

Special Guardianship Order - Procedures

Information Pack for Financial Support Guidance for Social Workers and Supervising Social Workers

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Section 1

Introduction

1.1 The Children's Financial Review Team (CFR) conduct financial assessments for Special Guardianship Orders, and this work is done on behalf of the budget holder – the Service Manager, Regulated Services, Children's Services.

1.2 After CFR have been contacted, it can then be clarified whether a financial assessment is appropriate. The current status of the child/children must be Looked After by the local authority, and fostering payments must be currently paid in respect of the child. Eligibility for financial support is determined as part of the Assessment for Special Guardianship Support Services in line with The Special Guardianship Regulations 2005. Please note that we do not pay allowances for Private Law cases.

1.3 In the guidance given by the DFE on Special Guardianship it clearly states that 'financial issues should not be the sole reason for a special guardianship arrangement failing to survive;' and that 'financial support should be payable in accordance with the regulations to help secure a suitable special guardianship where such an arrangement cannot be readily made because of a financial obstacle.' This section denotes eligibility for an allowance.

1.4 A request for an assessment can be made at any time from the point of application for a relevant child who is Looked After by the local authority or was Looked After immediately before the making of a special guardianship order; a special guardian or prospective special guardian of such a child; or the parent of such a child. However this process must be conducted as soon as possible – the target turnaround for a financial assessment is 4 working weeks, therefore time must be given to conduct this assessment and meet court timescales. Should guardians not complete the form in a timely fashion or there are problems or issues with their assessment, then this process will take longer.

1.5 Please note that for any cases where child subject of the orders will live with their guardians outside of the UK, then special circumstances will apply. Please contact Children's Financial Review to discuss this process. The financial process for these cases will take considerably longer.

Section 2

General Guidance on Financial Support for Special Guardianship Placements

2.1 Financial support will only be given in certain circumstances and following an assessment for special guardianship support. The amount of on-going financial assistance paid is also at the discretion of the Service Manager for Regulated Services. Allowances for Kinship/Reg 24 cases are subject to a means test. For Lincolnshire County Council approved mainstream foster carers, then they will not be means tested but be subject to a non-means tested assessment. For all other prospective guardians, these will be means tested assessments.

2.1.1 Means testing looks at a household's income and expenditure, and calculates the amount of 'disposable income' a household is left with. Should there be a high disposable income it may be likely that there would not be an allowance paid in respect of the child. Should there be no or little disposable income, then it is likely that an allowance will be paid.

2.1. In determining the level of SGO allowances as part of the means tested process, the local authority will use the amount of fostering allowance which would have been payable if the child were fostered, as the starting point for the calculation. At no time can a guardian receive child related benefits, while being in receipt of fostering allowance, or can the total allowance they receive each week be in excess of the fostering rates. Financial support from local authorities must complement and not duplicate financial support available through benefits and tax credit systems.

2.1.1 The Department must be satisfied that the specific needs and circumstances of the child and Special Guardian(s) have been considered.

2.2 Eligibility

2.2.1 The following groups of people are entitled on request to an assessment of their needs for special guardianship support services including financial support (Regulation 11):

(a) a relevant child who is looked after by the local authority or was Looked After by the local authority immediately before the making of a special guardianship order;

(b) a special guardian or prospective special guardian of such a child;

(c) a parent of such a child. Kinship carers caring for a child who would otherwise have been looked after, will be entitled on request to an assessment of their needs for special guardianship support services.

2.2.2 A person entitled to be assessed should then meet the following criteria (Regulation 5):

(a) they should live in Lincolnshire; **or**

(b) live outside Lincolnshire but meet the eligibility criteria in relation to the local authority as stated above in 1.3.1 (a). In these circumstances any child of a special guardian remains the responsibility of the local authority where the child was last Looked After for three years from the date of the order. When the three year period has expired the local authority where the special guardian lives is responsible for assessing and providing support services. The exception to this is where the local authority agreed for ongoing financial support prior to the order being made.

2.3 Circumstances in which financial support may be payable

2.3.1 Financial support may be provided to special guardians where one or more of the following circumstances exist:

- Where it is necessary to ensure that the special guardian or prospective special guardian can look after the child;
- 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;
- 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:
- the making of a special guardianship order or any application to vary or discharge such an order;
- an application for an order under Section 8 of the Act (a contact order, a prohibited steps order, a residence order or a specific issue order);
- An order for financial provision to be made for the benefit of the child.

2.3.5 Where the local authority consider 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. Costs of this nature would be funded by Area Teams, and not by Regulated Services.

2.3.6 Where a special guardian or prospective special guardian previously fostered the child and they received an element of remuneration e.g. Placement Plus carers, in the financial support paid to them as the child's foster parent, the local authority will in these circumstances continue to use this rate as part of the means testing process, for two years from the date of the special guardianship order. These payments can continue for longer if the local authority considers this appropriate having regard to the exceptional needs of the child or any other exceptional circumstances. After two years, the standard rate of fostering will be used in the calculations, therefore these guardians will never receive more than the standard rate of fostering, two years after the order is granted.

2.4 Financial Assessment

2.4.1 Where the local authority are considering providing financial support, a prospective special guardian's income and expenditure will be taken into account via the means tested process.

2.4.2 All special guardians will be expected to complete a financial assessment form and declaration. This can either be sent out by the CFR team or the SW or SSW can take this to the prospective guardians as part of the assessment process. In both instances the completed form and proof documents must be returned to CFR.

2.4.3 The completed means test form and proof documents are checked, and once completed, sent to Serco for assessment via the DfE assessment process. Should any documents be missing, or the form completed incorrectly, then prospective guardians will be contacted by CFR to obtain the documents they need. This may cause hold up's to the assessment being completed.

2.4.4 The outcome is sent to the CFR team for checking, and an offer letter is prepared for the prospective guardians. This letter details what the prospective guardians are in receipt of now where applicable, what they will initially be in receipt of should the order be granted. It details the conditions of receiving the allowance.

2.4.5 The letter is sent to the Service Manager for approval, and then sent out to the prospective guardians, with a copy to all relevant workers and the Kinship team.

2.4.6 Workers must then inform CFR when there is a hearing outcome; so that they can organise to make any new payments live. This process will also cease any current fostering payments.

2.4.7 Carers in receipt of fostering allowances must not at any time preceding the granting of a Special Guardianship Order be in receipt of Child Benefit or Child Tax Credit. The local authority will only consider on-going payments following completion of a financial assessment, where it is supporting the application of a Special Guardianship Order in respect of a child.

2.4.8 The local authority must disregard a financial assessment in a supported application in respect of legal costs including court fees.

2.4.9 The local authority **may** also disregard a financial assessment in the following cases:

- (a) Initial costs of accommodating a child who has been Looked After by the local authority;
- (b) Recurring costs in respect of travel for the purpose of visits between the child and a related person;
- (c) 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;
- (d) The two years foster carers receive an element of remuneration following a special guardianship order or where this has been extended due to exceptional circumstances.

2.5 Level of Financial Support

2.5.1 The amount of financial support provided in individual cases is a matter for the local authority to determine through the assessment process.

2.5.2 The term financial support is intended to apply to: (a) a single payment; (b) a series of payments to meet a specific need; (c) a periodic or regular payment, payable at intervals determined by the local authority.

2.5.3 The proposed sum of money will then be subject to management approval, by the Service Manager for Regulated Services as above.

2.5.4 Financial support that is to be paid periodically is not payable until the special guardian has agreed that they will inform the local authority immediately if:

- they change their address;
- the child dies;
- any of the changes mentioned in the Special Guardianship Regulations 2005, paragraph 9 (cessation of financial support) occur; or
- There is a change in financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable.

2.5.6 Special guardians can appeal against a proposed decision made regarding financial support. Any representations made regarding the decision must be lodged within twenty eight days on receipt of the written notice. If no representation is received then the local authority will formalise the proposed financial support as stated in the notice.

2.5.7 Financial support ceases to be payable to a special guardian if:

- (a) the child ceases to have a home with them or dies;
- (b) the child ceases fulltime education or training and commences employment;
- (c) the child qualifies for Income Support or Jobseeker's Allowance in his or her own right;
- (d) the child reaches the age of eighteen years of age unless they continue in full time education or training, when it may continue until the end of the course or training being undertaken.

2.6 Children in Full Time Education Post Eighteen (Regulation 2(2))

2.7.1 Financial support will be considered for a child of a special guardian who has reached eighteen years of age and is still in further education or training. This will be on the basis that immediately before he/she reached the age of eighteen:

- (a) he/she was a child of a special guardian; and
- (b) on-going financial support was payable in relation to them.

Financial support may continue until the end of the training or education course being undertaken.

2.7.2 CFR will highlight to guardians through the annual review process, as to what the arrangements are for the child as they approach their 16th and 18th birthday. Approaching their 16th it is to be established whether they require a referral to Leaving Care Services – they have the right to refuse this service if this is not something they want to pursue. Approaching the 18th birthday it is to be established whether they will remain in education or commence work. Following receipt of this information, the appropriate decision will be made as to the cease date for allowances.

2.7.3 Special Guardianship Regulation 22 guidance states that 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 defines a person qualifying for advice and assistance. This may include financial assistance in line with Section 24B to support educational or training needs.

Section 3

Additional financial Support for a New Special Guardianship Placement where a Child is Looked After or as an Alternative to the Child Becoming Looked After

3.1 Initial Costs of Accommodating a Child with a Special Guardian

3.1.1 In some circumstances the local authority may be able to assist financially in providing basic equipment to agency supported special guardians in order to set up a placement. These costs are to be provided by the Area Teams.

3.2 Legal Costs

3.2.1 The local authority has the ability to pay for the prospective special guardian to seek legal advice where this is required and the Children's Service Manager, Regulated Services will authorise this. This will usually be a one off consultation with a solicitor to ensure the prospective special guardian understands fully the legal implications and would be up to a ceiling of £250, inclusive of VAT. Where special guardians are seeking to vary or discharge an order (including varying an accompanying Section 8 order) authorisation for payment would rest with the Children's Service Manager, Regulated Services.

3.3 Ongoing Financial Support (other than current foster carer)

3.3.1 On-going financial assistance may be provided in circumstances where the local authority has been a party to proceedings or has supported the special guardianship order application as an alternative to care and in cases where without financial support, having obtained all available benefits the prospective special guardian would be unable to meet the basic needs of the child. This must be agreed by the Service Manager, Regulated Services.

3.3.2 Ongoing allowances are subject to a means test and all Special Guardians will be required to complete a financial assessment form. The financial assistance provided will be subject to annual review.

3.3.3 The special guardian will be required to notify the agency of any change in circumstances and the payments will be subject to an annual review. The review will also check that the Special Guardianship Order remains in force and that the child continues to reside with the carer on the same basis as when the Order was made. These reviews are the responsibility of the Children's Financial Review Team in Regulated Services.

3.4 Foster Carer Special Guardianship Orders

3.4.1 Where the local authority support foster carers who are fostering a child and then apply to become the child's Special Guardian, carers will be expected to complete a financial assessment form in the first instance. Any allowances agreed will be set at the fostering weekly allowance,

minus child benefits/tax credits/ Child Element of Universal Credit, excluding holiday, Christmas and birthday allowances.

4.0 Review of Financial Support

4.1 This will in usual circumstances take place annually. The guardians will be contacted by the Children's Financial Review team each year. A means test form will be sent out and a full assessment will be conducted, where guardians have been previously means tested. If they assessment is for a previous foster carer then a non-means form will be sent out.

4.2 Social Workers and Supervising Social Workers should take the opportunity to discuss with guardians, as part of the assessment process, that this annual review will occur, and remind them to keep all relevant income and expenditure documentation in readiness for these reviews.

4.3 Guardians must also inform the local authority about any change in circumstance occurring between reviews, by contacting the Children's Financial Review Team.

4.4 Failure of the Special Guardian to respond to the request for an annual review may result in the allowances being suspended until the relevant information has been sent to the Financial Review Team.

4.5 Allowances can go up as well as down, as part of the means testing process. If household circumstances remain the same, then it is likely that guardians may see a small increase year on year, and as the child gets older. Current fostering rates are used as the starting point in the assessment and for the age of the child at the point of the review. Please note that allowances do not change on the child's birthday, but at the anniversary of the annual review.