

Special Guardianship and Adoption No Detriment Policy

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| **Title** | **Special Guardianship and Adoption No Detriment Policy** |
| Effective From  | 29th April 2021 |
| Reviewed on  | 9th February 2023  |
| Practice Note | The Special Guardianship Order No Detriment Policy is a scheme designed to encourage Special Guardianship Applications from family and friends, Foster Carers, and Independent Fostering Agencies for the children they look after. It allows Dudley to pay carers an allowance equivalent to the fostering payment they were receiving at the time the Special Guardianship Order was made, through to when the child reaches the age of 18 years. The Policy is based on the principle that where a permanency order is agreed as being in the child’s best interest, there should be no financial disincentive for the carer to become the permanency carer for the child. The Policy sets out the criteria for eligibility and the circumstances which justify financial support, which is subject to an assessment and reviewed annually. This Special Guardianship Order No Detriment Policy will be reviewed in 2025 and has been uploaded in to the Policies and Procedures / Practice Guidance on Dudley’s Centre for Professional Practice Website, click here to view.  |
| Reviewed by  | Jesca MupombiHead of Service for Children in Care, Care Leavers and Resources |
| Date Signed off | Signed off by SMT on 20th February 2023 |
| Reference Number | 0098/2021/CPP |

**Introduction**

The scheme is designed to enable Dudley Metropolitan Borough Council (DMBC) to pay financial support to the carers of children who are the subjects of permanence arrangements such as Adoption Orders (AO) or Special Guardianship Orders [SGO], as it is necessary to ensure that the Adopter or Special Guardian can look after the child/ren who are the subjects of the order. The policy is based on the principle that where a permanency order is agreed as being in the child’s best interest, there should be no financial disincentive for the foster carer to become the permanency carer.

The policy sets out the criteria for eligibility and the circumstances which may justify financial support. This will be assessed, as required, and is not an automatic payment. Such support may be in addition to other services which may be available. The policy should be read in conjunction with the regulations in respect of Special Guardianship.

There are a number of routes to permanence, and we are considering Special Guardianship Orders. DMBC will consider providing financial support for a permanent care arrangement in circumstances where a child is subject of a court order placing him/her in the care of someone other than his/her parents, and the effect of this order was that the child would not become long term looked after by DMBC.

The following criteria must be met:

1. A. The child must have been looked after by DMBC at some time in the 12 months before the order was made.
2. **B. The permanency order was made in public court proceedings instigated by DMBC;**

Where a child/young person is not in care and a relative or adult in their network applies for a Special Guardianship Order, the need for financial support will be determined using DMBC means test. State benefits and tax credits are still available to the holders of such orders in the same way as they are for any parent. Any financial support paid by DMBC must not duplicate any benefit payments, and any such payments will be taken into account in the assessment.

There may be circumstances that warrant a single payment to support a placement, and agreement to such a payment when it exceeds £1000 needs to be made at the Resource Panel/Permanence Panel/By the Assistant Director. The support plan would need to include this payment and the reason for its provision. This excludes the purchase of property and extensions.

The support plan needs to detail the basis upon which financial support is determined, whether the financial support will be paid in the form of a regular allowance or one-off payment, how much the support will be and what period it covers, and the mechanism for review.

The financial support payable by DMBC will not include any element of remuneration (fee) for the care of the child unless:

1. A. The applicant is a foster carer/ Connected Persons Carer.
2. B. An element of remuneration was included in the payments made by DMBC to that person in relation to fostering the child.

**Applicants who are not presently the foster carer of the child;**

The approval of the allowance is determined by the needs of the child and the financial circumstances, including benefits, of the applicants. The child’s circumstances where an allowance may be paid are:

1. A. The child needs special care as a result of illness, disability, emotional or behavioural difficulties or the consequences of abuse or neglect.
2. B. Where it is necessary to make special arrangements to facilitate the arrangement by reason of age, ethnic origin or the desirability of being placed with siblings.
3. C. Where DMBC considers it necessary to ensure that the carer can look after the child.

For Special Guardianship Order applications, it is recommended the assessment of financial eligibility commences when a child is identified as a possible match for the applicants, or prior to placement where possible.

The financial circumstances of the applicant are assessed using DMBC’s means test. Supporting documentation will be required from the applicant to evidence the figures provided. If the applicant is in receipt of income support/pension credits / state benefits, a financial assessment is not required, although documentary proof of the benefits are still required.

The allowance, if approved, is payable at the rate of DMBC’s fostering maintenance payment for a child of the same age, minus any benefit payments received in relation to that child i.e. child benefit and adjustment related to the income of the applicant as determined by the means test.

Approval for the payment of one of these allowances is made by the Resource Panel. The Access to Resource Panel will consider reports which evidence the child’s care history and family circumstances, the child’s needs and the financial circumstances of the applicant.

There will be an annual review of the allowance which will determine whether the child is still living with the carers and a financial re-assessment to determine whether the financial criteria are still met. The rate payable will also be reviewed and in particular amended, if there has been a change to DMBC’s fostering maintenance level, changes due to a financial uplift, or the child has moved into a different age bracket. The payment of the allowance will cease if:

1. A. The child ceases to have a home with the holder of the Order;
2. B. The child ceases full-time education or training and commences employment;
3. C. The child qualifies for Income Support or Jobseeker’s Allowance in their own right;
4. D. The child attains the age of 18 years, unless they continue in full-time education or training, when it may continue until the end of the course year. This only covers the specific course and level, the young person commenced before they turned 18, up to the end of the academic year.

**Applicants who are presently the child’s Foster Carer**

Foster Carers include DMBC foster carers, both mainstream and connected persons, and carers from Independent Fostering Agencies.

Where a Special Guardianship Order is deemed to be in the best interests of the child and the Foster Carers, DMBC is committed to assisting and resolving any practical and financial barriers that may create a disincentive for foster carers to take on a Special Guardianship Order.

The allowance can only be considered when all of the following criteria are met:

1. A. The child is placed with the foster carers who have made an application for a Special Guardianship Order;
2. B. It has been agreed that it is in the best interests of the child to remain permanently with that foster carer.

The allowance payable is equivalent to the weekly age-related fostering maintenance allowance and remuneration previously received (excluding Christmas gift and allowance payments, birthday gift payments, annual equipment and holiday allowance by the foster carer minus any benefits received for the child i.e. child benefit.

The same principle will apply to Independent Foster Carers up to a maximum amount equivalent to the age related and remuneration payment that could be paid to a DMBC carer. For those carers in receipt of Income Support, child benefit will not be deducted from the allowance paid.

To enable the foster carer to decide whether to apply for a permanency order, the assessment of the child’s circumstances to determine whether the above will be met should be undertaken as soon as it has been agreed that there should be a permanency plan for the child to live away from their parents, or at the time the foster carer requests to be considered as the permanent carer for the child/ren.

Because every foster carer and their situations are different, individual arrangements may need to be put in place to meet specific circumstances. The child’s social worker or supervising social worker assisting with the setting up of the Special Guardianship Order and arranging the Special Guardianship Order Support Plan will ensure specific needs are addressed.

Where the child has been living with the foster carer for more than two years, and DMBC are supporting the making of a Special Guardianship Order, they will match the foster carers’ current financial support until the child reaches the age of 18 years. The Special Guardianship Order payment that the foster carer is allocated (based on the fostering maintenance allowance) will increase over time, in line with DMBC Maintenance rates (minus child benefit and child tax credit). If the foster carer receives a fee for fostering the child, this will continue at the rate provided when the Special Guardianship Order is granted.

There will be an annual financial review undertaken which will determine whether the child is still living with the applicant. The rate payable will also be reviewed and amended if there has been a change to DMBC’s fostering payments, or the child has moved into a different age bracket.

The payment of the allowances for the orders will cease if:

1. A. The child ceases to have a home with the holder of the order
2. B. The child ceases full-time education or training and commences employment
3. C. The child qualifies for Income Support or Jobseeker’s Allowance in his own right, or
4. D. The child attains the age of 18 years unless they continue in full-time education or training, when it may continue until the end of the course year

It is the responsibility of the holder of the Order to notify DMBC 3 months before the child’s 18th birthday that they intend to stay on their current course until the end of the academic year, so that a request can be considered. Without such a notification, the payments will cease when the young person becomes 18 years of age and cannot recommence.

In addition, where the child is aged 16 or 17 years at the time of taking out a Special Guardianship Order, and has acquired eligibility for leaving care services, the young person would be able to access leaving care -support as a Relevant child if they remain in the care of the SGO carer continuously for 6 months. After 6 months, the child/young person will have the status of a Qualifying child. At age 18, the young person will have the status of a Former Relevant child which means that they are eligible for financial support at a rate commensurate with that which a young person remaining in care would receive (at age 18).

**Leaving Care and Qualifying Status**

* Aged between 16 and 21 OR between 16 and 25 if still in full-time education
* Was in care on, or after, their 16th birthday and no longer looked after
* Spent less than 13 weeks in care since 14th birthday, i.e. do not fulfil criteria for eligible or relevant child at the point an SGO is granted.

Qualifying children can receive advice and support from Care Leavers’ Service.

Conditions of financial support paid periodically in respect of Special Guardianship Orders

Financial support that is to be paid periodically is not payable until the Special Guardian agrees to the following conditions:

A. That he/she will inform DMBC immediately if:

i. He/she changes their address;

ii. The child dies;

iii. Any of the changes mentioned in Section 34 relating to the cessation of financial support,

occur; or

iv. There is a change in his/her financial circumstances or the financial needs or resources of

the child which may affect the amount of financial support payable to him/her and;

v. Where the information is given orally, that he/she will confirm it in writing within seven

days.

B. That he/she will complete and supply DMBC with an annual statement as to the following

matters:

i. His/her financial circumstances;

ii. The financial needs and resources of the child;

iii. His/her address and whether the child still has a home with him/her.

DMBC should be prepared to provide advice and assistance on completing the forms on request where necessary. Where any condition imposed is not complied with, DMBC 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, DMBC 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 given