

DURHAM COUNTY COUNCIL



**SPECIAL GUARDIANSHIP
SUPPORT POLICY
2019/20**

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1. Assessment for Support Services

In all cases where an application for a Special Guardianship Order is made to the court, the authority will carry out an investigation into the suitability of the prospective special guardian and the needs of the child. In carrying out such an investigation it may become apparent that support from the authority, or arranged by the authority, is necessary to promote the child's welfare.

All children who were Looked After by the authority at the time of the application for a Special Guardianship Order, or immediately before the Special Guardianship Order was made, will be assessed for support services and where there is an on-going need, a Support Plan, setting out the support will be provided.

Support may be provided in many ways such as advice, mediation, therapeutic support or financial, providing one-off payments or via instalments or where there is a recurring financial expenditure, periodic payments. Other support may be provided from a wide variety of support/services and access to a range of funding initiatives. The purpose of this support is to ensure that the child's needs are met and the relationship between the child and special guardian is preserved. Lack of support, financial or otherwise, should never be the reason why a special guardianship arrangement fails.

If it appears that, a child who is the subject of the Special Guardianship Order may have a need for support from another agency, such as health or education they will be consulted with in preparation of the Support Plan (Support Plan template accessed via LCS).

If the authority decides that it is not necessary to carry out an assessment of the need for support the special guardian will be notified and given an opportunity to make representations as to why such an assessment should not be carried out. Any such representations must be received within 28 days of receipt of the notification of the decision not to carry out an assessment. If representation is received, such representation will be considered by the SGO Panel.

2. Provision of Support

The authority must make provision for a range of Special Guardianship support services (Section 14F of the amended Children Act, 1989).

Special Guardianship support services are defined as:

- Financial support (Reg 3(1)(a));
- Services to enable children, Special Guardians and parents to discuss matters relating to the special guardianship (Reg 3(1)(b));
- Assistance including mediation in relation to contact between the child and their parents, relatives or significant others with whom the child has a

relationship that the authority considers to be beneficial to the welfare of the child (Reg 3(1)(c));

- Therapeutic services for the child (Reg 3(1)(d));
- Assistance to ensure continuance of the relationship between the child and the Special Guardian, including training to meet any special needs of the child, respite care, and mediation (Reg 3(1)(e));
- Counselling, advice and information (Sec 14F(1)(a) of the Children Act 1989).

Support services should not be seen in isolation from mainstream services and it is important to ensure that families are assisted in accessing mainstream services and a wide range of other support/services. Support is also provided to ensure they are aware of their entitlements to child benefit, child/working tax credits, universal credit, guardian allowance and any other benefits and exemptions to which they are entitled.

2.1 Support Plan

Where an assessment identifies the need for 'on-going' support services, a Special Guardianship Support Plan must be completed (Support Plan Template accessed via LCS). The proposed Special Guardianship Support Plan should make clear the authority's intentions to provide support and services (including financial support) and be discussed and agreed with the prospective Special Guardian(s). An opportunity to make representations about the proposed plan should be provided to the prospective Special Guardian and the option to seek advice and advocacy. (This may be sought from a range of organisations including Grandparents Plus).

The Special Guardianship Support Plan will need to be agreed by Team Manager and approval sought by the SGO Panel.

NB: Particular attention must be given to the content of the Support Plan in relation to the financial information of the prospective SG and ensure that this confidential information is not shared with birth parents when submitted to Court.

3. Access to Support/Services

Access to a wide range of support/services should be considered in developing and reviewing the Support Plan. Advice/information and support may be sought from the Kinship Care and Support Team for both prospective and existing Special Guardians.

4. Provision of Financial Support

Carers who are proposing to care for a child under a Special Guardianship Order or who are caring for a child under a Special Guardianship order can request an assessment for support, including financial support.

The payment of financial support is at the discretion of the Council and is subject to assessment of need and cannot be relied upon as regular source of income. It is paid up to a maximum of two years, unless there are exceptional circumstances which would warrant the continuation of financial support. State benefits and tax credits/universal credit are available to special guardians in the same way as they are for any parent and the authority has a key role in supporting SG carers to access all benefits and exemptions to which they may be entitled to.

The Local Authority must take account of any other grant, benefit, allowance or resource available to the person in respect of his/her needs as a result of becoming a Special Guardian of a child. Any financial support paid by the Council is not designed to replace benefits and tax credits.

5. When can Financial Support be considered

Regulation 6 of the 2005 Regulations states:

Financial support may be paid to a special guardian or prospective special guardian:

- a. To facilitate arrangements for a person to become the special guardian of a child where the local authority consider such arrangements to be beneficial to the child's welfare; or
- b. To support the continuation of such arrangements after a special guardianship order is made

6. Criteria for Financial Support

Durham County Council has the power to provide financial support to enable applicants to become Special Guardians, or after the order is made, to enable the Special Guardianship to continue, where there are assessed needs. Reg 6(2) allows financial support to be paid if one of the following circumstances in a. to d. applies:

- a. Where the Local Authority consider that it is necessary to ensure that the special guardian or prospective special guardian can look after the child;
- b. Where the Local Authority consider that the child needs special care which requires a greater expenditure of resources than would otherwise be the case because of illness, disability, emotional or behavioural difficulties or the consequences of his past abuse or neglect;
- c. Where the Local Authority consider that it is appropriate to contribute to any **legal costs** including court fees. This could include court fees associated with the application for a Special Guardian Order or any application to vary or discharge such an order; an application for an order under section 8 of the Children Act 1989; or an order for financial provision to be made to or for the benefit of the child;

- d. Where the Local Authority considers it appropriate to make a contribution to the expenditure necessary for the purpose of accommodating and maintaining the child, including the provision of furniture and domestic equipment, alterations to and adaptations of the home, provision of means of transport and provision of clothing, toys and other items necessary for the purpose of looking after the child.

Payment of financial support under (b) is intended where the child's condition is serious and long-term. For example, where a child needs a special diet or where items such as shoes, clothing or bedding need to be replaced at a higher rate than would normally be the case with a child of similar age who was unaffected by the particular condition (para 39).

In many Special Guardianship arrangements, contact between the child and their relatives or others with whom the Local Authority considers the child to have a beneficial relationship is very important. Where assistance with travel costs is required, this may either be given in cash under Regulation 3(1)(b) or, if such costs are on a recurring basis, as part of any financial support provided under Regulation 6(2)(b) to support the arrangements for ensuring the Special Guardian can look after the child (para 41).

6.1 Remuneration for former Foster Carers (who received payment for skills)

Regulation 7 states where the Special Guardian or prospective Special Guardian previously fostered the child and they received an element of remuneration, this being payment for skills, the authority has the discretion to continue to pay that element of remuneration for two years from the date of the Special Guardianship Order (SGO). The decision to include an element of remuneration (payment for skills) must be taken before the SGO is made and the assessment must determine that such remuneration is necessary to facilitate arrangements for a person to become a SG.

Reg 7(2) confirms that any remuneration ceases to be payable after two years from the making of the SGO, unless Durham County Council (DCC) considers continuation to be necessary, having regard to the exceptional needs of the child/young person or any other exceptional circumstances (see eligibility criteria). The payment during the two years will be the age related Fostering Allowance, plus the level of payment in respect of payment for skills that the foster carer previously received for the child before the SGO. The SG carer will be supported to access benefits, including child benefit.

7. Method of Payment

(Regulation 8) Financial support may be paid either:

- i) **periodically**, if it is provided to meet a need which is likely to give rise to recurring expenditure; or
- ii) by a **single payment**; or
- iii) if the local authority and the Special Guardian or prospective Special Guardian agree, by **instalments**.

8. Assessment of Need for Financial Support

If a Special Guardianship assessment is being conducted prior to the Special Guardianship Order being made and financial support has been identified as part of the outcome of the assessment and/or Support Plan a referral to the Financial Assessment Team is required allowing 6-8 weeks for the completion of a financial assessment.

If the financial assessment is requested following the making of the Special Guardianship Order for the purpose of an annual review, a new financial assessment is required.

The financial assessment will take account of any other grant, benefit, allowance or resource which is available to the person in respect of his or her needs as a result of becoming a Special Guardian for the child/young person.

The Authority will normally use its weekly in-house fostering allowance (based on the age-related fostering allowance) as its baseline for calculating transitional financial support and determining the amount payable, using the Department of Education Means-Test Model which will take into consideration:

- a) the financial resources available to the Special Guardian or prospective Special Guardian
- b) the amount required by the Special Guardian or prospective Special Guardian in respect of his or her reasonable outgoings and commitments (excluding outgoings in respect of the child)
- c) the financial needs and resources of the relevant child.

Para 66 states that the following support can be provided without the need for a means-test:

- The initial costs of accommodating a child who has been Looked After;
- Recurring travel costs in contact arrangements;
- Any special case requiring greater expenditure due to illness, disability, emotional or behavioural difficulties or the consequences of the past abuse or neglect of a child previously looked after;
- Where they are considering including an element of remuneration in financial support payments to ex-foster carers – so that local authorities can maintain the amount paid to a foster carer who goes on to become a special guardian for the transitional period (two years).

The only circumstance in which the local authority **must** disregard means is when they are considering providing financial support in respect of legal costs, including fees payable to a court (para 68).

Once it has been determined that there is a need for financial support which requires a means-test, the Financial Assessment Team will be requested to undertake a financial assessment to determine how much the Special Guardian will receive in financial support.

9. Decision to provide Financial Support

9.1 New Applications - SGO/CAO Panel

The decision to provide initial (transitional) financial support must be sought from the SGO Panel which acts as a quality-assurance and approval mechanism and ensures that the SGO Court Report, Support Plan and financial assessment (where appropriate) are completed to the required standard within the required timescales. Exceptionally, where time does not allow for this, the designated Strategic Manager (Looked After & Permanence) should have sight of the reports and agree these in advance of submission to court.

In summary the SGO Panel will have 4 main roles:

- To oversee the process of completing assessments is undertaken within the given timescale;
- To ensure that proposals for support services (including financial support) are discussed;
- To assure the quality of the assessment and report;
- To recommend the level and type of support (if any) to be offered by Children's Services.

SGO Panel Membership:

- Strategic Manager (Looked After & Permanence) – Panel Chair
- Kinship Care & Support Manager
- Operations Manager (Vice Chair via rota)
- Review Officer
- Panel Administrator

Team Managers/SWs will be asked to be available via phone/skype during each panel.

9.2 Review of Financial Support

9.2.1 Annual Review

During the identified period where support is being provided, the authority seeks to undertake a review following a change of circumstances or an annual review at the end of the first year (including financial support – Reg 18).

The review will primarily be undertaken by a Review Officer and where appropriate a joint visit with Review Officer and Social Worker/OPS worker.

Review documentation and a financial assessment will be completed as part of the annual review process and submitted to the next appropriate Review Panel.

Where the authority proposes to vary or terminate the provision of special guardianship support services to any person prior to the identified end date of support, it must give the person an opportunity to make representations and for that purpose it must provide notice of the proposed decision and the time allowed for making representations.

9.2.2 Review (representation following ceasing of financial support)

The duration of financial support is payable up to two years, initially paid as transitional financial support. However, having regard to the exceptional needs of the child/young person or any other exceptional circumstances, consideration may be given to providing further financial support.

The local authority will notify the carer three months prior to financial support ceasing and provide the opportunity to make written representations to review support/services. Written representation must be sent to the Children's Service Payment Team within 28 days of receipt of letter.

The appropriate review process will be undertaken by the Kinship Care & Support Team and review documentation submitted to Review Panel for consideration. As part of the review process the Review Officer will make the appropriate arrangements to visit the carer and complete a review document and a financial checklist.

The review will assess the needs of the child and will ensure that access is provided to the appropriate support/services including mainstream services. The financial checklist will provide confirmation of current income and essential expenditure and ensure that all eligible benefits and funding are being accessed and carers are provided with the appropriate support to manage their financial circumstances.

Following submission of documentation to Panel, the Review Officer must inform the carer of the Panel's decision in writing and where a decision is made to continue financial support the level of allowance will be determined by the age-related fostering allowance using the Dept of Education means-test model.

Applicants who remain dissatisfied with the decision will be entitled to use the Council Complaint's Procedure.

9.2.3 Review Panel

The main role of the Review Panel is:

- To ensure the quality and content of annual reviews and reviews following representation from existing carers where financial support is due to/have ceased

- To ensure a consistent approach to decision-making is provided and access to the appropriate support/services is made to meet the assessed needs of children/young people.
- To ensure carers are provided with a clear rationale of panel decision-making and recommendations.

Review Panel Membership:

- Presenting Officer – Kinship Care & Support Manager
- Hearing Officer - Operations Manager (Designated Practice Lead/Rep)
- Review Officers

10. Notice of Decision

After approval has been sought and a decision made to provide financial support, the Special Guardian will be provided with a 'Notification of Entitlement' letter, sent by the Children's Services Payment Team which sets out the following information:

- The method of determination of the amount of financial support
- Frequency of payment (one-off, via instalments or periodic payment)
- The amount of financial support;
- The period for which the financial support is to be paid;
- When payment will commence/cease;
- Arrangements and procedure for review and termination.

Any notice must be given in writing.

12. Terms & Conditions

Regulation 10 provides that financial support that is to be paid periodically is not payable until the special guardian or prospective special guardian agrees to the following conditions. As the local authority has the discretion to impose any appropriate condition this will apply for the purpose of any financial support provided.

As outlined within the **Terms & Conditions**, during the period in which financial support is provided, it will always cease to be payable to the Special Guardian or prospective Special Guardian if the child or young person:

- a) ceases to have a home with him or her; or
- b) ceases full-time education or training and commences employment; or
- c) qualifies for income support or job seeker's allowance in his or her own right:

or

- d) attains the age of 18 years, (unless he or she continues in full-time education or training, when it **may** continue until the end of the course or training he or she is then undertaking)

The Special Guardian or prospective Special Guardian must agree to:

- a) inform the local authority immediately if the Special Guardian changes his or her address, the child/young person dies, or there is a change in the financial circumstances of the Special Guardian or the needs or resources of the child, or if any of the events occur which would lead to the cessation of the support.
- b) complete and supply the local authority with appropriate annual financial documentation of his or her financial circumstances, the financial needs and resources of the child or young person, and his or her address and whether the child/young person still has a home with him or her.

The Special Guardian must also sign the 'Terms & Conditions' Agreement and adhere to the conditions set out within this Agreement.

Durham County Council may suspend or terminate the payment of financial support, and seek to recover all or part of the financial support paid, if any of the above conditions are not complied with, but where the non-compliance is the failure to provide annual financial documentation, the local authority is under a duty to send the Special Guardian a written reminder of the need to provide this documentation and to give the person 28 days within which to comply.

Notice of any change of circumstances of the Special Guardian or the child/young person may initially be given orally, but must be confirmed in writing within 7 days.