



# Herefordshire Council Special Guardianship & Support Policy 2026

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# Purpose of the Policy

The purpose of the policy is to provide clear and accessible information for individuals considering becoming Special Guardians and the support available when a child is subject to a Special Guardian Order (SGO).

A **“no detriment” principle applies at Herefordshire Council**; this means that Foster Carers will not be disadvantaged by choosing to provide a child with permanency through an SGO. The aim is to ensure that Special Guardians receive appropriate support and are not adversely affected compared to other permanency options.

Every child deserves a secure, stable and loving family to support them throughout childhood and into adulthood. Permanency is vital for a child’s emotional well-being, development and sense of identity. It provides the foundation for stability and belonging that enables children to thrive. Special Guardianship offers one way to achieve this when children have been received into care but cannot return to live with their birth parents.

Under Regulation 7 of the Special Guardianship Regulations 2005, fostering fees are not usually payable beyond two years after an SGO is granted. However, Herefordshire Council recognises this as a barrier to securing permanence for children who are in local authority care and who might otherwise be able to leave care and secure permanency in a family through the remainder of their childhood. Therefore, Herefordshire Council are committed to **paying the fostering fee (excluding holidays, birthdays pay and mileage) until the child reaches 18 where they are in support of the application and this is in line with the child’s care plan**. This will increase annually in-line with the fostering allowance increases.

## What is Special Guardianship?

An SGO is a legal order made by the court that appoints one or more individuals as a child’s *Special Guardian*. It is designed for children who cannot live with their birth parents and need a secure, long-term home.

Special Guardians are given parental responsibility for the child. While the birth parents keep their parental responsibility, it is limited and means that the Special Guardian(s) make the day-to-day decisions for the child without needing consent from the parents or anyone else with parental responsibility (except another Special Guardian). Importantly, an SGO does not end the legal relationship between the child and their birth parents.

Parental responsibility refers to the rights, duties, powers, and responsibilities that the law gives to a parent in relation to a child. This includes decisions about education, healthcare and everyday care such as clothing and feeding.

Birth parents retain certain rights, including the right to consent to adoption or placement for adoption. Some decisions still require agreement from everyone with parental responsibility or permission from the court, such as:

- Changing the child’s surname
- Taking the child out of the UK for more than three months

When granting an SGO, the court may also give permission for these actions either generally or for specific purposes.

## Who can apply?

The people listed below can apply for a SGO provided that they are 18 years of age or older:

- 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.
- 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 person who is already the child's legal guardian.
- Anyone the child lives with because of a Child Arrangements Order (CAO).
- Anyone who has the agreement of anyone named in a CAO as someone who the child will live with.
- Anyone the child has lived with for a period of at least three out of the previous five years.
- Where the child is in care, anyone who has the local authority's consent.
- Anyone who has consent from all those with parental responsibility.

Other people require the permission of the court to make an application for a SGO, and permission must be granted prior to the prospective Special Guardian informing the local authority of their intention to apply. Herefordshire Council encourages all prospective Special Guardians to contact the Kinship team prior to making any application or applying for an SGO. The Kinship team will be able to provide information about the implications of the order and provide an opportunity for prospective Special Guardians to ask questions. This does not replace the need to obtain independent legal advice.

### How to apply for a Special Guardianship Order

#### Notice of Intention to apply

Anyone wishing to become a Special Guardian must give Herefordshire Council's Kinship Team **three months' written notice** of their intention to apply. This notice should include:

- The names of all prospective Special Guardians and contact details
- The name(s) of the child or children

#### Local Authority Assessment

Once the notice is received - or if the court requests it - Herefordshire Council's Kinship team will assess and prepare a report for the court on the applicants' suitability. Under Section 14A–F of the Children Act 1989, the local authority must also consider what support services, including financial assistance, may be provided (further details below), this is called the SGO support plan and this is presented to the court alongside the assessment report.

#### If the Child is in Care

For children subject to a Care Order or Interim Care Order: -

- The prospective Special Guardian must notify the child's social worker or fostering social worker in writing **giving 3 months' notice of their intention to apply**.

- Applicants may submit their own application.
- The court cannot grant an SGO without an assessment from the local authority.

### If the Child is Not in Care

For children **not in the care** of Herefordshire Council, or where Herefordshire Council does not support the application: -

- Applicants must give **three months' written notice** to the relevant local authority before applying to the court. The relevant local authority is the local authority in which the prospective carers reside.
- If this is a Herefordshire child: - notification should be sent to the child's **allocated social worker**, if known, and if not known, contact **Herefordshire Children's Services**.
- Applicants must also inform anyone named in existing court orders or proceedings about their intention to apply.
- Applicants may choose to instruct their own solicitor to submit the application and represent them in court.

## When can a Special Guardianship Order be made?

An **SGO** can be made by the court during any family proceedings concerning a child's welfare, even if no formal application has been submitted. However, the court must receive a report from the local authority before granting an order, although it is not bound by the recommendations in that report.

### In Care Proceedings

When care proceedings are already underway, the court often waives the usual three month notice period and permission requirements to avoid unnecessary delay and secure stable arrangements for the child as quickly as possible. Herefordshire Council uses the Form K document to assess kinship carers as Special Guardians.

### Preparing the Report for the Court

In Herefordshire the social worker in the Kinship Team alongside the child's social worker prepares the court report.

In all cases there will need to be: -

- An assessment of the current and likely future needs of the child (including any harm the child has suffered, and any risk of future harm posed by the child's parents, relatives or any other person the local authority considers relevant).
- An assessment of the prospective Special Guardian's parenting capacity including:
  - 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.
  - 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 Herefordshire Council considers relevant, particularly in relation to Family Time between any such person and the child.

- Any likely impact the SGO may have on relationships between the child and the parent.
- Their ability and suitability to bring up the child until the child reaches the age of eighteen; and
- An assessment of the proposed Family Time arrangements and the support needs of the child, parents, and the prospective Special Guardian.

The assessment of the applicants will include a medical completed by their General Practitioner with Agency Medical Advisor comments included, a check with the Disclosure and Barring Service (DBS), employment references, education checks for any child living in the household, personal references, and any other checks the local authority believe are necessary to complete the assessment and support plan. Prospective Special Guardians will be asked to provide written consent prior to checks being undertaken.

The assessment should carefully:

- Balance the strengths families may have:
- Consider any existing relationships they have with the child.
- Explore their parenting experience.
- Consider the significance for the child of remaining within their family and network, against the carers' capacity to meet the assessed needs and the challenges that a particular child may bring on a long-term basis, including any additional needs until their 18th birthday.

## The Special Guardianship Report

The report must contain all the requirements of *Regulation 21* and the *Schedule* to the Special Guardian Regulations 2005 and outline in detail the matters to which the assessing social worker should have regard. In summary, the report must include the following:

- Information about the child and the child's family.
- Information about the prospective SG.
- Information about the LA that compiled the report.
- A summary of the child's health and the health of the prospective SG prepared by a medical professional.
- The implications of making the SGO for those involved.
- The relative merits of an SGO and other orders.
- A recommendation regarding special guardianship.
- A recommendation regarding Family Time.
- Once completed, the special guardianship assessment report should be submitted by the author to their line manager for approval. Once approval has been given, the report should be forwarded to the legal team for review at least 3 days before the expiry of the 3-month deadline or the court ordered date.

### Early notification of negative outcome

If during the process of the assessment the social worker believes it has gathered enough information to reach an evidence-based conclusion that the prospective Special Guardian is unsuitable before the assessment is completed, it is best an early indication is given and they:

- Write a report detailing their reasoning.
- Send a copy of the report to the prospective Special Guardian.
- Provide the prospective Special Guardian with information on the procedure for challenging

the assessment, including the procedure for making a court application for ongoing assessment and being joined as a party to the proceedings.

- Inform the court seeking a review of the court timetable.

### **Obligation to notify of outcome and decision**

When the assessment is complete the social worker or through legal representatives if the matter is in proceedings, must notify the relevant people, (those being the prospective Special Guardians, the parents and the child) of the outcome of the assessment. Where the assessment outcome is that support services should be provided, the local authority must provide a support plan. Time should be given for the relevant people to make representations about the outcome.

# **Support for Special Guardianship in Herefordshire**

## **Who is Responsible for Providing Support?**

Herefordshire Council is legally required under Section 14F of the Children Act 1989 and the Special Guardianship Regulations 2005 to make arrangements for a range of support services for those affected by Special Guardianship. These services are designed to meet the needs of the child, the Special Guardian, and their family.

## **Types of Support Available to Special Guardians in Herefordshire**

Special Guardianship support services include:

- **Financial support** (including ongoing allowances and one-off payments)
- **Group support** for Special Guardians, prospective Special Guardians. Herefordshire Council run monthly kinship support groups led by the Kinship Team
- **Assistance with Family Time arrangements**, including mediation and support for contact between the child, parents and other significant people
- **Therapeutic services for the child** through applications to the Adoption Support Fund
- **Training and practical support** for Special Guardians to meet the child's needs, including respite care
- **Advice and information**
- **SGO support plan annual review**

Support should complement universal services (such as health and education), and families should be signposted to benefits and entitlements.

## **The assessment for support**

Where the local authority carries out an assessment of a person's needs for special guardianship support services, they must consider a wide range of factors which include: -

- The current and likely future needs including developmental needs of the child; and
- The parenting capacity of the Special Guardian or prospective Special Guardian (see above for what is considered when looking at parenting capacity)

# Responsibility for Assessment and Provision

## **If the child was previously looked after by Herefordshire Council:**

Herefordshire Council remains responsible for assessing and providing support for three years after the SGO is made. After this period, responsibility transfers to the local authority where the Special Guardian lives.

## **If the child was not looked after by Herefordshire Council:**

- The local authority where the Special Guardian resides is responsible for assessment and provision of support.
- If the Special Guardian moves, responsibility passes to the new local authority, with cooperation from the previous authority to ensure a smooth transition.

## **Financial Support**

Ongoing financial support as agreed in the support plan remains the responsibility of the original local authority.

## **Support Plan**

A Special Guardianship Support Plan must be prepared. This plan should:

- Detail the services to be provided
- Outline financial assistance
- Identify the needs of the child including physical, health and emotional and set desired outcomes.
- Include timescales and review procedures
- Name a person responsible for monitoring the plan

Other agencies (e.g. health and education) may be consulted when drafting the plan.

## **Herefordshire Council Review Process**

- The Kinship Team coordinates support and reviews plans annually.
- Special Guardians can contact the team for advice, guidance, and training opportunities at any time, they do not need to wait for their annual review.
- If additional support is needed after the order, referrals can be made to other services as assessed as needed, or the Adoption Support and Special Guardianship Fund (for previously looked-after children).

Annual reviews are required under the Special Guardianship Regulations 2005. These will ensure that the support outlined in the support plan remains appropriate and responsive to the child's and family's needs. It will also ensure that carers are receiving the correct age-related financial support for the child.

# Ongoing Financial Support for Former Foster Carers Who Become Special Guardians

While fostering, Herefordshire Council foster carers receive an allowance for each child and a fostering fee (remuneration). When an SGO is granted, former foster carers will continue to receive financial support based on these payments, but additional fostering-related payments (such as mileage, holiday, respite, festival, or birthday allowances) will no longer apply unless agreed in exceptional circumstances and written within the support plan.

## Allowances

- Former foster carers who become Special Guardians will continue to receive the equivalent of the fostering allowance, minus Child Benefit and any other child-related benefits. This is because Special Guardians are entitled to claim Child Benefit because they have parental responsibility. The local authority must deduct Child Benefit (and similar benefits) to avoid double funding and ensure fairness.
- Allowances will increase in line with fostering rates according to the child's age and will continue until the child reaches **18 years old** or completes secondary education (e.g., GCSE, A-Level, BTEC) if their 18th birthday falls before the course ends.
- Evidence from the education provider will be required if the young person remains in education beyond 18.

## Benefits and Deductions

- Special Guardians must claim Child Benefit and any other eligible benefits once the order is granted.
- The local authority will deduct the equivalent of Child Benefit (except for Disability Living Allowance (DLA) or Personal Independence Payments (PIP) from the allowance.
- Those receiving Income Support or Pension Credit will not have Child Benefit deducted.
- Herefordshire Council will ensure that former foster carers receive the same overall amount as before (minus payments for mileage, holidays and birthdays as above), although payments will come from different sources (Herefordshire Council, Child Benefit Agency, DWP).

## Responsibilities

Special Guardians must provide evidence of benefits received or confirmation that they are not entitled to claim.

## Independent Fostering Agencies

Where the foster carer was approved by an Independent Fostering Agency (IFA), the allowance and fee payments may need to be negotiated individually. This is because there can be significant differences between the payments made to local authority foster carers and those paid by IFAs. Any financial support for former IFA foster carers above the rates of local authority foster carers must be approved the Service Director for Corporate Parenting.

## **Special Guardians Living Outside the United Kingdom**

Financial support for Special Guardians who reside outside the UK will be considered on a case-by-case basis. This applies to both allowances and fees where the Special Guardian was previously a foster carer.

All payments will be at the discretion of Herefordshire Council and subject to individual assessment.

## **Ongoing Financial Support if you are not the Child's Foster Carer**

Herefordshire Council does not automatically provide financial support to prospective Special Guardians where the child was not previously in the care of the local authority.

Instead, Herefordshire Council will:

- Advise on benefits the Special Guardian may be entitled to claim
- Support applications for relevant benefits where the child has a disability

## **Children with Disabilities**

All children with a disability remain eligible for support under Section 17 of the Children Act 1989, regardless of whether they were previously looked after.

The Children with Disabilities Team can provide advice, guidance, and services to families, including Special Guardians, and help access grants.

This support is not affected by the granting of a Special Guardianship Order.

## **Exceptional Circumstances**

In cases involving unusual and ongoing expenses due to:

- The child's illness or disability
- Emotional or behavioural difficulties
- Consequences of past harm

Herefordshire Council may consider discretionary payments or resources to meet identified needs. The duration of such support will be agreed at the outset and set out within the support plan.

Financial support for Special Guardians of children who were not in foster care is discretionary and subject to:

- An assessment of need; and
- A financial assessment

This support is not intended to replace parental responsibility for financial provision or to duplicate child-related benefits such as DLA/PIP.

## **Support with Legal Costs**

Where Herefordshire Council supports the making of an SGO, it may provide support for initial advice for the prospective Special Guardian. Where initial advice is sought the cost will be limited

to 2 hours of legal advice up to a maximum of £250 plus VAT payable directly to a solicitor retained by the prospective Special Guardian. In cases where the child is looked after by Herefordshire Council and the prospective Special Guardian wishes to make an application for a SGO, support with legal fees is not subject to means testing and can include advice, court fees and support through the process. Such costs will have to be approved by the Designated Officer and documented on the file.

Herefordshire Council will not support a prospective Special Guardian with legal fees (whether the child is looked after or not), where they have not been positively assessed or where Herefordshire Council does not support the making of a SGO in their favour.

## Annual Review of Special Guardian Support Plan and Financial Review

The annual review will serve a dual purpose:

- To ensure that the support plan continues to meet the needs of the child, enabling the Special Guardian to care for the child effectively.
- A financial review will ensure the carers are receiving the correct age-related allowance for the child.
- The local authority has a duty to assess that there are no duplicate payments such as Child Benefit.
- The Special Guardian must confirm that the child continues to live with them and provide evidence that they are claiming all benefits they are entitled to.

### Failure to provide information

The local authority will give 28 days' notice that payments will cease if financial information is not provided within the required timescales.

If payments stop and the Special Guardian later provides the requested information, payments will resume from the date the evidence is received.

Extenuating circumstances (e.g., hospitalisation) may be considered.

## Cessation of Financial Support

Under Regulation 9 of the Special Guardianship Regulations 2005, financial support ceases if:

- The child no longer resides full time with the Special Guardian
- The child leaves full-time education or training and starts employment including an apprenticeship
- The child qualifies for benefits in their own right
- The child reaches 18, where a young person is **already enrolled in and actively attending an education or training course on the day they turn 18**, the local authority will continue financial support **until the end of that course or for a maximum of 12 months after their 18th birthday — whichever is sooner.**
- The child dies

Before suspending or terminating payments, the local authority must send a written reminder and allow 28 days for compliance.

## Leaving Care Provision

Children who were looked after immediately before a SGO was granted remain eligible for leaving care services under Section 24(1) of the Children Act 1989, as amended by the Children (Leaving Care) Act 2000 and the Adoption & Children Act 2002, provided that the child:

- Is aged 16 but less than 21
- Has an SGO in force if under 18
- Had an SGO in force when they turned 18
- Was looked after by a local authority immediately before the SGO was made

### Support Available

Young people will be contacted by the Herefordshire Leaving Care Team at age 16 for advice and guidance.

### Other Support Available

Herefordshire Council is committed to supporting Special Guardians through:

- **Support Groups:** Regular meetings arranged by the Kinship Team, offering peer support and guest speakers.
- **Adoption Support & Special Guardianship Fund (ASF):** Available for children previously looked after, providing therapeutic support.
- **Advice and Guidance:** From the Kinship Team during office hours.
- **Adoption Support & Special Guardianship Fund (ASSGF)**

The ASSGF provides funding for therapeutic services for children and young people up to age 21, or 25 with an Education, Health and Care Plan, who:

- Were in care before an SGO was made
- Were adopted from local authority care or abroad and live in England
- Left care under an SGO that later changed to adoption (or vice versa)
- Are under a Child Arrangements Order and were previously looked after
- Experienced a breakdown of an adoption, SGO, or CAO placement
- The local authority must apply to the ASF within 3 months of assessing the family's needs. The fund is available until March 2026.

More information: [Adoption Support Fund Guidance \[gov.uk\]](#)

### Contact for Herefordshire:

Kinship Team  
Email: [FosteringDuty@Herefordshire.gov.uk](mailto:FosteringDuty@Herefordshire.gov.uk)

# Legislative Framework and Statutory Guidance

In preparing this policy, Herefordshire Council has had regard to the following legislation and guidance:

- **Children Act 1989** (as amended by the Adoption and Children Act 2002)
- **Special Guardianship Regulations 2005** (and subsequent amendments)
- **Special Guardianship Statutory Guidance (Department for Education, 2017)**
- **Children (Leaving Care) Act 2000**
- **Adoption and Children Act 2002**
- **Special Guardianship (Amendment) Regulations 2016**
- Relevant case law and practice guidance, including *Family Justice Council Practice Guidance on Special Guardianship (2020)*