

Sheffield City Council
Children and Families Service

Child Arrangement Order Policy

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About this Document

Title	Child Arrangement Order Policy
Purpose	To set out how Sheffield City Council Children respond to Child Arrangement Orders and support available
Replaces	
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1. Introduction

- 1.1 Child Arrangement Orders (CAOs), interim or full, may be made by the Court under sections 8 (amended) and 10 of the Children Act 1989. Such Orders are often granted where parents of a child or children separate and there is a dispute about where the children should live, or with whom they should spend time.
- 1.2 The term 'Child Arrangement Order' includes both Orders directing with whom a child is to live (formerly known as Residence Orders) and Orders directing with whom the child is to spend time (formerly Contact Orders). The Orders may be made on a temporary basis whilst the Court considers the long term options and on a final basis where the Court is able to decide on the arrangements for the child for the foreseeable future.
- 1.3 The Local Authority has a discretionary power to provide financial support to those caring for a child in their household who is subject to a Child Arrangement Order, unless that person is a parent of the child or a husband or wife or civil partner of that child's parent. This financial support is known as a Child Arrangement Order allowance. The power to pay an allowance relates only to the 'live with' type of Child Arrangement Order. References in this chapter to Child Arrangement Orders therefore relate to Orders providing that a child shall live with someone.

2. Circumstances in Which a Child Arrangement Order might be made

- 2.1 A Child Arrangement Order may arise out of any of the following situations:
 - 2.1.1 As a result of private law proceedings where the Local Authority is not looking after the child and is not considering looking after the child;
 - 2.1.2 As a result of private law proceedings brought by family members who are caring for the child as an alternative to the child becoming a Child in Care. Such an application will often be supported by the Local Authority, which may contribute to the court fees and / or other legal costs;
 - 2.1.3 As a result of private law proceedings brought by connected person foster carers of a Child in Care. This will usually be supported by the Local Authority. In most such cases, the child will be accommodated under s20 as opposed to a Care Order;

- 2.1.4 At the conclusion of an application for discharge of a Care Order, where the child's Final Care Plan is permanency with the Foster or Connect Person carers long-term and the child's assessed needs can be met by the carers without the continuing need for a Care Order;
- 2.1.5 At the conclusion of care proceedings, where the outcome of the decision-making process is that the child's Final Care Plan is for the child to be permanently cared for long-term with family members, but the child's assessed needs do not require the child to be subject to a Care Order and it is not thought appropriate to make a Special Guardianship Order (this decision could also be made during the proceedings if it became clear that the Local Authority no longer needed an Interim Care Order to protect the child).

3. Legal Basis for Child Arrangement Order Allowances

- 3.1 There is no statutory **duty** for the Local Authority to pay Child Arrangement Order allowances. However, there are general duties to help children and their families.

Under Section 17 of the Children Act 1989 Local Authorities are under a duty:-

- To safeguard and promote the welfare of children within their area who are in need; and
- So far as is consistent with that duty, to promote the upbringing of such children by their families, by promoting a range and level of services appropriate to these children's needs.

Further, Schedule 1 para 15 of the Children Act 1989 provides:

15(1) Where a child lives, or is to live, with a person as the result of a Child Arrangement Order, a Local Authority may make contributions to that person towards the cost of the accommodation and maintenance of the child. (2) Sub-paragraph (1) does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife or civil partner of a parent of the child.

- 3.2 Therefore the Local Authority has a discretionary **power** to financially support a person in whose favour a Child Arrangement Order has been made, except where the Order is made in favour of a parent. Where a Local Authority has a policy envisaging the payment of Child Arrangements Order allowances the policy must be reasonable, and it must be applied fairly.

4. Circumstances in Which Child Arrangement Order Allowances May Be Paid

- 4.1 In line with the discretionary powers detailed above, the Local Authority will assess the need to pay a Child Arrangement Order allowance in all circumstances where this has been requested, based on the extent to which this support is essential to ensure that the child's needs are met.
- 4.2 Further to 4.1, the following are particular circumstances, although not exclusively so, in which the Local Authority will assess the need to pay a Child Arrangement Order allowance:
- 4.2.1 Where immediately prior to the Child Arrangement Order being made, the child was 'Looked After' by the Local Authority and the Child Arrangement Order application is part of his/her Care Plan and has been confirmed with the Independent Reviewing Officer through the reviewing process
 - 4.2.2 Where the child is subject to a Child Arrangement Order as part of a disposal of Care Proceedings or as a direct alternative to care proceedings, whether or not the child was looked after by the Local Authority
 - 4.2.3 The circumstances set out in 4.2.1 and 4.2.2 are not exclusive and do not limit the Local Authority from using its discretionary power to pay Child Arrangement Order allowances in other circumstances, where it is essential to ensure the child's needs are met.
- 4.4 Decisions on payment of Child Arrangement Orders should be made by an Assistant Director in the service or above

5. Assessment for Child Arrangement Order Allowance

- 5.1 The weekly level of payment is determined by a financial assessment. Child Arrangement Order allowances are means tested.
- 5.2 The rate of payment is linked to the age of the child. Once the financial assessment has been completed, a deduction is made in respect of Child Benefit and Tax Credits that the carer will be able to claim once they have acquired parental responsibility via the making of the Child Arrangement Order.

- 5.3 In determining the level at which the weekly allowance payment will be made, a sum equal to two thirds of the fostering allowance paid to Local Authority foster carers will be used as a base starting point. The rationale for using this as a base is as follows:
- The Fostering Network has calculated that it costs 50% more to raise a child in foster care than in their own home.
 - Child Arrangement Orders confer parental responsibility on the holder but this is shared and thus does not effectively place the ultimate decision making burden on any one individual.
 - Child Arrangement Orders are Private Law Orders which do not entail an obligation to work within the looked after children's system which is an onerous and specialised task requiring assessment and training.
 - Child Arrangement Order carers are not subject to on-going monitoring and review, apart from annual allowance reviews.
- 5.4 The financial assessment of means will determine whether the payment level will be set at 100% of the two thirds fostering allowance equivalent or a proportion of this starting point. As detailed above deductions will be made equivalent to the sum which the carer can claim for child benefit and tax credits.
- 5.5 In some exceptional circumstances it may be necessary to pay a weekly allowance higher than the two thirds fostering allowance equivalent in order to ensure that the child's needs are met. In such cases this will need to be thoroughly explored and evidenced in the social work assessment.
- 5.6 Exceptional payments in the form of time limited or single payments may be made when the child has particular or special needs which result in additional expenses over and above the general maintenance allowance.
- 5.7 Any requests for exceptional payments of Child Arrangement Order Allowances will be subject to a prior assessment, coordinated by the Service Manager with the prior agreement of the Assistant Director or above.
- 5.8 Consideration may be given to assistance by way of a financial contribution towards legal and court costs but this will be dependent on individual circumstances. Such assistance will only be considered when the Local Authority supports the carer's proposal to apply for a Child Arrangement Order. The applicants will be expected to apply for legal aid if it is available to them. Any support with legal costs of conducting proceedings will be subject to a condition that the Local

Authority will pay no more than the applicable legal aid rates for the work undertaken.

- 5.9 For approved foster carers who have been fostering a child who becomes the subject of a Child Arrangement Order, any element of remuneration the carer was receiving immediately before the Order was made in respect of that child will continue to be paid for a two year transitional period, and possibly beyond in exceptional circumstances.

6. Cessation and Review of Allowances

- 6.1 A Child Arrangement Order comes to an end when a child reaches 18 unless the Court specifies that it should end earlier, or another Order is made that discharges it. When the Order ends or the child in respect of which the allowance is paid ceases to live with the recipient of the allowance, the payment will cease.
- 6.2 All Child Arrangement Order allowances will be subject to an annual review, which ensures that all is going well, the child is still being cared for and that public money is spent in an accountable way. Carers must provide an annual statement of their financial circumstances and confirm that they are still caring for the child in their household.
- 6.3 Carers receiving a Child Arrangement Order Allowance must sign an agreement in advance of payment commencing to confirm they understand that they are required to inform the Local Authority if their financial circumstances change significantly, the child no longer lives with them, or the child becomes deceased.

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