

Decision Maker: Executive

Date: 20th May 2015

Decision Type: Non-Urgent Executive Non-Key

Title: **ADOPTION UPDATE AND GRANT DRAW DOWN**

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Chief Officer: Executive Director of Education, Care & Health Services

Ward: (All Wards);

1. Reason for report

- 1.1 On the 15 October 2014, the Executive considered a report seeking approval for drawn down of the non –ring fenced adoption reform grant of £345,700 in 2014/15 and £272,400 in 2015/16 to improve adoption performance.
 - 1.2 Members resolved that the £345,700 draw-down for 2014/15 be approved but that draw-down of £272,400 for 2015/16 be deferred pending consideration of a progress report by the Executive, closer to the 2015/16 financial year.
 - 1.3 This report details adoption and permanence activity since April 2014 and seeks approval for the draw-down of the adjusted deferred amount of £280,400 in 2015/16.
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2. **RECOMMENDATION(S)**

- 2.1 **The Executive is asked to note the content of this progress report and approve the draw-down of the non-ring fenced adoption reform grant of £280,400 for 2015/16.**

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Children and Young People:
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Financial

1. Cost of proposal: £272,400 (from adoption reform grant)
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Adoption/833110
 4. Total current budget for this head: £1,048,670 (excluding adoption reform grant)
 5. Source of funding: RSG
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Staff

1. Number of staff (current and additional): 15
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

3.1 Context

3.2 Members will be aware that securing permanence, and in particular permanence through adoption for looked after children, has been a key policy of the Government. Changes to legislation, policy and guidance to remove barriers and speed up adoption have been implemented together with significant resources being made available to local authorities to support them with improvements in adoption performance.

3.3 Since 2012/13 Bromley has been awarded a sum of £1,019,746 from the Department of Education towards adoption reform. £149,840 of this amount was ring fenced to specifically to recruitment and to be spent in the 2013/14 financial year and was subject DfE scrutiny. The remaining amount (£869,906) was non-ring fenced.

3.4 As at the end of March 2015, £412,723 of the non-ring fenced grant remains in central contingency.

3.5 Nationally, despite year on year increases, leading to a record number of children being made subject to an adoption Order in 2013/14, three significant Court of Appeal Judgments during the summer of 2013 has led to a dramatic decrease in the number of Placement Orders being granted by Family Courts which in turn reduces the number of possible adoptions. Recently published national data shows that there has been a decrease of almost 50% of placements orders being made from April 2014 to September 2014 compared to the same period in the previous year.

3.6 Although a record number of Adoption Orders were granted in 2013/14 it is important to remember that adoption performance is recorded and measured backwards from when an Adoption Order is made. There is always a gap of at least six months and more commonly nine to twelve months from the date of the making of the Placement Order to the date of the final adoption Order and as such many of the court decisions that adoption was the appropriate care plan for the child would have been made prior to the Court of Appeal Judgments, which would have accounted for the high number of adoption Orders being made in 2013/14.

3.7 In addition to the decrease in the number of Placement Orders being made in the first two quarters of 2014/15, the number of Adoption Decision Maker (ADM) decisions has fallen by 47% since the summer of 2013 (to September 2014), again with the greatest decrease during the first two quarters of 2014/15. Nationally, this would suggest that some local authorities have responded to the changed family court practices by shying away from adoption.

3.8 The three Court of Appeal Judgments namely Re G¹, Re B² and Re B-S³ were concerned about ensuring that there was a 'proper balancing exercise' in the permanent removal of children from their parents and specifically in Re B-S, the Judgment stated that the removal and adoption of a child, must be on the basis that all options have been carefully analysed and evaluated and that the option for 'long term separation' from the family must be 'that nothing else will do'.

3.9 In response to local authority and Court interpretation of these Appeal Judgments the National Adoption Leadership Board published guidance in November 2014 entitled 'Impact of Court Judgments on Adoption – what the judgments do and do not say'. This guidance includes a 'principle message' that: *The judgments do not alter the legal test for adoption.* However, in reality this is not our experience.

¹ G (A Child) [2013] EWCA Civ 965

² In the matter of B (A Child) [2013] UKSC 33

³ B-S (Children) [2013] EWCA Civ 1146

3.10 In December 2014 a further Court of Appeal Judgment was published – Re R⁴. This Judgment, it is argued, goes some way in clarifying the legal position in relation to adoption. The National Adoption Leadership Board issued an addendum to their November 2014 guidance:

In *Re R*, the President of the Family Division affirms that, as stated in the November guidance, the law has not changed. He states that

“There appears to be an impression in some quarters that an adoption application now has to surmount ‘a much higher hurdle’, or even that ‘adoption is over’, that ‘adoption is a thing of the past.’ There is a feeling that ‘adoption is a last resort’ and ‘nothing else will do’ have become slogans too often taken to extremes, so that there is now “a shying away from permanency if at all possible” and a ‘bending over backwards’ to keep the child in the family if at all possible....There is concern that *Re B-S* is being used as an opportunity to criticise local authorities and social workers inappropriately – there is a feeling that “arguments have become somewhat pedantic over ‘*B-S* compliance” – and as an argument in favour of ordering additional and unnecessary evidence and assessments. ... It is said that when social worker assessment of possible family carers are negative, further assessments are increasingly being directed ...There is a sense that the threshold for consideration of family and friends as possible carers has been downgraded and is now “worryingly low”...

“(Such concerns) plainly need to be addressed, for they are all founded on myths and misconceptions which need to be run to ground and laid to rest.” [emphasis added]

The latest Court of Appeal judgments confirm the messages set out in the November guidance. This addendum highlights the key points from these important judgments and, like the initial guidance, is designed to point local authorities, children’s guardians and other professionals involved in the family justice system to the relevant statute and case law. Judges look to statute and case law in making decisions: this is why both the original guidance and the addendum refer to key Court of Appeal and Supreme Court judgments throughout.

- 3.11 Despite this recent flurry of activity, nationally the number of children being considered for adoption following the Appeal Court Judgments has reduced whereas the number of children being made subject to alternative Orders, and in particular Special Guardianship has risen sharply. Bromley has not been immune to this development and has seen a substantial increase in Special Guardianship Orders being made.
- 3.12 It is unclear as to whether the recent guidance and case law will have an impact on the number of Placement Orders being granted in the short term as many commentators believe that a return to previous performance levels may take a significant amount of time.
- 3.13 Due to the decline in the number of children who require a ‘match’ to an adoptive family, the number of approved adopters waiting for a match now exceeds the number of children available to be ‘matched’. Previously there were insufficient adopters.
- 3.14 Nationally, there has also been a decrease in the number of registrations to become adopters. The reason for this decline is not fully understood but it is believed to be, in part, due to adoption agencies being more selective about whom they accept for assessment given that demand for placements currently is low. No adoption agency wants to have a large number of approved adopters on their books if they do not have the children to match to or are unable to offer to other agencies as part of the interagency arrangements.

⁴ Re R (A Child) [2014] EWCA Civ 1625

3.15 London Borough of Bromley Adoption performance:

Number of adoptions:

2011-12	10
2012-13	17
2013-14	14
2014-15	15
2014-15	20

Actual 31 January 2015

Projected 31 March 2015

Number of adopters:

2011-12	6
2012-13	9
2013-14	17
2014-15	13
2014-15	17

Actual 31 January 2015

Projected 31 March 2015

3.16 Overall, Bromley's ranking in adoption performance has improved from 143 in 2008/09 to 85 out of 143 for the period 2012/13 – 2013/14. We are one of only 19 authorities who have demonstrated year on year improvement for the average time between a child entering care and moving in with its adoptive family. However, our numbers of children being adopted is not as high as planned due to family court decisions which have not always agreed to our plan for adoption or agreed to the making of placement orders. This is reflected in the significant increase in the making of Special Guardianship Orders in 2013/14 and 2014/15.

3.17 Special Guardianship Orders

3.18 As described in the Report considered by the Executive on the 15 October 2014, prior to 2011/12 take up of Special Guardianship Orders, either by foster carers seeking to provide permanency and security for children and young people placed with them long term and as a suitable disposal for children in care proceedings, was relatively low with the number being supported at approximately 11 children

3.19 By January 2015, the number of children and young people being supported in Special Guardianship placements had increased to 77 (38 granted during 2013/14 alone)

Number of new Special Guardianship Orders:

2011-12	10
2012-13	15
2013-14	38
2014-15	20
2014-15	27

Actual 31 January 2015

Projected 31 March 2015

3.20 It is anticipated that a further seven children will be made subject to an Special Guardianship Order during the remainder of 2014/15: the number of children subject to an SGO as 77 3.21 Since 1 April 2014 68 assessments of connected persons have commenced, with 43 having been completed leading to 20 children being made subject to Special Guardianship Orders and 17 children placed with connected persons who have been approved as foster carers. The remaining 25 assessments continue.

3.21 It would appear that the dramatic increase in Special Guardianship Orders are a direct result to changes in the Care Proceedings framework whereby Care Proceedings must be concluded within 26 weeks which has resulted in extended family members being viewed more favourably by the Courts as suitable carers and as a result of three Appeal Court Judgments Re G, Re B and Re B-S which has significantly reduced the number of children who are made subject to an Placement Order and subsequently adopted

3.22 Whilst children and young people who are made subject to Special Guardianship Orders cease to be 'looked after' by the local authority, Special Guardians are entitled to ongoing support. Previously, the level of support provided was minimal but more recently the level of ongoing support to these children and their special guardians has also increased with many considered children in need and requiring ongoing social work intervention, albeit at a lower level. We have experienced a number of situations where the special guardians have been assessed within a very short timescale to meet Court deadlines and only once the Order has been made have fully reflected on what this means in terms of the wider ongoing family relationships. In a small number of situations social work support has been required to provide basic parenting advice.

3.24 As a result, out of the total of 77 children and young people still subject to an Special Guardianship Order receiving financial support the number of allocated for case work support (in addition to financial support) now stands at 68.

3.25 Proposed spend (with 2014/15 comparisons)

Purpose	2014-2015	2015-2016
2 x SW posts to undertake connected person assessments	82,000	82,000
Adoption Reform Lead	62,000	62,000
DGM – Connected Person (new post)	48,000	48,000
Additional hours for current adoption staff – equivalent to one fte	39,000	17,000
Adoption medicals	30,000	30,000
Additional FGC capacity (over spend was £26k in 2013/14)	30,000	30,000
PT admin worker – to progress adoption/SGO/RO payments and reviews	11,400	11,400
Adoption project worker to continue for a further year to completely embed new assessment process	43,300	0
Total	345,700	280,400
Amount remaining	412,723	132,323

3.26 The level of work, both through securing adoptive placements for our children and the assessment of prospective adopters and special guardianship/connected person carers, has continued at a pace, and without the resources from the adoption reform grant would place significant pressure on the service in meeting current demand.

4. POLICY IMPLICATIONS

Improving permanence for looked after children contributes to *Building a Better Bromley*

5. FINANCIAL IMPLICATIONS

Currently the grant is being used to support a significant increase in Special Guardianship assessments in addition to adoption activity. If the grant were not to be released, we would not have capacity to allocate any Special Guardianship assessments in-house and would need to commission them from external providers at greater cost.

6. PERSONNEL IMPLICATIONS

All posts created as part of the grant funding allocation are offered on fixed term contracts not exceeding the funding period.

Non-Applicable Sections:	Legal implications
Background Documents: (Access via Contact Officer)	Report to the Executive – 15 October 2014