

# Wigan Council Special Guardianship Support Services Policy

## SCOPE OF THIS CHAPTER

This policy covers all aspects of Special Guardianship Support Services, including assessment for support services, and financial support.

## RELEVANT LEGISLATION

### **Special Guardianship (Amendment) Regulations 2016**

This reflects the enhanced assessment and reporting requirements (for all applications made from 29 February 2016) as set out in the Special Guardianship (Amendment) Regulations 2016.

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## **1. Introduction**

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Special Guardianship Orders provide a legal status for children that offer greater security than long-term fostering but without the absolute legal severance from the birth family that stems from an adoption order.

Wigan Council are required to make arrangements for the provision of Special Guardianship Support Services (Section 14F of the amended Children Act, 1989). These include counselling, advice, information and other services, including financial support. The Regulations also provide for the assessment of needs for Special Guardianship Support Services and the planning and the reviewing of those support services.

## 2. The Legal Framework for Special Guardianship Support Services

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This policy should be read in conjunction with the Special Guardianship Regulations (2005) **The Special Guardianship Regulations 2005**, the Children Act (1989) as amended by Section 115 of the Adoption and Children Act (2002), and the Special Guardianship Guidance (2017) **Special Guardianship Guidance - Department for Education**. Any regulations cited refer to the Special Guardianship Regulations (2005) unless otherwise stated.

## 3. Provision of Special Guardianship Support Services (Regulation 3)

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Wigan Council must make arrangements for the provision of Special Guardianship Support Services (Section 14F of the amended Children Act, 1989), and are required to make a range of support services available in their area to meet the needs of people affected by Special Guardianship. Special Guardianship Support Services are defined as:-

- Financial support (Regulation 3(1)(a));
- Services to enable groups of children for whom a Special Guardianship Order is in force or in respect of whom is being formally considered, Special Guardians and prospective Special Guardians and parents of the child to discuss matters relating to Special Guardianship (Regulation 3(1)(b));
- Assistance, including mediation services, in relation to contact between the child and their parents or relatives or any other person with whom the child has a relationship that the Local Authority considers to be beneficial to the welfare of the child (Regulation 3(1)(c));
- Therapeutic services for the child (Regulation 3(1)(d));
- Assistance for the purpose of ensuring the continuance of the relationship between the child and his Special Guardian or prospective Special Guardian, including training for the Special Guardian or prospective Special Guardian to meet any special needs of the child; respite care and mediation in relation to matters relating to Special Guardianship Orders (Regulation 3(1)(e)); and
- Counselling, advice and information (Section 14F(1)(a) of the Children Act, 1989).

Special Guardianship Support Services should not be seen in isolation from mainstream services. It is vital to ensure that children and families involved in Special Guardianship arrangements are assisted in accessing mainstream services and are aware of their entitlement to Social Security Benefits and Tax Credits as appropriate.

#### **4. Responsibility for Assessment of Special Guardianship Support Services (Regulation 5)**

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Where the child was **not looked after** prior to the making of the order, the Local Authority where the Special Guardian lives is responsible for undertaking an assessment of need and provision of any Special Guardianship Support Services in response to that assessment. This includes assessment and any support that is needed by the child's relatives who may live elsewhere. If the Special Guardian and their family move, then the responsibility passes to the new Local Authority. The Local Authority where the Special Guardian previously lived should co-operate as needed to ensure a smooth transition for the child.

Where a child was previously **looked after**, the assessment and provision of services for the child, the Special Guardian and any children of the Special Guardian all remain the responsibility of the Local Authority where the child was last looked after for three years from the date of the Order (Regulation 5). This rule applies wherever the family live during this period. If the family do move during the three years or there is any other significant change in their circumstances, the Local Authority may wish to undertake a re-assessment and alter the support plan accordingly, including any contact arrangements that are part of the plan.

When the three year period from the making of the Special Guardianship Order has expired, the Local Authority where the Special Guardian lives is responsible for assessing and providing support services.

#### **Where the Support is Ongoing Financial Support**

A distinction is made between ongoing financial support (financial support that is paid on a regular basis) which was agreed before the Special Guardianship Order was made and other support services. The assessment and provision of such financial support will **remain the responsibility of the Local Authority who originally agreed it for as long as the family in question qualify for payments.**

This distinction has been made because financial support can be paid without direct contact.

The Local Authority may provide services to people outside their area in other circumstances where the Authority considers it appropriate. For example, transitional arrangements by the originating Authority where a family move to allow time for the new Authority to review the family's existing plan without a break in service provision (Regulation 5).

## **5. Assessment for Special Guardianship Support Services (Regulation 11)**

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1. The following people **must** receive an assessment at their request, in cases involving **looked after children** or children who were looked after immediately prior to the making of a Special Guardianship Order:-

- The child;
- The Special Guardian or prospective Special Guardian;
- Parent;

It is important that children who are not (or were not) looked after are not unfairly disadvantaged by this approach. In many cases, the only reason that the child is not looked after is that relatives stepped in quickly to take on the responsibility for the child when a parent could no longer do so.

2. The following people **may** be offered an assessment of their need for Special Guardianship Support Services where the child is **not looked after**:-

- The child;
- The Special Guardian or prospective Special Guardian;
- Parent;

The following people **may** be offered an assessment of their need for Special Guardianship Support Services whether the Special Guardianship child is **looked after or not**;

- A child of a Special Guardian;

- Any person whom the Local Authority considers to have a significant and ongoing relationship with a child.

If it is decided not to carry out an assessment under section 2 above, then written notice of the decision must be given to the person requesting the assessment, including reasons for the decision. The person who requested the assessment must be allowed at least 28 days to make representations in relation to the decision.

There is discretion to undertake an assessment of other people in relation to Special Guardianship Support Services (Section 14F of the Children Act, 1989). This should follow the same procedure as used where people have an entitlement to an assessment.

It will not always be necessary to undertake an assessment before providing information, advice or counselling services. However, consideration is given to providing any of the services set out under Regulation 3 (see above), then an assessment should be carried out in line with this guidance (Regulations 11-13). Where a request relates to a particular service or where it is clear that a particular service is what is required, then the assessment process can be limited to looking at the need for that service (Regulation 11 (4)).

## **6. Procedure for Assessment (Regulation 12)**

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Assessments are required to consider (as far as relevant to the particular assessment) in all cases:

- a. The current and likely future needs including developmental needs of the child (including any harm the child has suffered and any risk of future harm posed by the child's parents, relatives or any other person the local authority considers relevant);
- b. The parenting capacity of the Special Guardian or prospective Special Guardian including:
  - i. Their understanding of, and ability to meet the child's current and likely future needs, particularly, any needs the child may have arising from harm that the child has suffered;
  - ii. Their understanding of, and ability to protect the child from any current or future risk of harm posed by the child's parents, relatives or any

other person the local authority consider relevant, particularly in relation to contact between any such person and the child;

- iii. Their ability and suitability to bring up the child until the child reaches the age of eighteen;

The proposed contact arrangements and the support needs of the child, parents and the prospective special guardian.

- c. The family and environmental factors which have shaped the life of the child;
- d. What the life of the child might be like with the Special Guardian;
- e. Any, previous assessment undertaken in respect of the child or the Special Guardian or prospective Special Guardian;
- f. The needs of the Special Guardian or prospective Special Guardian and their family;
- g. Where it appears that there is a pre-existing relationship between the Special Guardian or prospective Special Guardian and the parents of the child, the likely impact of the Special Guardianship Order on the relationship between that person, that child and that parent.

Assessments for Special Guardianship Support Services should follow the guidance set out in, and use the domains of, the Framework for the Assessment of Children in Need and their Families, recognising that the context is different from that for birth families. Past assessments for a child who has previously been a **Child in Need** or **Looked After**, can inform the assessment of Special Guardianship support needs. These should be updated as appropriate. The information required for an assessment of Special Guardianship Support Services is contained in the Wigan Council Report to Court in Respect of an Application for a Special Guardianship Order. This information can then be used to inform the Special Guardianship Support Plan.

Where an assessment of Special Guardianship Support Services is requested after a Special Guardianship Order has been granted, points a to g (above) will be included in the Special Guardianship Support Plan. Assessments for Special Guardianship Support Service needs can be undertaken at the same time as undertaking another assessment, in order to avoid the need for a number of different assessments (Section 14F(10) of the (Children Act, 1989)).

Where it appears appropriate to the Local Authority that the person may have a need for services from a Local Health Board, a clinical commissioning group, the National Health Service Commissioning Board, or another local authority it must consult those agencies.

The person whose needs are being assessed will be interviewed, unless the assessment relates only to information and advice or unless it is not appropriate to interview a child. In this case, the child's actual or prospective Special Guardian may be interviewed.

The assessment of Special Guardianship Support Services (whether in the form of a court report or a separate report) must be agreed by the Service Manager along with the proposed Special Guardianship Support Plan.

## **7. Eligibility Criteria for Special Guardianship Allowance**

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In order for a Special Guardianship Allowance to be paid, the child(ren) in question must also meet one of the eligibility criteria listed below. There are two groups of children where the payment of a Special Guardianship Order Allowance to their carers may be appropriate:-

- a. A looked after child placed with Wigan Council foster carers or those fostering on behalf of Wigan whose application is determined by the Children and Young People's Service to be in the child's best interests and where the absence of an allowance would preclude the Order being made;
- b. Upon receipt of a written request, a child who is not looked after, whose primary carers the Children and Young People's Service:-
  - i. Has assessed that the child has suffered significant harm or was likely to have suffered significant harm; and
  - ii. Has been instrumental in intervening in the child's circumstances to ensure that the child is cared for by an appropriate carer; and
  - iii. Has determined that in the absence of those carers being available, Care Proceedings would have been necessary, and the local authority Legal representative has agreed this; and



- iv. Has determined that the Special Guardianship Order being proposed is in the best interests of the child; and
- v. Has determined that the absence of an allowance would preclude the Order being made.

All of the above information should be captured in a Case Management Document and agreed by the relevant Service Manager

## **8. Provision of Financial Support (Regulation 6)**

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Financial issues should not be the sole reason for a Special Guardianship arrangement failing to survive. The central principle is that financial support should be payable in accordance with the Regulations to help secure a suitable Special Guardianship arrangement where such an arrangement cannot be readily made because of a financial obstacle. Financial support is payable to facilitate arrangements for a person to become the child's Special Guardian, where this is considered to be beneficial to the child's welfare and to support the continuation of these arrangements after the Order has been made.

Circumstances in which financial support **will** be paid to a Special Guardian or prospective Special Guardian: -

- a. Where it is necessary to ensure that the Special Guardian or prospective Special Guardian can look after the child – this will be assessed through the use of the means test;
- b. Where 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 past abuse or neglect – this will be subject to approval by the Assistant Director for Targeted Services and there must be clear evidence of the additional costs over and above that assessed through the means test;
- c. Where the Local Authority considers that it is appropriate to contribute to any legal costs, including Court fees, of a Special Guardian or prospective Special Guardian associated with:-
  - i. The making of a Special Guardianship Order or any application to vary or discharge such an Order;

- ii. An application for an Order under Section 8 of the Children Act, 1989 (a Contact Order, a Prohibited Steps Order, a **Child Arrangements Order** or a Specific Issue Order);
- iii. An order for financial provision to be made to or for the benefit of the child.

Circumstances in which financial support **may** be paid to a Special Guardian or prospective Special Guardian: -

- 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 and provision of clothing, and other items necessary for the purpose of looking after the child. The sums payable will be in accordance with the equipment and clothing values listed in the Council's Fostering Allowance guidance. The payment of any such contributions will be approved by the relevant Service Manager.
- e. Alterations to and adaptations of the home, and the provision of means of transport will be subject to a robust assessment taking account of the child's needs and the carers resources. Any financial support paid will require approval by the Director of Children's Services. Further information is available on request to how this will work.

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.

Financial support paid under (c) is payable so that the Local Authority may contribute to initial legal costs, where appropriate, but also any future legal costs that are associated with the Order, to continue to support the existence of the order, again, where the Local Authority considers this to be appropriate.

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 will be considered subject to prior approval by Service Manager

## **9. Assessment for Financial Support (Regulation 13)**

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It is important to ensure that Special Guardians are helped to access benefits to which they are entitled. Local Authorities should, therefore, endeavour to ensure that the Special Guardian or prospective Special Guardian is aware, and taking advantage of, all benefits and tax credits available to them. Financial support paid under these Regulations cannot duplicate any other payment available to the Special Guardian or prospective Special Guardian. In determining the amount of any financial support, the Local Authority must take account of any other grant, benefit, allowance or resource which is available to the person in respect of his needs as a result of becoming a Special Guardian of the child.

When considering providing financial support the Local Authority will consider the Special Guardian or prospective Special Guardian's means. The Local Authority has developed a means test which will assess the amount of allowance due or if an allowance is to be paid. The Local Authority is required to consider:-

- a. The Special Guardian or prospective Special Guardian's financial resources (which will include income from any investments) including any tax credit or benefit which would be available to them if the child lived with them. This is consistent with the fact that financial support for Special Guardians is disregarded for the purpose of calculating income related benefits and tax credits;
- b. The amount required by the Special Guardian or prospective Special Guardian in respect of their reasonable outgoings and commitments (e.g. Mortgage, Council Tax). General household expenditure on items such as food, transport, clothes, recreation will be calculated using the Income Support allowance rates plus a 25% uplift.
- c. The financial needs that relate to the child (e.g. because of special diet or need for replacement bedding) and the resources of the child (e.g. a trust fund).

In determining the amount of any ongoing financial support, the Local Authority will have regard for the fostering rates. The Local Authority's basic maintenance allowance that would be payable in respect of the particular child, minus child benefit

and child tax credit will make up the maximum payment the Local Authority could consider paying the family.

A financial assessment form will be sent to the prospective Special Guardian in order for the calculation of the Special Guardianship Order Allowance to be undertaken. The Special Guardian(s) must complete the forms and submit the latest 3 months bank statements for all bank accounts held, 3 months wage slips or their last tax return and company accounts if self-employed. The guardians partner/spouse's if not named on the order must also provide the information above. We will not assess those on only income support all applicants will receive the maximum payment. However under Universal Credit income support will not exist and all carers will be subject to a means test.

## **10. Circumstances When Means Can be Disregarded (Regulation 13)**

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The Local Authority **may** disregard means where they are considering providing support in respect of:-

1. Recurring costs in respect of travel for the purpose of visits between the child and a related person with whom they have contact (or would have contact but for prohibitive travel costs) - so that, for example, where the Local Authority wants to underline the value of and facilitate contact for the child with a sibling, they can achieve this by not means testing payments to support this;
2. Any 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 past abuse or neglect in relation to a child who has **previously been looked after by the Local Authority** (Regulation 6(2)(b)). This will allow Local Authorities to provide a financial package for a particular child to facilitate the making of a Special Guardianship Order;
3. 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. Save for exceptional circumstances. This disregard is time limited to a maximum of two years from the date that the order was granted.

In each of the above instances approval to disregard the means test must be given by the Assistant Director.

## 11. Remuneration for Former Foster Parents (Regulation 7)

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Financial support cannot normally include the payment of remuneration to the Special Guardian or prospective Special Guardian for care of the child. However, where the Special Guardian or prospective Special Guardian previously fostered the child and they received an element of remuneration in the financial support paid to them as the child's foster parent, the Local Authority **may** continue to pay that element of remuneration for **two years** from the date of the Special Guardianship Order. After this time, the payments would be subject to an annual means test. These payments may continue for longer than two years in exceptional circumstances if the Local Authority considers this appropriate, and this is agreed by the Assistant Director for Targeted Services

The purpose of the two year transitional provision is to enable Local Authorities to maintain payments to foster carers who become Special Guardians, at the same rate as they received when they were fostering the child. This should give the family time to adjust to their new circumstances, however this is not a continued and guaranteed payment and is one that must be reviewed under this policy.

## 12. Legal Costs

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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. This applies where a Special Guardianship Order is applied for in respect of a child who is **looked after** by the Local Authority and the Authority supports the making of that Order or an application is made to vary or discharge a Special Guardianship Order in respect of that child. The amount provided will be £150 Plus VAT ( the equivalent of 3 hours of advice at Legal aid rate). In exceptional cases a higher level of payment may be made subject to the approval by the Practice Director or Director of Children's Services but in all cases the amount must not exceed the current applicable legal aid rates.

Local Authorities are **not** expected to meet the legal costs of a Special Guardianship Order **where they oppose an application in respect of a child they previously**

**looked after or in a non-looked after** case. Local Authorities may wish to advise prospective Special Guardians in these circumstances that they may be able to obtain help with legal costs from the Legal Services Commission (LSC), although this will be subject to a means and merits test laid down by the Funding Code. A Higher rate will be considered on a case by case basis by the Practice Director.

### **13. Post-Assessment - Notice of Outcome of Assessment (Regulation 15)**

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When, as a result of an assessment, a Local Authority decides that a person has needs for Special Guardianship Support Services, they must decide whether to provide such services. Before making this decision they must allow the person the opportunity to make representations.

The notice must contain the following information:-

- A statement as to the outcome of the assessment of the person's needs for Special Guardianship Support Services;
- Where the assessment relates to the need for financial support, the basis upon which financial support is determined whether the Local Authority proposes to provide them with Special Guardianship Support Services;
- The services (if any) that the Local Authority proposes are to be provided;
- If financial support is to be paid, the proposed amount that would be payable; and
- Any conditions attached to the payment.

In a case where the Local Authority proposes to provide Special Guardianship Support Services and is required to prepare a plan (see above), the notice must be accompanied by a draft of that plan.

When providing the person with the outcome of the written assessment, the Local Authority should refer the person to sources of independent advice and advocacy.

Representations should be received within 28 days from the time the proposed decision is sent to the applicants.

After considering any representations received, the Local Authority must then decide whether to provide any services to the person who has been assessed, taking into

account the individual circumstances of the case and the resources that are available locally. Any representations received will be considered by the relevant Service Manager. The Local Authority cannot make a decision until the person has made representations or has notified the Authority that they are satisfied with the proposed decision and, where applicable, the draft plan; or the period of time for making representations has expired.

#### **14. Notification of Decision Regarding Special Guardianship Support Services (Regulation 16)**

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Following a decision about what service to provide, if any, the Local Authority is required to give notice of that decision, including the reasons for it. Where the Local Authority is required to prepare a plan under Section 14F(6) of the Act, the notice must include details of that plan and the name of the person nominated to monitor the provision of services in accordance with the plan

If the Local Authority decides that financial support is to be provided, the notice of this decision must include the following information:-

- a. The method of the determination of the amount of financial support;
- b. Where financial support is to be paid in instalments or periodically:-
  - o The amount of financial support;
  - o The frequency with which the payment will be made;
  - o The period for which financial support is to be paid;
  - o When payment will commence.
- c. Where financial support is to be paid as a single payment, when the payment is to be made;
- d. Where financial support is to be paid subject to any conditions, those conditions, the date (if any) by which the conditions are to be met and the consequences of failing to meet the conditions;
- e. The arrangements and procedure for review, variation and termination of financial support;
- f. The responsibilities of:-

- The Local Authority in relation to reviews; and
- The Special Guardian or prospective Special Guardian pursuant to any conditions for payment of periodic financial support agreed under Regulation 10.

Where service providers other than Children's Social Care Services have been involved in the assessment of support needs, the Local Authority should try, wherever possible, to ensure that decisions made by those service providers follow the same timetable as decisions made under this Regulation. These should then be covered in a single notification and plan sent out by the Local Authority which encapsulates decisions for the whole service package wherever possible.

## 15. The Plan (Regulation 14)

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A plan must be prepared by the Locality Area Social Workers and/or FFAST (Friends and Family Adoption Support Team) if it is proposed to provide Special Guardianship Support Services to a person on more than one occasion and the services are not limited to the provision of advice or information. Where it appears appropriate to the Local Authority that the person may have a need for services from a Local Health Board, a clinical commissioning group, the National Health Service Commissioning Board, or another local authority it must consult those agencies before preparing the plan. The Proposed **Special Guardianship Order Support Plan** should be used and agreed at Permanency Panel and the plan must be signed.

The plan should set out:

- Details of the finances and a copy of the policy and means test
- The services to be provided;
- The objectives and criteria for evaluating success;
- Timescales for provision;
- Procedures for review;
- The name of the person nominated to monitor the provision of services in accordance with the plan.
- A copy of this document should be given to the Carer.



The result of this process of preparation and consultation should be that Social Workers, other professionals and the recipient of the services (or the appropriate adult) will be clear what the support services plan is. The Special Guardian, and the child/young person where appropriate, should be given a copy of the plan.

## **16. Securing the Provision of Services (Regulation 4)**

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The Local Authority can arrange for Special Guardianship Support Services to be provided by another body. This enables the Local Authority to delegate or contract out provision of these services to a third party who will provide services on its behalf (Section 14F(9)(b), Children Act, 1989). The Local Authority may provide Special Guardianship Support Services by securing their provision through another Local Authority. This provision is extended to registered Adoption Societies, registered Adoption Support Agencies, registered Fostering Agencies, Clinical Commissioning Groups (CCGs), a local health board and the NHS commissioning board (Regulation 4).

This enables the Local Authority to contract with a neighbouring Authority and/or with an independent registered provider to ensure that the service is provided. This may be appropriate where there is a low demand for a particular Special Guardianship Support Service in an area or to avoid duplication where an existing service provided by one of the prescribed bodies can be developed and maintained as appropriate.

## **17. Payment of Financial Support (Regulation 8)**

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Financial support is paid fortnightly, if it is provided to meet a need which is likely to give rise to recurring expenditure; otherwise it may be paid as a single payment, or, if the Local Authority and Special Guardians or prospective Special Guardians agree, in instalments.

## **18. Conditions of Financial Support Paid Periodically (Regulation 10)**

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Financial support that is to be paid periodically is not payable until the Special Guardian or prospective Special Guardian agrees to the following conditions:-

- a. That they will inform the Local Authority immediately if:-
- They change address;
  - The child dies;
  - Any of the changes mentioned in Cessation of Financial Support occur;  
or
  - There is a change in their financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable to them and, where the information is given orally, that they will confirm it in writing within seven days.
- b. That they will complete and supply the Local Authority with the relevant information as to the following matters:-
- Their financial circumstances;
  - The financial needs and resources of the child;
  - Their address and whether the child still has a home with them
- c. Submission of the relevant forms to enable a financial assessment to be made and with supporting documents for e.g. three months bank statements

The Local Authority may set any other conditions they consider appropriate, including the timescale within which and purposes for which any payment of financial support should be utilised. Where any condition imposed is not complied with, the Local Authority may suspend or terminate payment of financial support **and seek to recover all or part of the financial support they have paid**. For example failure to declare a significant change in financial circumstances such as gaining employment, increased salary.

However, where the condition not complied with is a failure to provide information for the annual review the Local Authority may not take any steps to suspend, terminate or seek to recover financial support until they have sent to the person who entered into the agreement a written reminder of the need to provide the relevant information and 28 days have expired since the date on which the notice was sent.

## 19. Reviews (Regulation 17)

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Regular reviews enable the Local Authority and the service user to review the effectiveness of any services provided and consider whether it is appropriate to continue that service or change the provision in some way.

- Where the Local Authority provides Special Guardianship Support Services for a person, other than financial support payable periodically the Social Worker will review the provision of such services. If any change in the person's circumstances which may affect the provision of Special Guardianship Support Services comes to their notice;
- At such stage in the implementation of the plan as they consider appropriate;
- In any event, at least annually

Where services are being reviewed, the same procedure for assessment set out in Regulations 12 and 13 must be followed in reviews as they are in a first assessment.

If the Local Authority proposes to vary or terminate the provision of Special Guardianship Support Services to any person, before making any decision as a result of the review, it must give the person an opportunity to make representations and for that purpose it must give them notice of the proposed decision and the time allowed for making representations.

The notice must contain the same information as the notification of the outcome of a first assessment, following the requirements in Regulation 15 and, if the Local Authority proposes to revise the plan, a draft of the revised plan. The Local Authority must then decide whether to vary or terminate the provision of Special Guardianship Support Services for the person and, where appropriate, revise the plan, having regard to the review and after considering any representations received within the period specified in the notice. The Local Authority must give the person notice of their decision (including the reasons for it) and, if applicable, details of the revised plan.

The format and content of the review will vary, depending on the circumstances of the case. Notification of changes of circumstances and any review of the provision of support services need not always necessitate direct contact between the Local Authority and the Special Guardian. Where the change of circumstances is relatively minor, the review might be limited to an exchange of correspondence. In particular, the annual review of financial support might be achieved by exchange of correspondence between the Local Authority and the Special Guardian.

Where the change of circumstances is relevant only to one service, the review may be carried out with reference only to that service. However, where the change of circumstances is substantial, for example a serious change in the behaviour of the child, it will normally be appropriate to conduct a new assessment of needs.

## **20. Review of Financial Support Paid Periodically (Regulation 18)**

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Where the Local Authority provides financial support, payable periodically it must review the financial support:-

- On receipt of the annual statement from the Special Guardian required under Regulation 10;
- If there is any relevant change of circumstances that the Special Guardian agreed to notify in accordance with Regulation 10, or any breach of a condition made under Regulation 10 comes to the Local Authority's notice;
- At any (other) stage in the implementation of the plan that the Local Authority considers appropriate.

The review of the Special Guardianship Order Allowance will be undertaken by the Finance Division. The procedure for assessment set out in Regulations 12 and 13, applies equally to a review of financial support as to first assessments for financial support. If the Local Authority proposes, as a result of the review, to reduce or terminate financial support or revise the plan, before making that decision the Local Authority must give the person an opportunity to make representations. For that purpose, it must give the person notice of the proposed decision and the time allowed for making representations but the Local Authority may suspend financial support pending that decision if they think it appropriate.

The notice must contain the same information as the notification of the outcome of the first assessment following the requirements of Regulation 15.

The Local Authority must, having regard to the review and after considering any representations received within the period specified in the notice, then decide whether to vary or terminate payment of the financial support or whether to seek to recover all or part of any financial support that has been paid and, where appropriate, revise the plan. Any representations received will be considered by the relevant Service Manager.

The Local Authority must give the person notice of their decision, including the reasons for it, and, if applicable, the revised plan.

## **21. Cessation of Financial Support (Regulation 9)**

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Financial support ceases to be payable to a Special Guardian or prospective Special Guardian if:-

- The child ceases to have a home with them;
- The child dies;
- The child ceases full-time education or training and commences employment including an apprenticeship;
- The child qualifies for Income Support or Jobseeker's Allowance in their own right; or
- The child attains the age of 18 whereby it may continue if in full-time education or training, when it will continue until the end of the course or training they are then undertaking; Financial support beyond the age of 18 is not guaranteed and will be assessed on a case by case basis.
- Failure to adhere to the agreed review process

## **22. Urgent Cases (Regulation 19)**

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It is important that the assessment process and follow up do not unnecessarily delay provision where a person has an urgent need for a service. Where any requirement in relation to an assessment, preparing a plan or giving notice would delay provision in a case of urgency, that requirement does not apply. The provision will need to be reviewed as soon as possible after support has been provided, in accordance with the procedures set out above.

## **23. Notices (Regulation 20)**

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Any notice required to be given under Regulation 20 must be given in writing. Where the person to whom notice is to be given is a child and it appears to the local authority that the child is not of sufficient age and understanding for it to be

appropriate to give them such notice; or in all the circumstances it is not appropriate to give them such notice, the notice must be given to their Special Guardian or prospective Special Guardian or to the adult that the Local Authority considers most appropriate.

#### **24. After Care (Regulation 22)**

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Children who were looked after by a Local Authority immediately before the making of a Special Guardianship Order may qualify for advice and assistance under the Children Act, 1989, as amended by the Children (Leaving Care) Act, 2000, and the Adoption and Children Act, 2002. In the context of Special Guardianship, to qualify for advice and assistance, Section 24(1 A) of the Children Act, 1989, provides that the child must:-

- Have reached the age of 16 but not the age of 21;
- If less than 18 years old, have a Special Guardianship Order in force;
- If 18 years old or above, have had a Special Guardianship Order in force when they reached that age; and
- Have been looked after by a Local Authority immediately before the making of the Special Guardianship Order.

The relevant Local Authority should make arrangements for children who meet these criteria to receive advice and assistance in the same way as for any other child who qualifies for advice and assistance under the Act, as amended. The relevant Local Authority is the one that last looked after the child.

#### **25. Relevant Authority for the Purposes of Leaving Care Provision (Regulation 22)**

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Time spent under a Special Guardianship Order is relevant when considering the child's entitlement to leaving care services. Section 24(2) of the Children Act, 1989, defines 'a person qualifying for advice and assistance'. This includes a young person aged 16 to 20 who, immediately before becoming subject to a Special Guardianship Order, was looked after by a Local Authority.

For the purposes of providing advice and assistance, the relevant Authority shall be the Local Authority which last looked after the person. Depending on the service required, it may be more appropriate for the young person to seek support locally, where he is now resident (i.e. health care).