

Children's Safeguarding & Family Support

Special Guardianship Financial Support Policy

Special Guardianship Financial Support Policy for Child Protection and Family Support Services Policy Governance

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1. Introduction

Every child needs a secure, stable and loving family to support them through childhood and beyond. Special Guardianship is one way of providing this when children cannot live with their birth family and adoption is not suitable.

2. What is special guardianship

A Special Guardianship Order is an order made by the court to appoint one or more people to be a child's "special guardian". It is intended for those children who cannot live with their birth parents and who would benefit from a legally secure placement.

Although parents retain parental responsibility, the Special Guardianship Order grants parental responsibility to the special guardian which allows them to make the day-to-day decisions for the child to the exclusion of all others. It does not, however, end the legal relationship between the child and their birth family.

Parental responsibility is the rights, duties, powers and responsibilities that the law says a parent has in relation to a child. This includes things such as making decisions regarding which school to attend or having responsibility for clothing and feeding a child.

3. Who can apply

Those people listed below can apply for a special guardianship order providing that they are 18 years of age or older.

- Any guardian of the child.
- Any person who is named in a Child Arrangements Order (CAO) as a person with whom the child is to live.
- Any person who has the consent of each person named in a CAO.

- Anyone with whom the child has lived with for a period of at least three out of five years. This does not need to be continuous, but the period cannot have ended more than 3 months before the making of an application.
- A relative with whom the child has lived with for a period of at least one year immediately prior to the application being made.
- A local authority foster parent with whom the child has lived for a period of at least one year immediately prior to the application being made.
- Where the child is looked-after, anyone who has the local authority's consent.
- Anyone who has consent from those with parental responsibility.
- Anyone, including the child, who has the leave of the court to apply.

4. Support

Special guardians, birth parents and children are all entitled to an assessment for special guardianship support. Social workers will meet with you at the start of the assessment to discuss your support needs and again once the assessment is completed to finalise the support plan. Any identified needs will be set out in the support plan that will be presented to the court alongside the assessment. Financial support provided by Telford and Wrekin will be included in the support plan and reviewed on an annual basis.

5. Financial Support

a. Financial support to make an application for a Special Guardianship Order if you are the child's foster carer

Consideration may be given for financial support to be provided to meet some or all of the legal costs of an application for a Special Guardianship Order where the child is looked after by the Council. Such payment may be considered only when such an application is deemed necessary to secure the best placement for the child, and is

likely to succeed, where legal representation is deemed necessary and where the funding is not otherwise available.

The Council will pay a maximum of £1500 towards the legal costs of a Special Guardianship Order application, exclusive of VAT, where it is deemed necessary for the Special Guardian to seek legal representation.

Payment towards legal costs may also be considered where there is an application to vary or discharge a Special Guardianship Order or where there is an application made under Section 8 Children Act 1989 or for an order for financial provision to be made to or for the benefit of the child.

Arrangements for such payments will be negotiated through liaison between the Council's Legal Services and the solicitors for the special guardian and with reference to the rates set out in the current court guideline hourly rates.

b. Ongoing financial support if you are the child's foster carers

Fostering allowances

No one should be financially disadvantaged through providing a looked after child with a permanent home and Telford and Wrekin offer the financial support set out below.

Telford and Wrekin Council will continue to pay the fostering allowance for the child up until the age of 18 (or until they complete their secondary education if this occurs after they have reached their 18th birthday). The allowance will follow fostering allowances and increase accordingly with the child's age. Child benefit will be deducted, and any child tax credits the special guardian may be entitled to following the granting of the order will be taken into consideration as part of a financial assessment. This is because special guardians are able to apply directly to the Child Benefit Agency and the Department of Work and Pensions for tax credits as they hold parental responsibility for the child they are caring for, and the local authority will not pay if there is a benefit the special guardian can claim on behalf of the child.

Fostering fees

After a period of two years the fostering fee will cease to be paid. The two year period is to allow special guardians to adjust to the change in their circumstances.

The fostering fee may continue under the following circumstances:

- (i) The special guardian is or has been a local authority foster parent in respect of the child
- (ii) Where financial support is necessary to ensure that the special guardian can look after the child without enduring financial hardship
- (iii) Where the child needs special care which requires a greater expenditure of resources than would otherwise be the case because of a diagnosed illness, disability, emotional or behavioural difficulties or the consequences of past abuse or neglect, Telford and Wrekin may continue to pay the fostering fee until the child reaches the age of 18 or finishes in secondary education/training.

All payments will be kept under annual review and are subject to approval from the Telford and Wrekin's Resource Allocation Management Panel (RAMP).

Looked after children placed with foster carers from independent fostering agencies

The Council will support foster carers from the independent sector with the same level of financial support with legal costs, where deemed appropriate, to make an application for a Special Guardianship Order as set out in 5a.

However, if you are fostering for an independent fostering agency, you will only receive ongoing financial support at the same level as Telford and Wrekin foster carers.

c. Annual Review for a special guardian who was previously a foster carer for the child

A review of the support plan will take place on an annual basis. If there have been any changes in the household and child tax credits have been awarded to the special guardian, these will be taken into consideration as part of a financial assessment, and a deduction made from the special guardianship allowance, as the local authority cannot pay if there is a benefit the special guardian can claim on behalf of the child.

d. Financial support when children are not looked after by the local authority and a Special Guardianship Order is pursued as a private matter

Financial support to make an application

Where this is a direct alternative to care, the Council will take into account the income and expenditure of the prospective special guardians to determine whether a contribution towards the legal costs will be required from them. Such payment may be considered only when such an application is deemed necessary to secure the best placement for the child, is likely to succeed, and where the funding is not otherwise available.

e. Ongoing financial support if you are not the child's foster carer

Any person wishing to apply for a Special Guardianship Order must give three months' written notice to the local authority where they reside of their intention to apply. The local authority may also receive notice of an individual's intention to make an application for a Special Guardianship Order from solicitors acting for the applicant.

On receipt of a notice, or if the court makes a request, the local authority must investigate and prepare a report to the court about the suitability of the applicants to be special guardians. Under section 14A-F of the Children Act 1989, as amended ("the Act"), the local authority must make arrangements for the provision of special

guardianship support services which includes consideration of whether or not to provide any form of financial support.

The Council will not automatically provide financial support and will identify to the prospective special guardian where to seek and apply for financial support. In exceptional circumstances related to unusual and continuing expenses due to the child's illness, disability, emotional and behavioural difficulties or the consequences of past harm, the Council will consider whether to provide a discretionary payment or resources to meet the identified needs of the child, the duration of which will be identified at the outset. The payment of any financial support is at the discretion of the Council and is subject to an assessment of need and a financial assessment of income and expenditure. It is not intended to remove responsibility from the birth parents to make adequate financial provision for the care and upbringing of their children.

Where a Special Guardianship Order is made to a member of the child's family or other person who was not the child's foster carer, a full means tested assessment will be completed using the Department of Education (DfE) standard assessment.

The means tested assessment will be completed by the local authority on receipt of a statement of household income and expenditure from the prospective special guardian. Child Benefit will be deducted, and child tax credit will be taken into consideration as part of a financial assessment. This is because special guardians are able to apply directly to the Child Benefit Agency and the Department of Work and Pensions for tax credits once they hold parental responsibility for the child they are caring for.

The prospective special guardian must make an appointment to see Citizens Advice Bureau (CAB) and/or the Department of Work & Pensions (DWP) to apply for benefits if they are eligible to apply. Consideration for the provision of financial support will only be given by the local authority after the prospective special guardian has provided evidence of their application/outcome of the benefits they are entitled

to. They will also need to provide evidence of monthly /annual income, savings and investments, and expenditure.

Financial support may consist of a one off payment or periodic payments in cases where the special guardian/s are unable to meet the child/ren or young person's needs without financial support. All requests for financial support have to be agreed by Telford and Wrekin's Resource Allocation Management Panel (RAMP). Financial support will not be agreed by Telford & Wrekin Council where it does not agree the placement is suitable or where it deems the circumstances do not meet the criteria for financial support.

Any allowance cannot exceed the equivalent of Telford & Wrekin's standard fostering allowance for the child's age group and will take any eligible state benefits claimed into account (information on the current fostering allowances can be obtained from the Telford & Wrekin fostering service).

f. Housing Cost Contribution

If a Special Guardian has non-dependent adults (over the age of 18 and not in full time secondary education or training) living within the household, the local authority will deduct a Housing Cost Contribution (HCC) from their housing costs in respect of each non-dependent adult. The HCC will follow the rates used in [Universal Credit monthly rates](#), under non-dependent's housing costs contribution, which is usually updated each April. The current rate is £72.16 per month (September 2019).

g. Annual Reviews for special guardians who were not foster carers for the child

Financial support for special guardians is reviewed on an annual basis. Special guardians will need to provide evidence of their household income and expenditure every 12 months in order for the local authority to undertake a means tested assessment and present any requests for financial support to RAMP. Payments will automatically cease after each subsequent 12 month period if the required financial information is not provided by the special guardian.

Special guardians who wish to request financial support or continuation of financial support being provided, must obtain financial advice regarding benefits and tax credits from the Citizens Advice Bureau and/or their local Department of Work and Pensions and apply for benefits they may be entitled to, before requesting financial assistance from Telford & Wrekin Local Authority.

h. Cessation of financial support

Regulation 9 of the Special Guardianship Regulations (Children Act 1989) provides that financial support ceases to be payable to a special guardian or prospective special guardian if:

- a) the child ceases to have a home with her/him
- b) the child ceases full-time education or training and commences employment
- c) the child qualifies for benefits in her/his own right, or
- d) the child attains the age of 18 unless he continues in full-time education or training, when it may continue until the end of the course or training he is then undertaking.

i. Conditions of financial support paid periodically

Regulation 10 of the Special Guardianship Regulations (Children Act 1989) provides that financial support that is to be paid periodically is not payable until the special guardian or prospective special guardian agrees to the following conditions:

- i) that s/he will inform the local authority immediately if:
 - the child is no longer in their care
 - s/he changes her/his address
 - any of the changes mentioned in regulation 9 (cessation of financial support, see page 13) occur; or

- there is a change in her/his financial circumstance or the financial needs or resources of the child which may affect the amount of financial support payable to her/him and, where the information is given orally, that s/he will confirm it in writing within seven days
- ii) that s/he will complete and supply the local authority with an annual statement as to the following matters:
- her/his financial circumstances
 - the financial needs and resources of the child
 - her/his address and whether the child still has a home with him

The local authority should be prepared to provide advice and assistance on completing the forms, on request where necessary.

Regulation 10 provides that 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.

However, where the condition not complied with is a failure to provide an annual statement, regulation 10 requires that 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 an annual statement; and 28 days have expired since the date on which the notice was sent.

6. Principles of Support Provided by Telford & Wrekin Council

- On-going financial support (or that for an agreed period) cannot duplicate any other payments available to a special guardian(s) and account will be taken of any other grants, benefits, allowances or resource available to the special

guardian(s) as a result of becoming a special guardian for a child. There is an expectation that any carer will claim the benefits they are entitled to. A full financial assessment will take these resources/benefits/allowances into account when calculating financial entitlement.

- Financial support to assist with specific issues such as therapeutic services or set up costs are not subject to a full financial assessment.
- Regulation 9 of Special Guardianship Regulations 2005 provides that financial support ceases to be payable to a special guardian if the child ceases to have a home with him/her, the child ceases full time education or training and begins employment or if the child qualifies in his/her own right for income related benefits. It is the special guardian's responsibility to notify the local authority immediately of any change in the carer's and/or child's address or circumstances.
- Allowances which have been agreed without a time limit (and continue to be eligible for an allowance at each review) will cease on the child's 18th birthday, unless the local authority is notified in advance that the child is continuing in full time further education or training. In that case, the financial support may continue until the end of the course providing the course of study commenced prior to the child turning 18 if evidence of study/training is provided and there have been no further changes in circumstances.
- The local authority where the special guardian lives is responsible for undertaking an assessment of need and provision of any support services in response to that assessment. However, if a child is looked after by another local authority, it is that local authority's responsibility to complete the special guardianship assessment and support plan. After a period of three years, responsibility for support transfers to the local authority where the special guardian resides although the responsibility to provide financial support remains with the local authority where the child was previously looked after.

iii) **Leaving Care Provision**

Children who were looked after immediately prior to becoming subject to a Special Guardianship Order will also still be eligible for leaving care services in that they will qualify for advice and assistance under section 24(1) of the Children Act 1989, as amended by the Children (Leaving Care) Act 2000 and the Adoption & Children Act 2002. This is providing that the child:

1. Has reached the age of 16 but not the age of 21
2. If less than eighteen years old, has a Special Guardianship Order in force.
3. If eighteen years old or above, had a Special Guardianship Order in force when they reached that age, and
4. Had been looked after by a local authority immediately before the making of the Special Guardianship Order.
5. The young person should contact Telford and Wrekin Children in Care and Leaving Care Team at the age of 16 years should they wish to receive further advice and guidance from the authority.

Please contact the Leaving Care Team on 01952 382298 or cicbso@telford.gov.uk for further information.

iv) **Other support available**

Telford and Wrekin are committed to supporting special guardians and the following support is provided:

- Bi-monthly support groups are arranged by the Connected Persons Team to provide an opportunity to meet with other special guardians. A guest speaker usually attends.

- The Connected Persons Team can make a referral to the Adoption Support Fund where a specific need has been identified for therapeutic support. Further information can be found at: adoptionsupportfund.co.uk
- Special guardians can contact the Reviewing and Support Officer (Connected Persons Team) for advice and additional support during normal office hours.

For further information about special guardianship please contact the Connected Persons Team on 01952 380353

In preparing this policy, the Council had had regard to the relevant legislative requirements and statutory guidance.