) if an adoption allowance is to be paid, the proposed amount of the adoption allowance; and
- (iii) the conditions for payment of the adoption allowance (as stated in paragraphs 7.2 and 7.3).

8.5 The Council must, having regard to the review, and after consideration of any representations received within the period specified in the notice decide whether to vary or terminate payment of the adoption allowance and whether to seek to recover all or part of any adoption allowance that has been paid. The Council will notify the adoptive parents of their decision and the reasons for it.

9. Termination of adoption allowances

9.1 The circumstances in which the Council will terminate the adoption allowance are as follows:-

- (i) where the adoptive child ceases to have a home with the adoptive parents (unless the Council considers that it is necessary to continue the allowance

- having regard to the needs of the child or any other exceptional circumstances);
- (ii) the adoptive child ceases full-time education or training and commences employment;
 - (iii) the adoptive child qualifies for job seekers allowance or income support in his or her own right;
 - (iv) the adoptive child attains the age of 18 unless he or she continues in full time education or training in which case the allowance may continue until the end of the course or training that the adoptive child is undertaking; or
 - (v) any period agreed between the Council and the adoptive parents for payment of the allowance expires.

9.2 The 2009 Regulations do not provide for an adoption allowance to recommence once it has been terminated. It is therefore important that payments should be described as suspended rather than terminated where circumstances other than those set out in paragraph 9.1 above apply, e.g. where there has been an increase in the adoptive parents' income.

10. Calculating the Adoption Allowance

10.1 The Adoption Allowance can only be calculated once a match has been recommended by the Permanence Panel.

10.2 The first step is to check that the child is eligible to attract an adoption allowance. This decision will have been made by the Agency Decision Maker following the Permanence Panel that made the Adoption plan for the child. The child may be eligible under one or more of paragraphs a) to e) of Regulation 10(2) of the Adoption Support Services and Allowances (Scotland) Regulations 2009.

10.3 The second step is to make the prospective adopters aware that if they wish to apply for an adoption allowance, their financial circumstances and the child's financial needs will be considered when assessing eligibility for an adoption allowance. This Financial Assessment will consider income and expenditure and any grant, state benefit, allowance or resource which is available to the prospective adopters as a result of the adoption of the child.

10.4 Please note that a Financial Assessment will NOT be carried out in relation to any contribution the local authority is considering making towards **legal fees** and/or costs associated with **introductions**. The Regulations prohibit carrying out a financial assessment in relation to these two matters, although the local authority will take into account factors such as eligibility for legal aid, or any other grant, state benefit or allowance. For more information on legal fees and introductions see paragraph 10.8.

10.5 The third step is to obtain proof of income. The income that will be considered is as follows:-

- Employment or self-employed earnings
- Working Families Tax Credit
- Child Tax Credit
- Pensions

- Income support and other State Benefits (e.g. incapacity or sick pay)
- Child Benefit
- Other income such as property rental income
- Savings and investment income – calculated at £1 per week for every £250 of capital over £10,000 (excluding the value of the principal dwelling house)

Proof of income will include either a P60 or 5 payslips from the most recent tax year, and any tax credit award notice. Any applicant in receipt of income support must supply their reference number and letter from the Benefits agency. Self employed applicants must supply audited accounts or information such as HMRC tax calculation SA302. Bank account statements should also be provided.

10.6 The fourth step is to obtain proof of expenditure. The expenditure that will be considered is as follows:-

- Mortgage or rent on the principal dwelling house
- Council Tax on the principal dwelling house
- Insurance on the principal dwelling house
- A personal allowance of £300 per week for a couple or £210 for a single person; and £50 per week for each child living in the household (including the child who is to be adopted)

Proof of expenditure will include a mortgage statement; lease; rent book; Council Tax bill; and Insurance bill.

10.7 Amount of Adoption Allowance Payable

Payment of an Adoption Allowance will be made according to a sliding scale calculation. The formula for this is informed by the details given by the applicant and verified by the social work department within the Financial Assessment. Expenditure expressed as a percentage of income would result in the following: -

Less than 70%	no adoption allowance
70-77%	50% adoption allowance
78-84%	75% adoption allowance
85% and more	100% adoption allowance

The rate of Adoption Allowance for 2014/2015 is as follows:-

Age	Weekly Amount
Age 0-4	£82.24
Age 5-10	£102.05
Age 11-15	£127.02
Age 16+	£164.47

From the weekly amount stated in the table above, any child benefit or other State Benefit must be deducted.

An example: -

Income	£38,640
Expenditure	£36,182
Expenditure expressed as % of income = 93.64%	

This couple would receive 100% adoption allowance which for a 9 year old would mean £102.05 minus child benefit at £20.50, (assuming the child was the oldest, given Child benefit for second and subsequent children is reduced to £13.55) assuming no other benefit applies, this couple would receive £81.55

10.8 Legal costs and introductions

10.8.1 Where a child is placed for adoption by The Moray Council, the Adoption Support Services and Allowances (Scotland) Regulations 2009 give the Council the power to make a contribution to meet expenditure on legal costs, including fees payable to a court in relation to adoption. The Regulations prevent the Council taking into account adopters' financial resources when deciding whether or not to make a contribution towards legal costs. Once a child has been placed for adoption by the Council, it is important that the plan is implemented in full, up to and including the granting of an Adoption Order by the Court, otherwise the child will be left in an uncertain legal situation and will remain a "looked after child". Only adopters can apply to the Court for an Adoption Order, and to do so it is advisable that they employ the services of a solicitor. For many adopters legal fees will be an unexpected additional cost of bringing the child into their family, and for some adopters legal fees will not be affordable.

10.8.2 For this reason, where adopters are not eligible for Legal Aid, then in relation to unopposed adoptions the Council will make a contribution towards legal fees of up to £500 for the first child, with an additional £250 for the second and any subsequent siblings, where the Children are placed at the same time. No financial assessment is necessary.

10.8.3 Given the possibility that the rates detailed above may not be sufficient in all circumstances approval is sought for the following, subject to the receipt of an estimate of legal fees from the relevant solicitor at the outset of the case the Corporate Director (Education and Social Care) may, in liaison with the Head of Legal and Democratic Services or nominee, approve the payment of reasonable legal fees, for the purpose of achieving the Adoption Order as quickly and efficiently as possible. It is extremely important for the child and the adopters that an Adoption Order is achieved. The payment of reasonable legal fees by The Moray Council is considered necessary in order to secure the welfare of the child. This recommended process is consistent with that approved for contested cases.

10.8.4 In relation to opposed adoptions, subject to the receipt of an estimate of legal fees from the relevant solicitor at the outset of the case (updated every month as the case progresses) the Director of Community Services, in liaison with the Chief Legal Officer, may approve the payment of reasonable legal fees, for the purpose of

achieving the Adoption Order as quickly and efficiently as possible. Where an adoption is opposed it is extremely important for the child and the adopters that an Adoption Order is achieved and the payment of reasonable legal fees by The Moray Council is considered necessary in order to secure the welfare of the child. No financial assessment is necessary.

10.8.5 The Council will meet the costs of introducing a child to the prospective adoptive family, in terms of paying travel costs petrol receipts will be paid and/ or reasonable overnight accommodation if necessary: prices to be agreed in advance. No financial assessment is necessary.

10.9 Initial costs/settlement payment

The Council may consider making payments to assist with the initial costs at the start of a placement on a discretionary basis where particular circumstances are indicated. An example of a circumstance which would result in consideration would be when a sibling group are being placed and there is need for assistance with the costs of e.g. bunk beds. This should be considered as part of the Linking/ Matching meeting, will not require the whole financial assessment (see para 3.3) and recommendation will be made for consideration and a decision by the Placement Services Team Manager, the relevant Area Manager and the Corporate Parenting and Commissioning Manager.

10.10 Review

Where a financial assessment has been undertaken for an adoption allowance, the adoption and fostering service will undertake an annual review of the paperwork and financial details submitted for annual review. If there are indications that the adoption allowance should vary the decision will be made by the Placement Services Manager. If the family, on notification of decision, disagree and want the decision to be reviewed, the family should write to the Placement Services Manager within 28 days of receipt of the decision letter.

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