

**REPORT TO: CHILDREN & YOUNG PEOPLE'S SERVICES COMMITTEE ON 2
DECEMBER 2009**

SUBJECT: ADOPTION ALLOWANCE SCHEME

BY: DIRECTOR OF COMMUNITY SERVICES

1. REASON FOR REPORT

- 1.1 To seek approval from Committee to establish a new Adoption Allowance Scheme for Moray in terms of the Adoption of Children (Scotland) Act 2007.
- 1.2 This report is submitted to Committee in terms of the Council's Administrative Scheme relating to the functions of the Council as a Social Work Authority.

2. RECOMMENDATION

- 2.1 **It is recommended that Committee agrees the Adoption Allowance Scheme outlined in APPENDIX 1 of this report.**

3. BACKGROUND

- 3.1 The Adoption and Children (Scotland) Act 2007 provides for adoption support services and the payment of adoption allowances to an adoptive parent(s) to support adoption.
- 3.2 The recent publication of Regulations associated with the 2007 Act requires an Adoption Allowance Scheme to be approved by Committee in advance of the approval date for all schemes on 28 December 2009.
- 3.3 The new Adoption Allowance Scheme will replace the existing scheme approved by the Social Work Committee on 4 June 1998 (para 7 refers).
- 3.4 The Regulations set out the determination of an adoption allowance, the circumstances under which an allowance can be made and the review, variation or termination of the allowance. They also set out that an adoption allowance may include an element of remuneration where the adopters were formerly foster or kinship carers of the child, and where the decision to include remuneration is taken before the adoption order is made. There are requirements on the Council in some circumstances to carry out a financial assessment in respect of the adoptive parents and to consider each individual case in order to determine eligibility and the amount of an adoption allowance. An adoption allowance is only payable in certain circumstances. The details of the proposed Moray Council Adoption Allowances Scheme are contained within **APPENDIX 1**.
- 3.5 The proposed Moray Adoption Allowance Scheme will require modification in the light of Guidance soon to be issued by the Scottish Government for consultation. The finalised proposals for Moray Adoption Allowance Scheme

developed in the light of such guidance will be brought back for further consideration by Committee in early 2010.

- 3.6 A further report on the general provisions of the Adoption and Children (Scotland) Act 2007 will also be brought to Committee in the New Year.

4. SUMMARY OF IMPLICATIONS

(a) Single Outcome Agreement/ Service Improvement Plan

This report relates to National Outcome 8 of the Single Outcome Agreement – improving the life chances of children.

(b) Policy and Legal

The policy and legal implications are laid-out within the body of this report.

(c) Resources (Financial, Risks, Staffing and Property)

Financial

The standard age related allowances within the current Moray Council Adoption Allowance Scheme will be applied to the proposed new scheme. Where the new Scheme varies from the existing scheme an estimate of additional costs for 2010/11 have been included in the Council's budget setting process for the new financial year. Decisions on the 2010/11 budget will be made in February 2010.

Risks

A new Adoption Allowance Scheme needs to be approved by 28 December 2009.

Staffing and Property

There are no staffing or property implications associated with this report.

(d) Consultations

Rhonda Geddes-Stewart, Senior Personnel Adviser, Deborah Brands, Principal Accountant and Alistair Stobie, Acting Principal Solicitor (Litigation and Licensing) have been consulted in the preparation of this report and are in agreement with the content relating to their areas of responsibility.

5. CONCLUSION

- 5.1 The establishment of a new Moray Adoption Allowance Scheme is an integral part of improved provisions for adopted children and their families through the Adoption and Children (Scotland) Act 2007.**

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Background Papers: with author
Ref: HB693602



The Moray Council

Adoption Allowances Scheme 2009

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 and kinship carers

- 4.1 Former foster carers or kinship 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 or kinship carer in respect of the adoptive child; **and**
 - (ii) an element of remuneration was included in the payment made by the Council to the 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.

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;
- (viii) 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 7.3 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 7.3 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 7.5.

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 7.3) from the adoptive parents;
- (ii) if any change of circumstance or breach of a condition mentioned in 7.1 or 7.3 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 7.3 and 7.4).

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.