

## Special Guardianship Financial Support Policy

Year Implemented:	Future Review Dates (every two years)					
2012	2023	2024	2026	2028	2030	2032
Date reviewed	Sep	April				
By	FC	FC				
Signed off by HoS	MRH 20 Oct	MRH 23 May				

This Policy is based on the London Local Authorities initiative to develop across London a standardised approach to financial support for special guardians in accordance with the Special Guardianship Regulations 2005 ('the Regulations') and the DfE Special Guardianship Guidance ('the guidance').

It is written in four parts:

1. The regulatory framework.
2. The principles underpinning the payment of Special Guardianship allowances and financial support.
3. The agreed allowances and financial support.
4. Exceptional payments.

### 1 The Special Guardianship Regulations 2005 and the DfE Guidance

- 1.1 The Regulations, supported by the DfE guidance and recent case law govern the processes by which local authorities exercise their discretion in determining requests for special guardianship support services, including financial support.
- 1.2 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, under the Special Guardianship regulations 2005.
- 1.3 If a request for financial assistance is made by a prospective special guardian of a child who has a care experience with the Local Authority or a special guardian of a child who was cared for immediately before the making of the special guardianship order, (or such child or his parents) or would have become cared for by the local authority, had the special guardian (or prospective special guardian) not stepped in, then an assessment will be carried out. (Reg. 11.1). While requests for financial support from other persons will be considered, save for in exceptional circumstances, a financial assessment, including a means test, will not be conducted. The Local Authority will notify them of the reasons for the decision and allow him/her 28 days in which to make representations, which will be considered by the Local Authority. The final decision will

be made, and the person requesting assessment notified of it, within 28 days of receipt of their representations (Reg. 11.2 & 11.3).

1.4 (1) 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.

(2) Such support is payable only in the following circumstances –

(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 his 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, of a special guardian or prospective special guardian,

## **2. The Principles Underpinning the Payment of Special Guardianship Allowances and Financial Support**

2.1 Allowances should be used to enable children to be secured by a legal order in placements that meet their needs where there would otherwise not be able to remain without the payment of that financial support.

2.2 Each case will be decided on its merits with the aim of ensuring that there is equal and fair allocation of resources.

2.3 Allowances and grants are paid to support carers in covering expenditure arising from caring for the child.

2.4 Any additional financial benefits arising from the making of the order (child benefits, child tax credit etc.) will be deducted from the allowance to be paid to the carer to ensure that the carer is not paid twice for the same expenditure.

2.5 Payments to cover expenditure arising from a child's special needs will be made only after a full assessment of that child's needs and the Special Guardian's financial circumstances. Payments will only be made for the child after all other alternatives in terms of benefits, grants and services have been explored; and the level of the child's needs will be reviewed annually.

2.6 Special Guardianship financial support is payable to the Special Guardians to care for the child and meet his/her assessed needs, irrespective of where the Special Guardians are living i.e. including abroad. However, if the Special Guardians move abroad from the UK, or are already

living abroad when the child moves to their care, the level of allowance may be altered to consider comparative costs of living in that country.

2.7 The payment will cease when any of the events listed in Reg.9 occur (leaves home, commences employment, qualifies for income support, becomes 18).

### 3 Financial Support

There are several different expenses arising from caring for the child for which financial support can be paid.

- **Contribution to settling in grant** – This is based on the needs of child joining a new family under a special guardianship order. The price of items needed is based on the price of equivalent items in mainstream suppliers. The grant is not paid if the child was in foster care and the foster carers have applied to be that child’s special guardians: nor is it paid for a child already in placement with prospective special guardians, unless there are exceptional circumstances which would justify such a grant being made. It is paid up to a usual maximum per child of £500. This may be exceeded in exceptional cases.
- **Legal advice** – It is paid at the ‘legal help’ rates. It is only paid for children known to the Local Authority prior to the application being made (i.e. children with a care experience (formerly known as Looked after child), or designated Children in Need, subject to child protection plans), unless there are exceptional circumstances and where:
  - i) the Local Authority considers that the carer or prospective special guardian requires legal advice about the different care arrangements that could be made for the subject child and supports the child being placed or remaining in his/her care; and
  - ii) where he/she is not eligible for legal help or any other financial assistance for example under an insurance policy; and
  - iii) the Local Authority considers that his/her financial circumstances are such that it would not be reasonable to expect him/ her to pay his /her own fees.

This is payable up to the Local Authority’s agreed limit for the initial consultation of £350. The solicitor instructed should be a member of the Law Society’s Children Panel, unless otherwise agreed by the Local Authority in advance. Itemised bills will be required.

- **Legal fees for representation in court**
  - a) To make an application for a special guardianship order. These are only paid where:
    - i) the application relates to a child who has a care experience or who was cared for by the local authority prior to being cared for by the prospective special guardian or would have been had the special guardian not stepped in; and
    - ii) the Local Authority supports the application; and

iii) the Local Authority considers that the prospective special guardian requires separate representation; and

iv) where he/she is not eligible for public funding or any other financial assistance for example under an insurance policy; and

v) the Local Authority considers that his/her financial circumstances are such that it would not be reasonable to expect him/her to pay his/her own fees.

Legal fees are paid at the CLS Public funding rate, up to a maximum of £3000 save for exceptional circumstances. The solicitor instructed should be a member of the Law Society's Children Panel, unless otherwise agreed by the Local Authority in advance. Itemised bills will be required

b) Applications for payment of legal fees for other purposes (contact etc) will be subject to the criteria listed above and the Local Authority's assessment of the merits of the case.

- **Day to day cost for which an Allowance is needed**

Special Guardianship allowances are linked to the Local Authority's fostering allowances and are based on the needs of the child. They are not paid for a child who would not otherwise need to be cared for by the Local Authority, save in exceptional circumstances. The allowance is paid to foster carers and friends and family carers following the making of a special guardianship order in respect of the previously fostered child. Where foster carers were in receipt of a fostering allowance and fee, they will continue to receive this as the Special Guardianship allowance, less Child Benefit and Child Tax Credits, to maintain their level of income.

Where the foster carer is approved by an Independent Fostering Provider, the fee allowance and fee payment may be negotiated individually. The allowance includes payment for birthdays, festivals, holidays and school uniform, and separate additional payments will not be made.

- **Family time expenses** – The payment of these expenses to those visiting a child or to the special guardian by the Local Authority will be based on an assessment of child's needs, the circumstances of the individuals involved and the nature of the family time arrangements and may cover payment of travel costs and accommodation depending on the circumstances. Such support agreed must be recorded in the Special Guardianship Support Plan and is subject to annual review. If supervision is required during family time, this should be based on a risk assessment by the Local Authority. The principle employed by the Local Authority is that the Special Guardians are expected to be able to manage family time themselves or working towards taking responsibility for this within a reasonable timeframe.

#### **4. Exceptional Payments**

- **Nursery/child minding fees** – The payment of these fees is exceptional and based on an assessment of the child's and Special Guardian's needs and only where all other means of providing such service has been exhausted. It must be recorded in the Special Guardianship

Support Plan. The Special Guardians will be expected to apply for the child's nursery allowance at the first possible opportunity.

- **Building conversions** – loans to finance such work may be paid to private home owners, or Housing Associations, and only in exceptional cases e.g. to enable them to accommodate larger sibling groups. The Special Guardians must supply evidence that all other routes have been explored e.g. housing transfer or other funding through a mortgage. The loan will either be recoverable when the child subject to a special guardianship order reaches the age of 21 years or on sale of the property if earlier than that or by a monthly deduction from the Special Guardian's allowance at source. A proportion of any equity in the property at the time that the repayment becomes due arising from loan or any interest payable on the loan will be subject to negotiation and agreement before the loan is agreed between the special guardian and the Local Authority.
- **Loss of earnings** – If the child's needs require the Special Guardian to be at home on leave from work, at the time of introductions, the Local Authority may pay a proportion of their net earnings for the length of the agreed period in addition to the special guardianship allowance, depending on the circumstances. This will be assessed and recorded in the Special Guardianship Support Plan. It will be based on the statutory adoption pay arrangements. Provision of the fostering fee is deemed as income and is therefore taxable. This will constitute a proportion, if not all of the loss of earnings payment.
- **Respite care and Short Breaks** – These are paid for only in exceptional circumstances and are based on the child's assessed needs and must be agreed in the Special Guardianship Support Plan.