**ADOPTION ALLOWANCE**

**POLICY AND PROCEDURE MARCH 2016 Updated March 2019**

The Adoption Allowance Policy and Procedure has been reviewed in preparation for the Regional Adoption Agency. Any Adoption Allowance agreed is based on the needs of the child. Adoption Allowance is payable to meet the specific needs of the child, following their placement. Adoption Allowance is not a replacement for Universal Benefits which is available to all parents and the Adoption Allowance shouldn't be relied upon to meet the general living costs of the family. There is no guarantee that every adoptive family is entitled to financial support.

Adoptive parents must be made aware that allowances are not an entitlement and if families do receive an allowance, it will be reviewed annually.

**Introduction**

The RAA recognises the lifelong implications of providing legal permanence through adoption. We are committed to providing a range of support services to families.

Adoption support services are defined as;

* Financial support
* Services to enable children, adopters and parents to discuss matters relating to the arrangements of the child
* Therapeutic services for the child
* Assistance to ensure continuance of the relationship between the child and the adopter, including training to meet any special needs of the child, respite care and medication
* Assistance in relation to contact
* Counselling, advice and information

Any decision on the provision of support will be based on the needs and resources of the child and family and there should be a particular condition relating to the child’s health or development, or circumstances making it hard to place the child for adoption.

It is expected that adoptive parents will meet the general living costs of the child, just like any other parent. This includes; clothing, school transport and hobbies. However, the Regional Adoption Agency recognises that children and young people who were previously Looked After may require additional costs due to additional needs.

When assessing the level of adoption support, consideration may be given to providing financial support in certain circumstances. These may be paid on a regular, time limited or one- off basis. The level of payment will relate to meeting the child's needs and cannot include any element of reward (except for people who have previously fostered the child - see separate section).

Financial support is not applicable to all children and the eligibility criteria are based on the child's identified needs.

Regular payments will rarely be approved for healthy babies or very young children.

All recommendations regarding post adoption support allowances are recommended by the Regional Adoption Agency. The child's social worker will complete an assessment of need to support the Regional Adoption Agency's recommendation to the Local Authority. Financial support is means tested and if a financial support package is applicable to a child, the prospective adopter's financial circumstances will be assessed. The level of payment will be determined according to that assessment.

All regular payments are subject to annual review. These will take into account any changes in circumstance for the child and adopter, including financial changes and any legislative or service requirements.

**Principles**

The fundamental principle underpinning the Adoption Regulations and the Regional Adoption Agency adoption allowance scheme is that financial barriers should never be the sole reason for an adoptive placement not being agreed or failing to survive.

Financial support may be payable to help secure a suitable adoptive placement where the circumstances of the placement justify the payment of an allowance and where the arrangement cannot otherwise be readily made because of a financial obstacle.

Support services should not be seen in isolation from universal services and it is important to ensure that families are assisted in accessing universal services and are aware of their entitlements to tax credits and welfare benefits. Adoption allowances are intended to supplement, not replace these entitlements.

**Legislation**

This policy should be read in conjunction with relevant updating guidance from the Department for Education and relevant legislation and case law.

In 2002, the legal framework relating to adoption was modernised through the Adoption and Children Act. This applied to both domestic and inter country adoption. A key provision of the Act was a new regulatory structure for adoption support services which placed a duty on Local Authorities to assess the need for adoption support services for adoptive families and others. The Adoption Support Services Regulations 2005 specify the conditions for providing adoption support services including the provision of financial support.

<http://www.legislation.gov.uk/uksi/2005/691/regulation/3/made>

The provision for financial support within the Regulations are as follows;

* Regulation 8- outlines the circumstances in which financial support can be paid.
* Regulation 9- Limits arrangements for providing remuneration to foster care placements to only those transitioning to adoptive placements; and for a period of 2 years.
* Regulation 10- Specifies the circumstances where an adoption allowance may be paid; and in all other cases by a single payment.
* Regulation 11- Specifies when financial support arrangements should cease.
* Regulation 12- Specifies the conditions for which the adoptive parent must agree before an adoption allowance is paid.
* Regulation 15- Specifies the information that must be taken into account when undertaking an assessment of a person's need for financial support. In particular, it stipulates the circumstances where means testing must be undertaken and when it is within the discretion of the Local Authority to decide if means testing is appropriate.
* Regulation 20- Specifies the arrangements for reviewing an adoption allowance.

**Criteria for Adoption Allowance**

The limits imposed on the level of the allowance payable are as follows:

* For foster carers adopting the child in placement, the amount of the adoption allowance should not exceed the starting payment awarded to newly approved foster carers.
* The amount of allowance must not include any element of remuneration for the care of the child by the adopters i.e. there should be no element of reward.
* Adopters are able to claim child benefit from the date of placement for adoption.
* For any other adopter, the weekly amount should not exceed the boarding out amount paid to foster carers minus the child benefit allowance. An example of this is shown below:

|  |  |  |  |
| --- | --- | --- | --- |
| Age group | Boarding out | **Boarding out less child benefit for first child** | **Boarding out less child benefit for any subsequent child** |
| 0-4  |  £129.00 | £108.30 | £115.30 |
| 5-10 | £143.00 | £122.30 | £129.30 |
| 11-15 | £164.00 | £143.30 | £150.30 |
| 16+ | £191.00 | £170.30 | £177.30 |

The Regulations relating to adoption support services outline that there must be no reward element in financial payments other than as a transitional provision for foster carers adopting a child for whom they are currently caring.

An adoption allowance can be paid from the date of the placement for adoption or from a later date.

In deciding how much, if any, adoption allowance to pay, the Regional Adoption Agency recommendation will take into account any other grant, benefit, allowance or resource which is available to the adopter as a result of the adoption. For example, Disability Allowances, nursery grants, child benefit, etc.

In addition, the Regional Adoption Agency recommendation will normally take account of:

* The adopters' financial resources, including any benefits or tax credits that would be available to the adopter if the child lived with them; *and*
* The adopters' reasonable outgoings and commitments; and
* The financial needs of the child.

**These factors *may* be disregarded if the allowance is for:**

* A child who needs special care because of illness, disability, emotional or behavioural difficulties, or the continuing consequences of past abuse or neglect; *or*
* Special arrangements that have to be made to aid the placement of a child because of their age, ethnic origin, disability or the desirability of placing them with either a sibling or a child with whom s/he has previously lived.

It may be considered necessary to pay an Adoption Allowance in the following circumstances:

* To ensure that the adoptive parent can look after the adoptive child.
* Where the child needs special care which requires expenditure. This includes care for illness, disability, emotional or behavioural difficulties or the continuing consequences of past abuse or neglect.
* Where the adoption agency needs to make special arrangements to facilitate the placement or the adoption because of:
* The age or ethnic origin of the child.
* The desirability of the child being placed with the brother or sister or with a child with whom the child previously shared a home.

# Placement involving another Local Authority

Where an adoption allowance was agreed before an Adoption Order has been granted, then the Local Authority will continue taking responsibility for annually reviewing the allowance.

Where the allowance was agreed post Adoption Order, the responsible Local Authority will annually review the allowance at the point of 3 years post Adoption Order if at this point or thereafter the adopter no longer resides within the borders of Lancashire or Blackpool.

**How do you apply for an Allowance?**

The adoption social worker can provide further information about the Regional Adoption Agency's Adoption Allowance and ask the adopter to apply in writing. Any adopter can apply. This will be followed by an assessment of the need for the adoption allowance. Any financial hardship will need to be evidenced if this was not evident during the prospective adopter assessment stage. The assessment is submitted to the Senior Manager for consideration. The Regional Adoption Agency will provide a recommendation (this can be positive or negative) in respect of the need for the Adoption Allowance, it will be then sent to the responsible manager ion the Local Authority to make a decision, if agreed, then the financial means test will be applied. The maximum amount payable will be for example as within the table above. The timeframe will also be specified.

**Notification**

The adopters will be sent written confirmation of the decision and if positive, to provide financial support. This will include the amount and terms of the support and information about annual reviews.

**Appeals**

If the Local Authority decline a request for payment a clear reason will be provided and summary of the decision. The Family Finder will inform the adopters of the outcome in writing.

Adopter can appeal against the decision should be made via the Local Authority Complaints procedure.

**Terms and Conditions**

If it is decided that financial support should be given to adoptive parents, payment may be subject to conditions and a date specified by which the condition is to be met.

Prior to making financial support available to prospective or adoptive parents, they will be required to inform the adoption service:

1. Of changes to their home address.
2. If the child (for any reason) no longer lives with them.
3. If there are any changes to their financial situation/the resources of the child.

Where information is given orally, adoptive parents must confirm this in writing within 7 days.

Should adoptive parents fail to comply with the requirements, the authority may suspend payment of the financial support provided.

**Types of allowances**

Adoption Allowance payment types will fall into 3 types below –One-off payments, on-going payments and exceptional payments

**One – off payments**

Legal costs – The Regional Adoption Agency will not generally pay the legal fee for the adopter’s application to court for an Adoption Order. In exceptional circumstances this might be agreed and no means test will be undertaken.

Settling in Allowance - The Regional Adoption Agency will not generally make a financial contribution for settling in. In exceptional circumstances this might be agreed and the means test will be undertaken. The settling in allowance is discretionary and will be considered on an individual basis. This will take in to account the financial circumstances of the adopters and the additional needs of the child. Evidence will need to be provided as to why a settling in allowance is needed. Payment of a settling in allowance will not be standard practise and will take into account the financial change in financial circumstances from when the adopters were assessed as suitable to adopt.

Expenses incurred during introductions - The Regional Adoption Agency will not generally make a financial contribution to the introductions. In exceptional circumstances this might be agreed and a means test will be undertaken. This includes accommodation, subsistence and travel costs. Accommodation will only be accommodation agreed by the Regional Adoption Agency. Any payments to foster carers during this period are subject to local authority policy.

Direct contact - Financial support for continuing direct contact is entirely at the discretion of the local authority

**On-going Payments**

Adoption Allowances

The payment of an Adoption Allowance is discretionary and based on the individual needs of the child. The Local Authority may agree to a regular maintenance allowance, subject to a means test. The terms and timing of which will be clearly defined in writing. The initial means test calculation and annual financial reviews will be completed by the finance officer at Lancashire County Council/Blackpool Council. When considering whether a child is entitled to an Adoption Allowance, the Local Authority will not apply a single criteria, but will require evidence that the child’s needs are such that additional financial support is required. Evidence will need to be provided in the assessment that the child has additional needs that they require financial assistance.

Short-term financial allowances - may be requested if there is a change in circumstances.

**Exceptional Payments**

There may be exceptional circumstances arising due to the placement of larger sibling groups or children with significant additional needs.

**Duration of allowance**

1. Any allowance agreed, will also specify the length of the agreement.
2. In terms of ongoing payments, the agreed allowances, will be paid if the circumstances have not changed and the means testing is still evidencing the need for the payment, will cease:
	* In the year when a child reaches age 18, unless he/she continues in full time education or training when support may continue until the end of the course of education or training being undertaken in that academic year, subject to any other financial support the child may be entitled to receive;
	* Where a child ceases full-time education or training and commences employment;
	* Where a child qualifies for income support or job seekers allowance in his/her own right;
	* Where circumstances have changed significantly and the criteria are no longer met;
	* If a child leaves the adoptive home
	* If the child dies.

**Payment of Adoption Allowances**

The financial assessment is gathered and calculated using the Department for Education's Standardised Means Test.

Financial support paid to adoptive parents under the regulations cannot duplicate (or be a substitute for) any payment to which adopters would be entitled under the tax and benefit system. Only benefits that are currently being paid to members of the household will be included.

If the adopted child is already living with the prospective adopters or adoptive parents, then the child should be included in the calculations. If the child is not yet placed with the prospective adopters, then the child should not be included in the calculations.

If the Regional Adoption Agency believe that there are other benefits to which the household would be entitled, this should be pointed out to the adopters. A reassessment after 3 months could then be made which would capture all of the new benefits being received. This could be the case where, for example, a child has recently been placed with the prospective adopters, and they have not yet claimed child tax credit. The test is worked out on a monthly income basis.

**PROJECTED FAMILY INCOME**

**Pay**

This section should include basic net monthly pay, before any deductions for savings schemes, social clubs, accommodation/food and loans. However, the income figure used should exclude any payments into pension funds.

Where one (or both) of the parents is self-employed, the only income which should be considered is ‘drawings’ as this is the equivalent of pay from an employer. Any profit from the business sitting in a bank account (and thereby not being reinvested) should be taken into account as capital under section, i.e. other sources of income.

If one (or both) of the parents receives overtime, fees, bonus/commission and/or gratuities on a regular basis (for example annual bonuses) should be included as part of the monthly payment (i.e. if the payments are annual, these should be divided by 12 to give a monthly amount to be included in the ‘basic net monthly pay’ section).

**Benefits and pensions (parents)**

Where the parents receive individual benefits (i.e. those that are not calculated on a household basis) these should be included in this section. If the benefit payments are currently received weekly, please multiply by 52 and divide by 12 to give a monthly amount. Benefits to be entered in this section are:

* Employer’s sick pay (after compulsory deductions)
* Incapacity benefit
* Statutory maternity, paternity and/or adoption pay and/or maternity allowance
* Bereavement benefit
* Working tax credit (if paid directly and not as part of pay and excluding any childcare element received)
* All pension payments received
* Other benefits

In relation to working tax credit, is that an employed person currently receives working tax credit within pay from his employer. If this is the case, the amount will be included in the basic net monthly pay section. All those who receive working tax credit will receive an award notice which sets out how much they will receive. This award notice will provide the information needed for this section of the test.

Where a childcare element is paid as part of the working tax credit, this should be disregarded for the income section of the test. The existence of this type of credit needs to be considered when completing the expenditure section on childcare.

Any other benefits received by the parents, for example help with costs associated with disability or mobility, should be recorded in the ‘other benefits’ section.

**Benefits (family/children)**

Where benefits are received by the family or household, as opposed to being paid directly to the parents, they should be recorded in this section. This is primarily for benefits which are calculated on the basis of household composition. Benefits to be included in this section are:

* Income Support
* Jobseeker’s Allowance
* Child tax credit per household
* Child benefit for each child, excluding the child/children who are the subject of this assessment application

If a member of the household receives income support or jobseeker’s allowance, the amount per household should be recorded here.

Benefits which should be included in this section are child tax credit received for each child, at the time that the test is applied. All those who received child tax credit should receive an award notice setting out how much they will receive.

Child benefit should be included for each child living in the household, excluding the child/children who are the subject of this assessment application.

Housing benefit should also be excluded from this section, as it is disregarded for the purposes of the expenditure section below.

**Other sources of income**

Where the family receive income from capital, savings and/or investments, this should be assessed in terms of net monthly interest only, as paid. This is the income that is routinely available to the family, and should be clearly shown on statements/similar. Any interest received from Government Child Trust Funds should not be included in this section.

If the family receive income from boarders/lodgers, this should be calculated on a weekly basis (then multiplied by 52 and divided by 12 to give a monthly amount if the test is being completed on a monthly basis). To calculate the weekly income, all weekly payments for board and lodging must be added together, a £20 disregard applied and then 50% of any excess over £20 for each person deducted. This is how income from boarders/lodgers is calculated for income support purposes.

Where the family receive income from rent on an unfurnished property, this should be calculated on the following basis: monthly income received in rent after the deduction of any costs. Deductions can be made for:

* Interest payments on the mortgage (but not mortgage capital payments);
* Repairs;
* Council tax (if paid by the family being assessed)
* Agents’ fees; and
* Insurance (buildings)

If income is received from furnished properties, the same calculation applies as above for unfurnished property, but an extra 10% deduction from the monthly rent received can be made as a ‘wear and tear allowance’.

If the person who is the subject of the assessment has completed a recent tax return, local authorities may ask to see a copy of this. The tax return should have the information needed for this section of the test

Other income to take into consideration includes maintenance payments received for any child in the household and existing adoption or special guardian allowances (including enhancements for special needs) paid for any child. This latter may be paid where, for example, the family have adopted a child with a different local authority and therefore receive a separate allowance.

**Income relating to the child/children being adopted**

Any regular interest on capital and/or income in which the child/children has a legal interest and entitlement should be included here. This could be, for example, a savings account, trust fund, property or other legacy.

Payments from Criminal Injuries Compensation Awards should not be included. Any interest received from Government Child Trust Funds should not be included in this section.

Any other income to which the child/children might be entitled will also be taken into account. This section does not record child benefit for the adopted child, which will be deducted from the final payment resulting from this means test.

**Income calculation**

The means test spreadsheet will automatically calculate the household monthly income, and will also apply a 20% disregard to this income figure.

**PROJECTED FAMILY EXPENDITURE**

**Home expenditure**

This section includes mortgage payments, made up of capital and interest. Also any endowment payments linked to the mortgage. If the family pays rent, the monthly amount actually paid should be recorded here, after any deductions made for housing benefit. The only other outgoing which should be included in this section is council tax paid; this should be the amount paid after the deduction of any council tax benefit received by the household or discount for single adult households or second homes.

**Other outgoings**

Where the family pay regular monthly repayments on loans for housing improvement (e.g. extensions/new kitchens) or transport costs (e.g. new car), these are included in this section.

Other payments which can be included in this section include maintenance payments, payments relating to court orders, private pension contributions and national insurance if self-employed or not working.

The section for ‘reasonable’ child care costs will need to be determined on a case by case basis depending on (a) the circumstances of the family in question (e.g. how many hours the parents work); and (b) local costs for child care services. Costs recorded in this section should be those paid after any childcare element paid as part of the parents’ working tax credit. All those who receive working tax credit will receive an award notice which sets out how much they will receive.

**Core regular family expenditure**

General household expenditure on items such as food, transport, clothes, recreation should be calculated using the Income Support allowance rates, but increased by 25%.

**CALCULATION**

The Local Authority will calculate the household’s monthly disposable income.

The Local Authority will enter the appropriate maximum payment for the household, depending on the number and age of the child/children being adopted and the circumstances of the child e.g. special needs.

Maximum adoption allowance payments are tied to the child element of allowances paid to foster carers. This would result in a different maximum payment in individual cases, determined by the needs of the child, against which amount the means test is run;

After the Local Authority maximum payment has been entered manually, the box marked ‘amount of payment to adopters’ will show the payment that the test has calculated for adopters. This amount is calculated on the following basis:

* Where the family’s disposable income is less than £0, the calculation will show the local authority’s maximum payment. This is because the adopters have provided evidence via the disposable income calculation that shows they do not have the means to accommodate any further expenditure.
* Where the family’s disposable income is higher than £0, the calculation will calculate a figure that is a percentage of the maximum payment. As the disposable income figure rises above zero, the percentage of the maximum payment that the adopters be tapered at a set rate of 50%. This rate means that for every pound of monthly disposable income a family is found to have, they will have 50 pence deducted from the monthly maximum payment.

The appropriate amount of child benefit for the child who are the subject of the test should be entered into the calculation. Please note that the maximum payment used to calculate the payment to adopters should not take into account any child benefit the adopters might receive (i.e. should not deduct it) as the calculation allows the child benefit to be deducted after the payment has been calculated.

The final payment shown will be the calculation of the means test minus child benefit entered by the local authority.

There is a 28 day limit to receiving the information. After this date, the adoption allowance application would have to start again.

The Department for Education's Standardised Means Test is included as an appendix to this policy.

**When the term of payment and the amount payable is decided, adopters will enter into a written agreement with the Local Authority Foster Carers**

The reward element for fostering would not be paid unless this complies with the Adoption Support Services Regulations 2005

Financial support may include an element of remuneration but only where the decision to include it is taken before the Adoption Order is made and the Local Authorithy consider it to be necessary to facilitate the adoption in a case where:

1. The adoptive parent has been a Local Authority foster parent caring the child; and
2. An element of remuneration was included in the payments made by the Local Authority to the adoptive parent in relation to his fostering the child.

But that element of remuneration ceases to be payable at the end of the period of two years from the Adoption Order unless the Local Authority consider its continuation to be necessary having regard to the exceptional needs of the child or any other exceptional circumstances.

This payment will not normally apply to children who are adopted via the Fostering to Adopt scheme or the Concurrency scheme and would be subject to the same scrutiny as other applications. The difference is any payment agreed will be for two years.

No other payments will be made in excess of the fostering basic allowance, this includes Birthday and Christmas allowances.

The element of fostering remuneration is subject to review after two years from the date the Adoption Order was granted. This review can affect the allowance - it can reduce or cease to be paid unless the Local Authority considers it necessary due to exceptional needs of the child or exceptional circumstances (Adoption Support Services Regulations, 2005).

**Basic Financial Support Agreeing Financial Support Packages**

Prospective Adopters will be informed as to whether or not financial support has been agreed for the child during the planning process.

Once the test is applied, a letter will be sent confirming the financial support that has been agreed. A contract (see attached) must be signed to confirm that the prospective adopter agrees to the assessment and any financial support that is offered.

**Review of Adoption Allowances**

Under the [Adoption Support Services Regulations 2005,](http://www.legislation.gov.uk/uksi/2005/691/contents/made) adoption allowances should be reviewed annually.

If an allowance is agreed, the financial situation has to be reviewed each year during the period of the agreement as this is a legal requirement. As the outgoings are linked to government guidance, this automatically will reflect any increase or decrease based on inflation. If financial or family circumstances change substantially at any time during the year, then the adopter is required to notify the Local Authority immediately, without waiting for the Annual Review- an early review can then be carried out.

If the Local Authority proposes, as a result of the review, to reduce or terminate financial support or revise the plan, before making that decision the Local Authority will give the adopter an opportunity to make representations. For that purpose, they must give the adoptive parent notice of the proposed decision and the time allowed for making representations.

All those in receipt of regular payments agree to supply details of their financial situation for review each year. Financial support will be suspended if adopters do not complete the annual financial assessment or if they fail to provide the Local Authority with details of any significant changes in their practical or financial circumstances, including their current address. Payments will not be suspended until 28 days after sending a written reminder. Suspended payments will not be back paid.

The review period takes approximately three months due to the statutory timescales imposed by the Regulations.

The Local Authority must, having regard to the review, and after considering any representations received within the period specified in the notice, then decide:

* Whether to vary or terminate payment of the financial support;
* Whether to seek to recover all or part of any financial support that has been paid;
* Where appropriate, revise the allowance payable.

**Other Financial Support Available**

'Babies and Children'- a leaflet outlining the benefits and tax credits is available from

 <http://taxcredits.hmrc.gov.uk/Qualify/DIQHousehold.aspx>(Her Majesty's Revenue and Customs - HMRC)

**Child Benefit**

Prospective adopters should always apply for Child Benefit as soon as possible after the child is formally placed.

Prospective adopters who were previously foster carers for the child should apply for Child Benefit when the child is formally placed under Adoption Legislation.

**Disability Allowances**

If the child has a disability, their Social Worker must ensure that all relevant information is presented to the prospective adopter in order that payment can be claimed before or at the time of placement. <https://www.gov.uk/disability-living-allowance-children>

It is necessary for the Social Worker to provide information to the adopter young person about transition into Adult Services and the support available. Adopters must be made aware that Adoption Allowance ceases at 18 and that young people must claim state benefits for themselves via Disability Living Allowance or Personal Independence Payments. The Transitions Service can support this.

**Payment Arrangements**

Payments are processed on a monthly basis and are made by BACS transfer.

**Overpayments**

If an adopter discovers that they have received overpayments of any kind, they must inform the Local Authority immediately.

If the Local Authority finds that they have made the overpayment, they must be informed immediately.

When an overpayment has been made, invoices will be processed to recover the overpayment amount. If an adopter is having difficulties settling the invoice the debt will be transferred to the Income and Debt Management Team who will be able to support the adopter with the issue.

It is in the adopter's best interests to settle outstanding overpayments promptly.

**Ongoing Support**

A Support Plan outlining the practical and financial needs anticipated for a placement will be written at the time of planning the placement. However, the Local Authority recognises that circumstances change and will therefore make a reassessment of need in exceptional circumstances. Attached;

1. Initial Letter to Adopters
2. Financial Assessment Form/ Supporting Documents List
3. Annual Review Cover Letter
4. Educational Declaration Form