

## Family and Friends: Practice Guidance

### 1. Introduction

Children may be brought up by members of their extended families, friends or other people who are connected with them for a variety of reasons and in a variety of different arrangements.

Family and Friends carers play a unique role in enabling children and young people to remain with the people they know and trust if they cannot, for whatever reason, live with their parents. These children may or may not be looked after by the Local Authority, or even known to it. The majority of the relatives who provide care are grandparents and aunts and uncles.

This policy sets out the West Sussex County Council's approach towards promoting and supporting the needs of such children and covers the assessments which will be carried out to determine the services required and how such services will then be provided.

### 2. Values and principles

Consideration of children's welfare and best interests will always be at the centre of all work.

It is an underlying principle that children should be enabled to live within their families unless this is not consistent with their welfare. Therefore, it is essential to work to maintain children within their own families, and facilitate services to support any such arrangement, wherever this is consistent with the child's safety and well-being. This principle applies to all children in need, including those who are looked after by the Local Authority.

It is essential to promote permanence for children and to enable those children who cannot live with their parents to remain with members of their extended family or friends, providing where appropriate a better alternative to growing up in the care of the local authority. Therefore, where a child cannot live within his or her immediate family and the Local Authority is considering the need to look after the child, strenuous efforts will be made to identify potential carers within the child's network of family or friends who are able and willing to care for the child.

Support will be provided for any such arrangements based on the assessed needs of the child, not simply on his/her legal status. It will be ensured that family and friends carers are provided with support to ensure that children do not become looked after by the Local Authority or do not have to remain looked after longer than is needed.

### 3. Legal Framework

All Local Authorities have a general duty to safeguard and promote the welfare of children in need (1) living within their area and to promote the upbringing of such children by their families. The way in which they fulfil this duty is by providing a range and level of services appropriate to those children's assessed needs (Section 17, Children Act 1989). This can include financial, practical or other support.

It is important to note that Local Authorities do not have a general duty to assess all arrangements where children are living within their family network rather than their parents, unless it appears to the authority that services may be necessary to safeguard or promote the welfare of a child in need in their area.

Looked After Children will always come within the definition of children in need, whether they are accommodated under Section 20 of the Children Act 1989 (with parental consent) or in care subject to a court order whereby the Local Authority shares parental responsibility for the child. The Local Authority has a responsibility wherever possible to make arrangements for a looked after child to live with a member of the family (Section 22 of the Children Act 1989).

Whether or not a child who is cared for by a family and friends carer should be looked after by the local authority will be a matter decided upon by the local authority on a case by case basis. In the context of family and friends care, the determining factor is whether it appears to the Local Authority that the child requires accommodation for one of the reasons in section 20(1) of the 1989 Act.

In relation to care proceedings, the Public Law Outline requires authorities to demonstrate that they have considered family members and friends as potential carers at each stage of the decision-making process.

For a detailed summary of the meaning and implications of different legal situations, the rights of carers and parents, and the nature of decisions which family and friends carers will be able to make in relation to the child, please see **Appendix A 'Caring for Somebody Else's Child – Options.**

**Section 4** below sets out the Local Authorities powers and duties in relation to the various options.

In relation to financial support, local authorities may provide carers of children in need with such support on a regular or one-off basis, under Section 17 of the Children Act 1989. The status of the placement will determine the nature and amount of the financial support. There are different legislative provisions which apply to financial support for children living with family or friends in looked after/ adoption/ special guardianship/ child arrangement order arrangements.

#### 4. Different situations whereby children may be living with family and friends carers

##### 4.1 Informal family and friends care arrangements made by parents (or those with parental responsibility) outside of the remit of the local authority:

Where a child cannot be cared for by his/her birth parents, those who have parental responsibility may make their own arrangements to arrange care for their child with a close relative. Close relative is defined as 'grandparent, brother, sister, uncle or aunt (whether of full or half blood or by marriage or civil partnership) or step-parent.

Birth parents could also consider placing their child with non-related friends or non-close relatives for up to 28 days, but any longer than this would be considered Private Fostering and subject to local authority involvement – see section 4.2.

##### **Child in Need Arrangements**

The local authority does not have a duty to assess any such informal family and friends care arrangements, as above, unless it appears to the authority that services may be necessary to safeguard or promote the welfare of a child in need. In such cases, the Local Authority has a responsibility under Section 17 of the Children Act 1989 to assess the child's needs and provide services to meet any assessed needs of the child. Following assessment, a child in need plan may be drawn up and a package of support identified if appropriate. This can comprise a variety of different types of services and support, including financial support where appropriate.

##### 4.2 Private Fostering Arrangements:

A privately fostered child is a child under 16 (or 18 if disabled) who is cared for by an adult who is not a parent or close relative, where the child is to be cared for in the home for 28 days consecutive days or more. Close relative is defined as 'a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent'. It does **not** include who is looked after by a Local Authority. In a private fostering arrangement, the parent still holds parental responsibility and agrees that arrangement with the private foster carer.

The local authority has a duty to assess and monitor the welfare of all privately fostered children and the way in which they carry out these duties is set out in the Children (Private Arrangements for Fostering) Regulation 2005. Financial responsibility remains with the parents. However, the Local Authority may also become involved with a child in a private fostering arrangement where the child comes within the definition of a child in need. In such cases, the Local Authority has a responsibility to provide services to meet the assessed needs of the child under Section 17 of the Children Act 1989. Following assessment, a child in need plan will be drawn up and a package of support will be identified.

Please refer to **private fostering procedures** for detailed procedure.

### **4.3 Family and Friends Foster Carers – ‘Connected Persons’**

Where a child is going to be placed by the Local Authority and subsequently looked after by the Local Authority, there is a responsibility to make arrangements for the child to live in the most appropriate placement. In doing so, the Local Authority **must** ‘give preference to’ a placement with a person who is a relative, friend or other person connected with the child who will need to be approved as a foster carer (Section 22 of the Children Act 1989). Before the child can be placed, temporary approval will need to be given by the Service Lead, Fostering and Adoption. This is known as Temporary Approval as Connected Persons Carers under Regulation 24 (Care Planning, Placement and Case Review Regulations 2010). The child can then be placed with the family member(s) subject to a ‘Connected Persons’ Carers assessment for up to 16 weeks. The temporary approval can only be extended in exceptional circumstances, and for a maximum of a further 8 weeks (Regulation 25 of Care Planning, Placement and Case Review Regulations 2010). Where temporary approval is given to such a placement under the procedure, the carers will receive financial support on a regular basis.

In addition, the child will have a placement plan which sets out the specific arrangement surrounding the child and the carers including the expectations of the foster carers. The assessment and approval process for family and friends who apply to be foster carers for a specific looked after child will be the same as for any other foster carer except that the timescales for the assessment are different where a child is already in placement as indicated above.

Once approved as foster carers, they will be allocated a supervising social worker from the fostering service to provide them with support and supervision; and they will receive fostering allowances for as long as the care for the child as a foster carers.

While the child remains a looked after child, as a foster carers, they will be expected to cooperate with all the processes that are in place to ensure that the child receives appropriate care and support, for example, contributing to reviews of the child’s care plan, cooperating with the child’s social worker and promoting the child’s education and health needs. There will be an expectation that as a foster carer, relevant and appropriate training will be undertaken.

See Placement with Connected Person Procedure for detailed procedure.

### **4.4 Child Arrangement Orders (formally Residence Order):**

Child Arrangements Orders were introduced in April 2014 by the Children and Families Act 2014 (which amended section 8 Children Act 1989). They replace contact orders and residence orders.

A Child Arrangement Order is a Court Order which gives parental responsibility to the person in whose favour it is made, usually lasting until the child is 18 years.

Child Arrangements Orders are private law orders, and cannot be made in favour of a local authority. Where a child is the subject of a Care Order, there is a general duty on the local authority to promote contact between the child and the parents. A Contact Order can be made under section 34 of the Children Act 1989 requiring the local authority to allow the child to have contact with a named person.

Under a Child Arrangement Order the child will no longer be Looked After.

Please refer to section 3.6 of the Permanence Planning Guidance for more detail about Child Arrangement Orders.

#### **4.5 Special Guardianship Order**

Special Guardianship offers a further option for children needing permanent care outside their birth parents. It can offer greater security without absolute severance from the birth family as in adoption. It can also provide an alternative for achieving permanence in families where adoption, for cultural or religious reasons, is not an option.

Special Guardianship Orders offer greater stability and security to a placement than Child Arrangements Orders in that, whilst they are revocable, there are restrictions on those who may apply to discharge the Order and the leave of the Court, if required, will only be granted where circumstances have changed since the Special Guardianship Order was made.

Special guardians will have Parental Responsibility for the child and although this will be shared with the child's parents, the special guardian will have the legal right to make all day to day arrangements for the child. The parents will still have to be consulted and their consent required to the child's change of name, adoption, placement abroad for more than 3 months and any other such fundamental issues.

A Special Guardianship Order made in relation to a child who is the subject of a Care Order will automatically discharge the Care Order and the local authority will no longer have Parental Responsibility.

Special Guardianship Orders may be made in private family proceedings and the Local Authority may not be party to and such arrangement. However, a Special Guardianship Order in favour of a relative or foster carer (who was a 'Connected Person') with whom a child is living may be an appropriate outcome as part of a permanence plan for a child in need or a 'looked after' child.

Special guardians may be supported financially or otherwise by the local authority and, as with adoptive parents, will have the right to request an assessment for support services at any time after the Order is made.

Please refer to 'Applications for Special Guardian Orders' for further detail.

#### **4.6 Adoption Order**

Adoption transfers Parental Responsibility for the child from the birth parents and others who had Parental Responsibility, including the local authority, permanently and solely to the adopter(s).

The child is deemed to be the child of the adopter(s) as if he or she had been born to them. The child's birth certificate is changed to an adoption certificate showing the adopter(s) to be the child's parent(s). A child who is not already a citizen of the UK acquires British citizenship if adopted in the UK by a citizen of the UK.

Adopters may be supported, including financially, by the local authority and will have the right to request an assessment for support services at any time after the Order is issued.

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