**Leicestershire**

**Policy on Discretionary Payments and Capital Loans to Foster**

**Carers and Adopters**

**Applies to-**

**Fostering and Adoption**

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**1. Introduction**

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Leicestershire County Council is responsible for an Adoption and Fostering Agency.

In most cases statutory payments are made to foster carers (including connected

carers)1 for the care of the child, commonly called ‘fostering and adoption allowances’ and are set at a basic level by central government on an annual basis. Further information can be found in the relevant adoption and fostering procedures.

This policy is in respect of discretionary and capital payments only and not in respect

of fostering or adoption allowances generally or payments for specific child related needs like purchasing laptops, driving lessons which should be requested through Corporate Parenting. Where need arises as an outcome of an assessment for a therapeutic intervention that cannot be provided through Health services, the guidance relating to this should be considered.

This policy explores the current arrangements for discretionary payments and loans/grants to carers and adoptive parents. Typically, these are one-off payments to meet a looked after or adopted child’s needs for example, specialist piece of equipment for a disabled child.

In some cases, discretionary payments will be made or where capital projects are approved. LCC will make a capital loan or grant or a combination of both to the foster carer or adoptive parent. An example is property extension to accommodate an addition to the family.

*Loans involve entering into a legally binding agreement to ensure any monies paid out will be repaid in full.*

If the application is coming to the Assistant Director for agreement because of the amount (see authorisation levels below), the Service Manager will ensure all paperwork outlining the request is completed and is presented to the Assistant Director by the relevant Head of Service. The discussion and decision will be recorded and placed on the file and a letter will be sent to the carers confirming the decision.

Approved by:

Senior Management Team October 2022

Department Management Team September 2016

Reviewed July 2019, October 2020, October 2022

**2. Purpose of the policy**

This policy is to ensure that Leicestershire County Council complies with the

statutory duty to ensure that looked after and adopted children with additional needs are appropriately met.

Discretionary payments cannot be used to commission services that are

otherwise the responsibility of another authority such as education or health

authority.

Decisions on the making of a discretionary payment will be made on a case

by case basis, considering the child or young person’s assessed need,

care plan and family circumstances that may be impacting on that need.

All decisions about discretionary payments will be made by Permanence Panel.

One of the functions of this Panel is to ensure the carers and child have access

to the appropriate support services to meet the needs of the child in their care

now and in the future.

**3. Legal Framework**

**3. Legal Framework includes**

* The Children Act 1989
* The Adoption Agencies Regulations 2005.
* The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review (2010).
* The Care Planning and Fostering (Miscellaneous Amendments) Regulations 2015
* The Children Act 1989 Guidance and Regulations, Volume 4: Fostering
* Services (2010)
* The Care Planning, Placement and Case Review and Fostering Services
* (Miscellaneous Amendments) Regulations 2013.
* Fostering Services: National Minimum Standards (2011).

**4. The Discretionary Payments Process – workflow attached as Appendix 1**

**4. The Discretionary Payments Process**

4.1 Children’s social care can become aware of the child’s identified additional

need in a number of ways e.g. from the foster carer, the adoptive parent or the child’s social worker. At this point, the Supervising Social Worker or Adoption Social Worker will explore and assess the specifics of the need.

4.2 Assuming agreement is reached on the need, the foster carer or adopter completes the Additional Payments form to notify the service of the reasons for the need, how the need will be met, and the costs of doing so. At this point, the Team Manager responsible will review the submission and authorize progression to the appropriate panel for consideration.

4.3 In some cases, where an emergency payment needs to be made, the Team

Manager can agree spend up to £350.

4.4 Rejections attract an automatic right of appeal to Service Manager if the Team Manager considers the appeal and decides to uphold the original decision of rejection.

4.5 Approvals require receipts to be given for all purchases, and these are retained in the foster carer’s file for future review. In all cases, the Supervising Social Worker or Adoption Social Worker is required to inspect the purchase to ensure that the specified need is being met - this is usually timed to coincide with an unannounced visit. Both the Additional Payments form and the social worker’s report on the purchase are uploaded to the foster carer’s or adopter’s case records.

4.6 Large financial loan or grant requests such as property adjustments, planned

payments for additional need and therapeutic intervention are considered at

Permanence Panel or by a Senior Manager (depending on the value of the proposed adjustment). Panel can only decide or recommendation regarding capital funding and loans, subject to the carer’s financial circumstances and benefit status and only up to £10k. If the loan or grant exceeds £10k and is below £50k, the Assistant Director will then consider the request and the Panel’s recommendations and consideration of policy regarding when loans or grants or a combination of both can be made. In this situation the decision maker is the Assistant Director. Loans or grants (or a combination thereof) exceeding £50k will require Director agreement (see 4.11 below for summary of authorisation levels)

4.7 S17 of the Children Act requires assistance to take account of the means of the child and each of his parents or carers. The offer of a loan or grant or part loan/grant can only be made once Leicestershire County Council has had regard to the carer’s financial circumstances, assets like properties owned and investments and benefit status. The decision will also take extenuating circumstances of the child/ren and carers into account such as the age of the child that may impact on the ability of the carers to repay the loan before the child turns 18.

4.8 The child’s social worker is responsible for completing the assessment which informs whether property adjustments are required to meet the children’s needs. In completing the assessment:

* The social worker should consider the particular needs of the child or young person such as disability or behaviour and those of other children or young people in the household.
* Age and sex on their own would not be sufficient reason e.g. for a child or young person to require their own bedroom.
* The carers and children, where appropriate, should be given an opportunity to contribute to the assessment.
* If the child or young person, or other children in the household have an Education, Health and Care Plan, the views of other professionals should be sought in relation to impact of current and proposed living arrangements on the child or young person or the requirements of the additional needs on the carers (time and cost) e.g. high level of hospital or consultant appoints resulting in time off work and lost income, travelling costs and this level is likely to endure over time.

4.9 Depending on the needs of the children and the circumstances, it may be necessary for the Council to consider:

* The responsibility of the relevant housing authority
* Contribution towards an extension (loan, grant, part loan-grant)
* Contribution to rental as an alternative
* Other Council capital funding opportunities like the purchasing of a property to rent to the carers.

4.10 In doing so, the Council must take into account the affordability of any proposals put forward, both for the Council and the carers, and value for money. Usually, to determine affordability for the carer, a standard financial assessment will suffice. Other contextual circumstances may also be taken into consideration e.g. property market pressures, construction market pressures. Where affordability is complex, an affordability assessment (akin to a mortgage assessment) may be required. The decision to proceed to an affordability assessment sits with the Assistant Director.

4.11 Who would consider the request depends on the value of the proposed adjustment. Financial authorisation  levels, for loans/grants are set out below:

Permanence Panel: up to £10k

Assistant Director: £10-50k

Director of Children and Family Service: Exceeding £50k

4.12 It is important to detail the carer’s income and expenditure, provide three

professional estimates for the work required, and ensure the carer has submitted

to the statutory means test for allowance payments.

4.13 Terms of the loan –

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* **Security** - In cases where the loan or grant or combination of both is substantial in value and for property adaptations, a legal charge will be placed on the carer’s property. The carer will be advised to seek independent legal advice in such situations.
* **Interest -** Interest will not be charged by the Council, unless there is a breach of the loan repayment provisions. Interest at 3 percent per annum (compound) will be charged on late payments.
* **Repayment provisions: -** Monthly loan repayments will be based upon the total value of the facility divided by the number of months in the term.
* **Other -** The Legal Services Department will provide terms and conditions for a legal charge. You should expect that the loan will, inter alia, deal with the following matters: -
* **Insurance: -** It would be a requirement that you keep the property insured with a reputable insurer throughout the life of the loan,
* **Acceleration: -** The loan would be repayable immediately if e.g. if relevant: -
	+ - * 1. The property is sold or leased; or
				2. The property is seriously damaged, destroyed or becomes a total constructive loss; or
				3. The carers cease caring for any of the children otherwise than by reason of their leaving home to take up education, employment or training; or
				4. There is a breach of the loan covenants including the insurance provisions; or
				5. The carers become bankrupt/insolvent; or
				6. A prior mortgagee enforces any rights under a first priority loan.

4.14 Invoices for works or vehicles should be sent direct to the Fostering or Adoption Service Manager for scrutiny and payment. All receipts must be kept and uploaded to the carer’s or adopters’ electronic records.

4.15 If the application is coming to the Assistant Director for agreement because of the amount (see authorisation levels below), the Service Manager will ensure all paperwork outlining the request is completed and is presented to the Assistant Director by the relevant Head of Service. The discussion and decision will be recorded and placed on the file and a letter will be sent to the carers confirming the decision.

4.16 Appeals to decisions are to be made to the decision maker who will consider and if required, escalate e.g. Team Manager decision escalated to Service Manager, Panel Chair (Head of Service) to Assistant Director, Assistant Director to Director.

4.17 If there continues to be dissatisfaction, the complaints procedure should be followed: <https://www.leicestershire.gov.uk/about-the-council/contact-us/complaints-and-comments>

4.18 Exemptions to the above process:

1. Emergency accommodation of children- In this case, the on-call manager

in First Response Children’s Duty or the Fostering Service has the authority

to agree specific emergency requests over the telephone. An example of

this would be a removal of children on Police Protection Powers(s46 CA

1989) to a place of safety whereby the children have been unable to gather

clothing/undergarments and toiletries before being removed and where the

foster carer needs particular equipment to meet the child or young person’s

needs.

1. Capital grants- Situations will arise where a carer must make capital

adaptations to their home or purchase a new vehicle to accommodate an

additional member to their household and due to their particular financial circumstances, a grant is the only way of achieving this. Any consideration of providing a grant must be subject to the following -

* Our own local policies should help to ensure that housing and social care services work in partnership to support the housing needs which may face family and friends carers, foster carers and adopters to meet our duty to ensure that suitable accommodation is available and provided for, for any looked after children, for example, a foster carer caring for a child may be asked to care for a further sibling.
* The local authority has the discretion under section 17 of the 1989 Act to give unconditional financial support towards accommodation costs where it is assessed as the most appropriate way to safeguard and promote a child’s welfare. Paragraph 17(9) Children Act makes it clear that no person is liable to make repayments of assistance when:
* ‘*he is in receipt of universal credit (except in such circumstances as may be prescribed), of income support under Part VII of the Social Security Contributions and Benefits Act 1922, any element of Child Tax Credit other than the family element, of working tax credit, of an income-based jobseekers allowance or of an income related support allowance.*’
* Thus, if a carer is in receipt of any of the above benefits (jobseekers allowance, income/support allowance) a grant is likely to be the only legitimate way of providing for the required capital, having first exhausted housing and social care services own connections. Where capital grants are the only option to support the child, the decision maker is the Assistant Director and there is no role for Permanence Panel.

4.19 Other resources requests and considerations:

1. For therapeutic intervention, refer to the guidance (Permanence Passport and **Use of Therapeutic Interventions Fund Guidance).**

1. SGO Payments - Panel will consider the financial circumstances of the family and assessments of children or young people’s additional needs which requires a resource that cannot be identified through community services.
2. When considering the housing needs of looked after children, the Council will consider offering financial support to meet the need for larger accommodation if it is an assessed need.
3. If considering a loan, the Council will also consider the carers ability to repay any loan, or contribute to rental or temporary accommodation including including assets like owned properties and investments.
4. If the determined plan is rental to meet the family’s needs, the Council may, where appropriate, pass the responsibility of the tenancy to the carer.

4.20 The Children and Social Work Act 2017 increases the age for leave care support to 25. However, there isn’t an automatic entitlement to support to the young person or their carers under ‘Staying Put’. Each young person’s situation or request for support will be considered on an individual basis, based on his or her specific circumstances. Support will only be made were resource or services cannot be identified through community services and are not the responsibility of another authority.

4.21 Where it is appropriate, applications must be prepared jointly between the Child’s Social Worker and the Supervising Social Worker or Adoption Support Worker. The application paperwork can be obtained from Local Resources (online) or CFS.PermanencePanel@leics.gov.uk

Appendix 1:

