**Regular Payments to Prospective Adopters, Adoptive Parents and Special Guardians, and Holders of Child Arrangements Orders**

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| Amendments | **Amendment** |
| This chapter was reviewed and updated in June 2016. The chapter has had a significant number of minor amendments throughout and should be read in its entirety. |
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 **1. Introduction**

Regular payments made to the carers of children placed for adoption, adopted, or subject to [Special Guardianship Orders](http://www.proceduresonline.com/resources/keywords_online/nat_key/keywords/special_guardianship_order.html) or Child Arrangements Orders are one form of financial support that may be paid in appropriate cases under the above regulations. Financial support is not automatically paid when children are placed for adoption or a special guardianship order is granted: it is payable in circumstances specified in the relevant Regulations (Adoption Support Regulations, Regulation 8; Special Guardianship Regulations, Regulation 6) to help secure a suitable care arrangement where such an arrangement cannot be readily made because of a financial obstacle. Local authority contributions to the cost of accommodation and maintenance of a child living with someone as a result of a [Child Arrangements Order](http://www.proceduresonline.com/resources/keywords_online/nat_key/keywords/residence_order.html) are allowed by Schedule 1, Paragraph 15 of the Children Act 1989.

Financial support in the form of lump sum or a series of lump sums is not covered by this policy.  Please refer to [Adoption Support Procedure](http://devonchildcare.proceduresonline.com/procedures/p_adop_support.html) or [Special Guardianship Policy](http://devonchildcare.proceduresonline.com/procedures/p_app_spec_guard.html).

Regular payments are based on a Maximum Payment which equates to the standard fostering allowance that would be payable for a child of the same age. The maximum payment excludes any enhancement that may have been paid to foster carers, for example Progression Scheme payments or any other reward or fee which might be included in a fostering allowance.

The Maximum Payment is then reduced by an amount equivalent to the Child Benefit which the carer will be able to claim in respect of the child, and a means test is then applied which may further reduce the amount paid. This implements the duty on the local authority to take into account the needs and resources of the carers and the child in calculating regular payments.

In the case of carers who were the child's existing foster carers immediately before the child was placed for adoption or the Special Guardianship Order was made, the Regulations allow the enhancement or reward element to be continued for up to two years - or for longer in some circumstances - see [Section 4, Payments to Former Foster Carers](http://devonchildcare.proceduresonline.com/procedures/p_reg_payments_pros_adopt.html#payments).

The child's carers are required under the adoption and special guardianship regulations to provide the authority with details of their financial circumstances before regular payments can be made, and annually thereafter.  The amount to be paid will be reviewed annually by Client Finance Services (CFS) using an agreed method of applying the means test and taking into account the prevailing rates of fostering allowance, the information supplied by the carers and any special arrangements stipulated in the Children's Area Placement Process (CARP) approval for regular payments to be made in this particular case.

 **2. Setting up Regular Payments**

**Forms**

When an adoption placement or Special Guardianship is being established, or later as a result of an assessment of the carers' need for support services, a Support Services Plan will be created by the child's Social Worker which may include provision for regular payments.

In order to be included in the support plan, payments must have been authorised by the Children's Area Placement Process (CARP).

In an adoption case the social worker's assessment of the support needs of the child and placement is recorded in the draft Adoption Placement Report (APR). The social worker shares the APR with the prospective adopters and invites them to complete their sections of the report.

In case the carers ask for additional support in the future, there should be a clear understanding of the purpose of the payments recorded in the plan. For example the CARP may be prepared to consider additional payments to meet specific needs on top of the means tested payment, or may intend that the regular means tested payment should cover these costs. Any proposed payments/allowances need to be agreed for a specified period.

If regular payments are to be made the Social Worker will complete a CFS Referral Form (Adoption, Special Guardianship & Child Arrangements Order Payments) and send it to the [Client Finance Services, Team Room, 248 County Hall](http://devonchildcare.proceduresonline.com/procedures/pr_contacts.html#client_services).

Client Finance Services (CFS) will send out the Financial Assessment Form (SS493) to the carers for completion and return.

CFS will then calculate the carers' entitlement using the agreed Devon means test.

CFS will complete a CFS Results Form (Adoption, Special Guardianship & Child Arrangements Order Payments) and send it to the child's social worker and the Finance Team Support Manager of the Children in Care Service.

The child's social worker arranges for the CARP to consider the approval of this support and any proposals made by the social worker for regular or one-off payments for additional costs and/or temporary enhancement for a former foster carer.

Following CARP approval, child's Social Worker completes the reverse of the CFS Results Form and sends copies to CFS and the Finance Team Support Manager of the Children in Care Service (FM) to confirm that the payment has been approved and, if any additions have been agreed, the amount and purpose of these.

CFS will write to child's carer informing them of the amount to be paid (including any additions with reasons) and explaining their right to make representations on the issue to the Head of Service.

The letter to prospective adopters should include the following words:

*"This payment is made in accordance with regulations made pursuant to Section 4 of the Adoption & Children Act 2002. Under the provisions of the Finance Act, the payment is to be exempt from tax.  In addition, the payment will be disregarded if you currently receive, or apply to receive, Child Tax Credit or Working Tax Credit. You should keep this letter carefully in case you need it to provide it to support any tax return or application for a tax credit."*

In adoption and special guardianship cases, notifications initiating or reviewing support payments must indicate which condition(s) of Regulation 8 of the Adoption Support Regulations or Regulation 6 of the Special Guardianship Regulations apply (see [Appendix A](http://devonchildcare.proceduresonline.com/procedures/p_reg_payments_pros_adopt.html#appendix_A)).

The child's Social Worker includes details of agreed support in the Support services Plan (and the Adoption Placement Plan if applicable) including amount to be paid in first year, the time limit or conditions attached and review arrangements.

The child’s social worker sends out a copy of the financial contract agreement to the carers who then need to sign and date the form and return it to the child’s social worker who in turn informs the CFS.  Regular allowances will not be provided without a signed copy of this contract.

Social Worker initiates payments by completing a CS102a CareFirst form and reassigning it to ITFCPRM (Adoption/SGO/residence and kinship in-tray).

 **3. Annual Review of Regular Payments**

Allowances are to be reviewed annually by CFS. However the child's carers should report any change in their circumstances to CFS during the course of the year (as per the financial agreement contract).

CFS will send to FM and HOS a list of allowances which are in payment and which need to be reviewed, highlighting those where it appears that payments are due to end in the forthcoming year because of the age of the child.

The HOS will arrange for CARP to consider the allowances and for a response to be sent to CFS within 4 weeks, confirming:

* Whether any of the payments should now cease;
* Whether any additional payments being made for specific costs should continue and at what rate and for what purpose.

If the need for payments is to be reviewed due to a change in the family's circumstances or because an agreed period of payment has ended, or in order to understand whether payments for a specific purpose are still required, the HOS should inform the carers/adopters and may ask a worked from the adoption service to undertake a review of the child's and family's need for support services.

FM must ensure adopters are notified in writing before payments cease.

Once the HOS/FM has confirmed to CFS which payments will be continuing, CFS will write to those children's carers enclosing a blank Financial Assessment Review Form (SS493a) requesting up to date information about their financial circumstances.  The carers will be given a deadline by which to respond and will be reminded that they must inform the local authority of any change in their financial circumstances or the financial needs and resources of the child, or when the child or young person

1. Ceases to have a home with them;
2. Dies;
3. Ceases full time education or training and commences employment;
4. Qualifies for income support or jobseeker's allowance in his/her own right;
5. Is engaged in a course of full time study or training before attaining the age of 18 which will continue beyond his/her 18th birthday; and
6. If (e) applies, when the course of full time study or training ends.

Any of (a), (b), (c), (d) or (f) ends their entitlement to adoption or special guardianship support payments.

If a young person is engaged on a recognised apprenticeship scheme this will be regarded as full-time training even though the scheme includes both study and work in the workplace. See [Appendix B](http://devonchildcare.proceduresonline.com/procedures/p_reg_payments_pros_adopt.html#appendix_B)

If the carers / adoptive parents are a couple and they separate, the allowance can continue to be paid to whichever they designate as the child's primary carer, based on an assessment of that carer's financial circumstances.

If the carers do not respond by the deadline given in the original letter, CFS will send a second letter notifying them that their payments will cease if they have not returned their Financial Assessment Review Form (SS493a) or contacted the CFS to explain the delay within 4 weeks. CFS will notify the FM to cease payments from a date 4 weeks from the deadline unless notified otherwise.

If the carers have not responded within four weeks of the reminder letter, CFS will immediately write to them again, explaining that their payments will now cease. FM will cease payments.

(Regulation 12, Adoption Support Services Regulations 2005).

CFS will recalculate the rate of payment due to the carers from the 1st Monday in September of each year based on the information they supply about their financial circumstances and any special arrangements or additions stipulated by the HOS.

CFS will indicate to the carers that any questions other than those concerned with the method of calculating regular payments should be addressed to the HOS.

CFS will notify the carers and the FM of the new rates of payment that will be applied (including agreed additions), and from what date, and any changes that can be expected during the forthcoming year due to the child moving into a different age band.

FM will arrange for the revised payments to be implemented from the first Monday in September.

 **4. Payments to Former Foster Carers**

The starting point for deciding the amount of an adoption or special guardianship allowance is the local authority's fostering allowances. Normally, regular payments to adopters or special guardians may not exceed the fostering allowance which would be payable for a similar child in foster care. Any enhancements based on the needs of the child should be paid based on the same criteria as apply to fostering allowances, except that there must be no element of 'remuneration' to the carer/adoptive parent. This means that Devon's Carer Progression Scheme payments cannot be included.

Because the means-tested allowance plus Child Benefit will almost always be less than the fostering rate the carer has been used to receiving, there are special provisions to cushion the impact on carers who were the child's foster carers immediately before the child was placed for adoption with them or they obtained a [Special Guardianship Order](http://www.proceduresonline.com/resources/keywords_online/nat_key/keywords/special_guardianship_order.html). Devon will apply the same principles to [Child Arrangements Order](http://www.proceduresonline.com/resources/keywords_online/nat_key/keywords/residence_order.html) payments for orders made after 1 January 2009.

There are three possible situations:

**Situation 1.**

The carer **was not** the child's foster carer: they receive a standard means-tested allowance from the date of the special guardianship or Child Arrangements Order, or from the date the child was placed for adoption with the family.

**Situation 2.**

The carer **was** the child's foster carer; their payments will continue at the applicable fostering rate (including progression payments) for two years after the court order. After that the allowance will cease. At this time the carer may request a financial assessment, the CFS then undertake a financial means test of the carers and any eligible allowance needs to be presented to CARP for their consideration.

**Situation 3.**

The carer **was** the child's foster carer and because of their particular circumstances their payments will be maintained at a rate equivalent to the fostering rate (including progression payments) beyond the two-year period.

The criterion for Situation 3 differs in the regulations and statutory guidance governing adoption and special guardianship. In the case of an adoption placement the criterion for extending a payment equivalent to the fostering rate beyond two years is that the local authority considers the case to be exceptional (Adoption Support Regulations, Regulation 9). In the case of special guardianship the criterion is that the local authority considers it appropriate to continue to pay the element of remuneration. Currently:

* If the child is with a fully approved Local Authority foster carer and is 8 years old or over, or has diagnosed special needs, or is part of a sibling group, the agreed regular allowance may be agreed up until the child is 18 years old (or up until the end of the academic year if in full time education);
* If the child is with a fully approved foster carer from an independent fostering agency the carers may get the agreed regular allowance up until the child is 18 years old (or up until the end of the academic year if in full time education).

**4.1 Foster Carers and Insurance**

Foster carers should be advised that the insurance cover for foster carers against malicious damage and the public liability insurance which are arranged by the County Council will cease to apply to them from the date on which the child's legal status changes i.e. the date on which the child is placed for adoption, or the date of the making of an special guardianship order or Child Arrangements Order.

 **Appendix A - Extracts from Adoption Support Services Regulations and Special Guardianship Regulations**

**Adoption Support Regulations 2005**

Circumstances in which financial support is payable

Regulation **8**

1. Financial support is payable under this Part to an adoptive parent for the purpose of supporting the placement of the adoptive child or the continuation of adoption arrangements after an adoption order is made;
2. Such support is payable only in the following circumstances -
	1. Where it is necessary to ensure that the adoptive parent can look after the child;
	2. Where the child needs special care which requires greater expenditure of resources by reason of illness, disability, emotional or behavioural difficulties or the continuing consequences of past abuse or neglect;
	3. Where it is necessary for the local authority to make any special arrangements to facilitate the placement or the adoption by reason of:
		1. The age or ethnic origin of the child; or
		2. The desirability of the child being placed with the same adoptive parent as his brother or sister (whether of full or half-blood) or with a child with whom he previously shared a home;
	4. Where such support is to meet recurring costs in respect of travel for the purpose of visits between the child and a related person;
	5. Where the local authority consider it appropriate to make a contribution to meet the following kinds of expenditure:
		1. Expenditure on legal costs, including fees payable to a court in relation to an adoption;
		2. Expenditure for the purpose of introducing an adoptive child to his adoptive parent;
		3. 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.

**Special Guardianship Regulations 2005**

**Regulation 6.**

1. Financial support is payable under this Chapter to a special guardian or prospective special guardian:
	1. 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
	2. To support the continuation of such arrangements after a special guardianship order is made.
2. Such support is payable only in the following circumstances:
	1. Where the local authority consider that it is necessary to ensure that the special guardian or prospective special guardian can look after the child;
	2. Where the local authority 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;
	3. Where the local authority 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 -
		1. The making of a special guardianship order or any application to vary or discharge such an order;
		2. An application for an order under section 8 of the Act;
		3. An order for financial provision to be made to or for the benefit of the child; or
	4. Where the local authority consider that it is appropriate to contribute to the expenditure necessary for the purposes 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.

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

**Amendments to the Special Guardianship Regulations 2005**

1. The Schedule to the Special Guardianship Regulations (2005)(b) (matters to be dealt with in report for the court) is amended in accordance with regulations 4 and 5.
2. In paragraph 1 of the Schedule (matters in respect of the child) -

(a) after sub-paragraph (g) insert: “(ga) any harm which the child has suffered;

(gb) any risk of future harm to the child posed by the child’s parents, relatives or any

other person the local authority consider relevant;” (b) in paragraph (j) after “related” insert “current needs or likely future”.
3. In paragraph 4 of the Schedule (matters in respect of the prospective special guardian or,

where two or more persons are jointly prospective special guardians, each of them) -
	1. for sub-paragraph (j), substitute: “(j) an assessment of the nature of the prospective special guardian’s current and past relationship with the child;” (b) for sub-paragraph (n), substitute: “(n) an assessment of the prospective special guardian’s parenting capacity, 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;”.
	<http://www.legislation.gov.uk/uksi/2016/111/made>

 **Appendix B - Guidance on Apprenticeships and Training Schemes**

This practice guidance explains the principles used to assess whether a family is still eligible to receive financial support when a child leaves full time education but continues in vocational training.

Internet sources for this information are provided below.

* Full time is considered to be at least 12 hours study or 'guided learning' per week.  This is equivalent to 450 hours per year;
* Modern Apprenticeships are designed for 16-17 year olds (though it isn't unusual for individuals who are over 18 to participate in particular circumstances inc. learning disabilities);
* The following schemes are Government approved funded:
	+ Apprenticeship programmes;
	+ National Vocational Qualification (NVQ) training in England;
	+ Scottish Vocational Qualification (SVQ) in Scotland;
	+ Entry to Employment (e2e) in England;
	+ Get Ready for Work Programme in Scotland;
	+ Preparatory Training;
	+ The right to time off for study or training;
	+ Skillseekers in Scotland.
* Minimum pay for a 16-17 year old is £3.53 per hour (wef 01/10/2008). For a full time 37 hour week this is equivalent to £130.61. At 18 pay increases to £4.77 per hour (wef 01/10/2008), which is equivalent to £176.49 per 37 hour week.
* Minimum pay for apprenticeships is £80 but it is not unusual for individuals to be earning more or less than this amount.
* Most apprenticeships include a 'day release' element, which means the young person attends college one day a week.

Therefore apprenticeship/training schemes should only be counted as full-time training courses if they adhere to the following requirements:

* The young person is taking part in a Government approved/funded training scheme as described above.
* If a young person is 16-17 years of age and has begun a course and is due to turn 18 before the course finishes, the allowance can continue until the end of the course. An individual cannot be paid an Adoption Allowance/Special Guardianship Payment if they begin an apprenticeship/training scheme after the age of 18.
* The young person must be earning no more than £131.00 per week (2008 level) which is considered to be the minimum weekly full time wage for a 16-17 year old.
* The young person must be either attending college more than 12 hours a week or on a 'day release' basis throughout the course.

**Useful websites:**

[Citizens Advice Bureau](http://www.adviceguide.org.uk/index/life/employment/government_employment_schemes.htm#Training_schemes)

[Apprenticeships](http://www.apprenticeships.org.uk/)

[Directgov](https://www.gov.uk/)

**Appendix C: Abbreviations**

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| HOS | = Head of Service (Children in Care Service) |
| FM | = Finance Team Support Manager (Children in Care Service) |
| CFS | = Client Finance Services team (County Hall) |
| CARP | = Children's Area Placement Process |