



POLICY FOR SPECIAL GUARDIANSHIP FINANCIAL SUPPORT

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INTRODUCTION

1. Permanence should always be the plan for a child's upbringing, and it underpins all our interventions with children, their families and their carer's. The route to permanent care arrangements will be different for each individual child and Worcestershire County Council (WCC) are committed in ensuring the range of options available are well considered and well supported to marry an individual child's needs with their wishes being understood and considered. Special Guardianship is one of the primary routes to permanency.
2. Special Guardianship can offer a child the security, safety, and the stability they need and deserve, supporting children to remain with their extended families and friends, as a better alternative of growing up in the care of the Local Authority. Since 2010 there has been a rise in the percentage of Special Guardianship Orders within family care proceedings and a decline in Placement Orders and adoption.
3. When children are received into care of the Local Authority, their placement experience is key to their overall outcomes as a Looked After Child and or Care Leaver. Our aim is to give Children and Young People the best placements for them to thrive in a loving, stable, and secure environments and, where possible, for those children to return to or remain within their own families.
4. WCC are seeking to increase permanency for children in care via Special Guardianship Orders. A Special Guardian is usually someone with a close relationship to the child, such as a family member, former foster carer or family friend. They need to apply to the court to be appointed as a Special Guardian, which will consider their suitability and ability to meet the child's needs, based on a Special Guardianship Assessment completed by the Local Authority.
5. A Special Guardianship Order places a child or young person with someone permanently and gives this person (the Special Guardian) parental responsibility for the child. This Order lasts until the child is 18 and shares the legal responsibility for the child with the child's birth parents, allowing the Special Guardian to make day-to-day decisions about the child's care including where they live and go to school.
6. If the child was Looked After before the Special Guardianship Order was granted, they will no longer be the responsibility of the Local Authority.
7. The financial loss to Kinship Carers on being appointed as a Special Guardianship Carer has acted as a barrier to this route to permanency for some children. The Special Guardianship Regulations 2005 and the DfES guidance to the regulations, govern the processes by which Local Authorities exercise their discretion in determining requests for special guardianship support services, including Regulation 6 financial support.
8. The Special Guardianship Financial Support policy sets out the parameters of financial support for Special Guardianship Carers and underpins the Kinship Strategy 2012.

This Policy is underpinned by the Kinship Strategy 2012 and the Family & Friends Policy 2011.

The purpose of this policy is to set out the WCC approach to Special Guardianship Order Allowances. The scheme of the policy is as follows:

- Legislative background
- Principles
- Conditions of support and cessation of support
- Requests for assistance and assessment
- Non-periodic financial support
- Periodic support
- Appeals

1. The Special Guardianship Regulations 2005 and the DfES guidance to the Regulations

- 1.1.** The Regulations, supported by the guidance, govern the processes by which local authorities exercise their discretion in determining requests for special guardianship support services, including financial support. This policy relates to financial support only.
- 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.** According to Regulation 6 of the 2005 Regulations, 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
- 1.4.** Such support is payable only in the following circumstances-
 - a. Where WCC consider that it is necessary to ensure that the special guardian or prospective special guardian can look after the child;
 - b. Where WCC 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 WCC consider that it is appropriate to contribute to any legal costs, including court fees, of a special guardian or prospective special guardian, as the case may be, 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 Act;
 - iii. an order for financial provision to be made to or for the benefit of the child

2. The principles underpinning the payment of Special Guardianship allowances and financial support

- 2.1.** No child should be unfairly disadvantaged.
- 2.2.** People should be treated equally and fairly.
- 2.3.** Allowances and grants are paid for the child. Any extra payments are to cover the specific needs of the child e.g. for protection, safety. 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. Special Guardians should be helped to access their entitlements to tax credits and social security benefits. Efforts will be made by WCC to obtain financial support from the child's parents where appropriate.
- 2.4.** It is recognised that a foster carer might be able to provide permanency which is in a foster child's best interests, but be deterred from applying for Special Guardianship because of the loss of the fostering allowance and any reward (fee) being paid in respect of the child. This policy seeks to address that concern by ensuring, consistently with paragraph 43 of the Guidance, that a former foster carer has financial stability upon becoming Special Guardian to a former foster child.

3. Conditions of support and cessation of support

- 3.1.** The special guardian must agree to the conditions listed in Regulation 10(1) of the 2005 Regulations and must comply with them. S/he must notify the Local Authority of any change of circumstances and must complete and return the annual statement. Failure to do so may result in payment being suspended or terminated and recovery of any payments made. Additional conditions on the provision of support may be imposed by WCC as considered appropriate in the circumstances.
- 3.2.** WCC will review the payment of financial support on receipt of the annual statement each year and, if it proposes to reduce, terminate the support or revise the plan, it will notify the special guardian of the decision and will allow a period of 10 days in which the special guardian may make representations, which will then be considered by WCC and a final decision made.
- 3.3.** The payment will cease when any of the events listed in Regulation 9 occur, that is, if the child ceases to live with the Special Guardian; ceases full time education or training and commences employment; qualifies for universal credit, income support, jobseekers allowance or employment support allowance in their own right; or becomes 18 (unless they are in full time education or training, in which case the allowance may continue until the end of the course or training they are undertaking when they become 18).

4. Requests for financial assistance and assessments

- 4.1.** If a request for financial assistance is made by a prospective special guardian of a child who is looked after by WCC or a special guardian of a child who was looked after immediately before the making of the special guardianship order, then an assessment will be carried out (this is required by Regulation 11(1) of the 2005 Regulations).
- 4.2.** Regulation 11(2) lists those persons who may request an assessment. These are:
 - a. a person mentioned in section 14F(3)(a) to (c) of the Act;
 - b. a child of a special guardian;
 - c. any person whom the local authority consider to have a significant and ongoing relationship with a relevant child.
 - d. Requests for financial support from other persons (not falling within 4.1 above) will be considered, but unless WCC is satisfied that there are exceptional circumstances, a financial assessment, including a means test, will not be conducted. It is not possible to specify the sort of circumstances which might be regarded as exceptional because case by case consideration is required. In those circumstances consideration of financial support will be on the assessed needs of the child under regulation 12 and WCC considering that the award is necessary to ensure that the special guardian can look after the child.
- 4.3.** In the event that WCC decides not to conduct a financial assessment, it will notify the applicant of the reasons for the decision and allow him/ her a reasonable period within which to make representations, which will then be considered by WCC. The final decision will be made, and the person requesting assessment notified of it, within a reasonable period of receipt of their representations (Regulation 11(2) and 11(3)). WCC will ordinarily consider 10 working days to be a reasonable period both for the making of representations and notification of the Authority's decision.

5. Non-periodic financial support

5.1. Contribution to settling in grant – This may be awarded where WCC considers it appropriate further to an assessment of the needs of the child joining a new family under a special guardianship order. Reference will be made to a list of basic requirements for children of different ages held by WCC. The price of items needed will be based on the price of equivalent items from Argos or Amazon. 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, unless there are exceptional circumstances which would justify such a grant being made. Where awarded the grant is paid up to an agreed maximum per child. This may be exceeded in exceptional cases with the approval of the Assistant Director.

5.2. Legal Advice - Financial support may be available for this, unless the prospective Special Guardian has access to free legal representation, and if so, is paid at the "legal help" rates. It is only paid for children known to WCC prior to the application being made (i.e. Children Looked After, or designated Children in Need subject to child protection plans), where WCC supports the making of the SGO, unless there are exceptional circumstances and where

- a. WCC 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
- b. Where he/she is not eligible for legal help or any other financial assistance for example under an insurance policy; and
- c. WCC 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 WCC's agreed limit for the initial consultation. 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.

5.3. 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 is Looked After or who was Looked After prior to being cared for by the prospective special guardian, or would have been had the special guardian not stepped in; and
 - ii. WCC supports the application; and
 - iii. WCC 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. WCC 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 save for exceptional circumstances. The solicitor instructed should be a member of the Law Society's Children Panel, unless otherwise agreed by WCC in advance. Itemised bills will be required.

- 5.4.** Applications for payment of legal fees to defend contact and other applications or to make applications for orders (e.g. non-molestation orders and prohibited steps orders during the currency of a special guardianship order)

Advice and representation in respect of any proposed applications will be subject to the criteria listed above and WCC's assessment of the merits of the case.

Non-periodic financial support may, where it is considered appropriate by the Local Authority, be paid without an assessment of the means of the Special Guardian (and/ or child).

6. Periodic monthly allowances

- 6.1.** These allowances are linked to WCC's fostering allowances and are based on the needs of the child. They are not generally paid, unless the child is (or was immediately before the Special Guardianship order was made) a looked after child. However, in exceptional circumstances where the child is not and was not looked after, the allowance may be payable. (see 4.2).
- 6.2.** The allowance is paid to foster carers (including friends and family carers) following the making of a special guardianship order in respect of a previously fostered child. Where foster carers are already receiving a fostering allowance for a child for whom they have applied to be special guardians, WCC will continue to pay allowances equivalent to WCC's fostering allowances after the order is made but subject to deduction of benefits which the former foster carer can, as a Special Guardian, claim in respect of the child such as child benefit, tax credits etc. Any allowance must be subject an annual review by the Local Authority.
- 6.3.** Payment in respect of a child's special needs will generally be subject to 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.
- 6.4.** Special Guardianship financial support is payable to the special guardian to care for the child and meet his/ her assessed needs, irrespective of where the special guardian is living, including abroad. However, if the special guardian moves abroad from the UK, or is already living abroad when the child moves to their care, the level of allowance may be altered to take into account of comparative costs of living in the country of residence. This will be assessed by reference to a comparison between the cost of a "basket" of everyday items such as groceries and clothing, housing costs and utility costs in the UK and the cost of the same or comparable items in the country of residence of the child.
- 6.5.** Where a foster carer was in receipt of a fostering fee, and becomes a Special Guardian to the previously fostered child, they will generally continue to receive the fee (remuneration) element as part of the Special Guardianship Allowance, less Child Benefit and Child Tax Credits, in order to maintain their level of income. Where the foster carer was approved by an Independent Fostering Provider, the allowance and fee payment may be negotiated individually as there may be disparity between the allowance and fee paid to a WCC IVFA foster carer and that which has been received from an Independent Fostering Provider.
- 6.6.** The allowance includes payment for birthdays, festivals, holidays and school uniform and separate additional payments in respect of these items will not be made.
- 6.7.** Contact expenses: It is recognised that there may be a need for contact to be maintained between the child and his/her birth family or other persons after the special guardianship order is made. The principle employed by WCC is that the special guardian is expected to be able to manage contact themselves or is working towards taking responsibility for this within a reasonable timeframe. However it is recognised that this will not always be achievable and in these circumstances WCC will continue to provide funding for supervised contact or provide this service directly. The payment of expenses in respect of contact will be based on an assessment of the child's needs, the circumstances of the individuals involved and the nature of the contact arrangements. Such support, when agreed, must be

recorded in the Special Guardianship support plan and is subject to annual review. If contact supervision is needed, this should be based on a risk assessment by WCC.

- 6.8.** For special guardians caring for a child who was not looked after immediately prior to the order WCC will use the Financial Means Test to assess eligibility in respect of Special Guardianship financial support applications, and to calculate the proportion of the full allowance payable (on a sliding scale according to the special guardian's means).
- 6.9.** Eligibility for the allowance, and the proportion payable to a particular special guardian, are subject to review every year to take account of both the changing needs and circumstances of the child and special guardian. For the purpose of the means test, the level at which income is disregarded is when household income (not including income specifically for the child), exceeds the level for which an individual in the UK meets the threshold for the higher rate of income tax. The Means test will be applied annually or on receipt of notification of a change in circumstances prior to the annual review. Special guardians caring for a child who was looked after immediately before the order was made will be required to complete an annual review to confirm whether or not a significant change in circumstances has occurred but will not be subject to a means test through WCC.
- 6.10.** The level of the full Special Guardianship allowance will be reviewed annually by WCC. Regulation 7 (1&2) are applicable and will be considered as part of the annual review. After the expiry of the period of two years from the making of the special guardianship order the monthly allowance could cease to be payable, unless the local authority consider its continuation to be necessary, having regard to the exceptional needs of the child or any other exceptional circumstances, which will include consideration of the continued stability and quality of care of the child.

7. Appeals

- 7.1.** If dissatisfied with a decision as to payment or amount of allowance, the holder of the SGO may appeal against any decision relating to the provision of an SGO Allowance.

If you want to appeal against the decision you have to explain in your appeal either:

- a. *Why you think our decision is wrong (for example we did not take into account, relevant information, or we made factual errors in making our decision, or new evidence has come to light) ; or*
- b. *Why you think our decision was wrongly made (for example we didn't follow due process or, we didn't follow our own procedures or the decision was made by someone without authority to make it).*

You must give reasons why you think our decision is wrong or wrongly made under a) or b) above and must provide information to support your appeal.

You should write to us with your reasons and email or send your letter to:

Assistant Director
Permanency - Care Proceedings
Fostering & Adoption
Worcestershire County Council
Spetchley Rd
Worcester
WR5 2NP

Your appeal must reach us within 10 working days of you receiving notification of the decision you wish to appeal against.

Worcestershire County Council

County Hall
Spetchley Road
Worcester
WR5 2NP

Website: www.worcestershire.gov.uk

