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Children Social Care

Child Arrangements Order Allowances

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Introduction

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 Arrangements Order is a court order regulating arrangements relating to any of the following:

- a. With whom a child is to live, spend time or otherwise have contact; and
- b. When a child is to live, spend time or otherwise have contact with any person.

The 'residence' aspects of a Child Arrangements Order (i.e. with whom a child is to live/when a child is to live with any person) can last until the child reaches 18 years unless discharged earlier by the Court or by the making of a Care Order

The 'contact' aspects of a Child Arrangements Order (with whom and when a child is to spend time with or otherwise have contact with) cease to have effect when the child reaches 16 years, unless the court is satisfied that the circumstances of the case are exceptional.

A person named in the Order as a person with whom the child is to live, will have Parental Responsibility for the child while the Order remains in force. Where a person is named in the Order as a person with whom the child is to spend time or otherwise have contact, but is not named in the Order as a person with whom the child is to live, the court may provide in the Order for that person to have Parental Responsibility for the child while the Order remains in force.

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.

A court which is considering making, varying or discharging a Child Arrangements Orders, including making any directions or conditions which may be attached to such an Order, must have regard to the paramountcy principle, the 'no order' principle and the welfare checklist under the Children Act 1989.

Interim Child Arrangements Orders can be made.

Where a child would otherwise have to be placed with strangers, a placement with family or friends/Connected Persons may be identified as a preferred option and the carers may be encouraged and supported to apply for a Child Arrangements Orders where this will be in the best interests of the child.

Whilst support may continue for as long as the Child Arrangements Order remains in force, the aim will be to make arrangements which are self-sustaining in the long run.

The holder of a Child Arrangements Order does not have the right to consent to the child's adoption nor to appoint a guardian; in addition, they may not change the child's name nor arrange for the child's emigration without the consent of all those with Parental Responsibility or the leave of the court.

Any person can apply for a Child Arrangements Order. The following can apply for a Child Arrangements Order without needing the leave of the court. In addition, any person who is not automatically entitled to apply for a Child Arrangements Order may seek leave of the court to do so:

- Any parent (whether or not they have Parental Responsibility for the child), guardian or Special Guardian of the child;
- Any person named, in a Child Arrangements Order that is in force with respect to the child, as a person with whom the child is to live;
- Any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family. This allows step-parents (including those in a civil partnership) and former step-parents who fulfil this criteria to apply as of right;
- Any person with whom the child has lived for a period of at least 3 years - this period need not be continuous but must not have begun more than 5 years before, or ended more than 3 months before, the making of the application; or
- Any person:
 - Who has the consent of each of the persons in named in a Child Arrangements Order as a person with whom the child is to live;
 - In any case where the child is in the care of a local authority, who has the consent of that authority;
 - In whose favour a Child Arrangements Order has been made in relation to the 'contact' aspects and who has been awarded Parental Responsibility by the court (i.e. they would be able to apply for a Child Arrangements Order in relation to the 'residence' aspects);
 - Who has the consent of everyone with parental responsibility for the child.
- A local authority foster carer is entitled to apply for a Child Arrangements Order relating to with whom the child is to live, and/or when the child is to live with that person, if the child has lived with them for a period of at least 1 year immediately preceding the application;

- A relative of a child is entitled to apply for a Child Arrangements Order relating to with whom the child is to live, and/or when the child is to live with that person, if the child has lived with the relative for a period of at least 1 year immediately preceding the application. (A relative is a child's grandparent, brother, sister, uncle or aunt (by full or half blood), or by marriage or civil partnership.)

A Child Arrangements Order specifying with whom the child is to live has the following advantages:

- a. It gives Parental Responsibility to the carer whilst maintaining the parents' Parental Responsibility;
- b. The child will no longer be Looked After and there need be no social work involvement, therefore, unless this is identified as necessary;
- c. There is no review process;
- d. The child will not be Looked After and so less stigma is attached to the placement;
- e. A child subject to a Child Arrangements Order may be entitled to additional education support.

A Child Arrangements Order has the following disadvantages:

- a. It is less secure than Adoption or Special Guardianship in that an application can be made to revoke the Order. However, the Court making the Order can be asked to attach a condition refusing a parent's right to seek revocation without leave of the court;
- b. There is no formal continuing support to the family after the Order is made although in some instances, a Child Arrangements Order Allowance may be payable by the local authority;
- c. There is no professional reviewing of the arrangements after the Order unless a new application to court is made, for example by the parents for contact or revocation. (N.B. New applications to court may be expensive to defend, and the carers would have to bear the cost if not entitled to assistance with legal costs)

Support

The Child Arrangement Order allowance can be paid in respect of a child/ren who are looked after by the Local Authority, or where the Local Authority is supporting a Care a Care Plan for a Child Arrangements Order to prevent a child/ren coming into its care. Where the child/ren's foster carer applies successfully for a Child Arrangement Order with support of the Local Authority, it will provide a financial review for the allowance.

There is no duty upon the Local Authority to include any element of 'reward' in the calculation of the Child Arrangement Order allowance. Financial support through allowance must be seen in isolation from mainstream services and is intended to 'supplement' the existing means of support available to families and the child/ren who are subject to a Child Arrangement Order to prevent extreme hardship. To help ensure

that financial barriers are overcome, with consent, a referral will be made for the relevant adults to access welfare benefits advice in respect of income maximisation. The Child Arrangement Order allowance can only be considered if it can be shown that the carers are accessing universal resources and financial support.

All carers will be given information and access advice in respect of welfare benefit entitlements; employee's rights; and community resources. These entitlements will be taken into account when considering if the financial provision of the Child Arrangement Order allowance is essential to prevent 'extreme hardship'. Any benefit/allowance entitlement change because of acquiring parental responsibility will be deducted from the allowance paid by the local authority.

Where the Local Authority has **not been involved** with the child/ren, a request for financial support will be looked at in the light of the individual circumstances of each child. In particular, if financial support is required to safeguard the child, and /or ensure that the child/ren can continue to be cared for by family/friends and, preventing a need for the child/ren to come into care.

For a person in whose favour a Child Arrangements Order has already been made, there is no Statutory duty placed upon the Local Authority to complete a financial assessment in relation to the Child Arrangements Order allowances. However, if individual need or risk is apparent then a Child and Family Assessment will be completed to determine the individual level of need and risk, and to consider provision of the allowance.

The Child Arrangements Order allowance provides financial support and the term 'financial support' applies to:-

- A single lump sum to meet a specific assessed need;
- A series of lump sum payments to meet specific assessed need;
- A periodic or regular payment payable at intervals to be determined by the Local Authority to meet a specific assessed ongoing need.

There are also specific circumstances in which provision of financial support through the Child Arrangement Order may be paid as follows:

- Where the Local Authority considers it appropriate to contribute towards expenditure on legal costs, including Court fees in cases where the Child Arrangements Order is supported by the Local Authority;
- Where expenditure on accommodating the child such as adaptations to the home, furniture, or transport are necessary;
- Where the child needs special care which requires a greater expenditure of resources by reason of illness, disability, emotional or behavioural difficulties or the continuing consequences of neglect - and the child's condition is serious and long-term;
- Where it is essential for the Local Authority to make special arrangements to enable the Child Arrangement Order 'living arrangement' to happen by reason of the age; ethnic origin of the child; or the desirability of the child being placed with siblings; or a child with whom they have previously shared a home;

- Where it is essential to meet the recurring costs of travel for visits for the child to members of the birth family or significant others;

In all of these cases, the court will also have the option of making a Special Guardianship Order. Please refer to special guardianship policy.

Management and Allowances

Child Arrangement Order allowance will not be paid unless it has been decided that:

- The making of a Child Arrangements Order in respect of proposed carers would be in the child's best interests;
- This reflects the child's plan for permanence;
- This would not have been practicable without the payment of an allowance having fully taken into account the financial domestic circumstance for the applicant.

Once a person has had their needs for Child Arrangement Order allowance assessed and has been notified of the Local Authority's decision, the Local Authority must provide to the recipient the written details of the payment to provide through the provision of the Child Arrangement Order allowance support plan. Where possible, this should be provided to the prospective guardian before the Child Arrangement Order is made. The Child Arrangement Order allowance support plan must set out:-

- Its Objectives
- The financial services to be provided
- The timescales for providing the financial services, date of first payment and arrangements for its review
- The individual who will be responsible for co-ordinating and monitoring the delivery of the financial support
- The method of payment and frequency. BACS is the preferred option of the Local Authority
- The criteria that will be used to evaluate the success of the financial support
- The procedures for the review of the financial support
- The arrangements for review, variation and termination of the allowance.

The Child Arrangement Allowance and Child Arrangement Order allowance support plan **must be agreed and formally signed off by the Local Authority nominated officer. A signed copy must be placed onto the child's file.** In North East Lincolnshire Council the nominated officer is the Assistant Director of Children's Services.

The person(s) to receive the Child Arrangement Order allowance must sign and return one copy and provide their bank details to process BACS payment. When a foster carer is granted a Child Arrangements Order, fostering allowances will cease on the date of making of the order and the Child Arrangements Order allowance will start.

Changes in circumstance, variation and termination of Allowances

Child Arrangement Order allowance will only be paid in the following circumstances:

- The child/ren in respect of whom a Child Arrangement Order is sought or is made, must live with an adult(s) who hold the Child Arrangement Order
- The adult(s) who holds the Child Arrangement Order must agree to inform the Local Authority immediately if they change their address, the child no longer lives with them, the child dies, or their financial circumstances changed.

The Local Authority will undertake a review if it becomes aware that there has been a relevant change as recorded above in the circumstances of the person receiving support.

The Local Authority will review the provision of the financial support at a minimum of once a year at the minimum through an annual review of the Child Arrangement Order allowance of the carer(s) and child/ren circumstance. This is to determine that the allowance is still appropriate and consistent with legislation and departmental policy.

When a review is due, a Financial Assessment Review form will be generated by Business Support for completion by the carer. The team will record any changes and outcomes onto the electronic record as a financial review.

The Local Authority will terminate financial support with effect from the date it becomes aware of the following:-

- The Child Arrangement Order has ceased to have effect, for example the child has attained the age eighteen or it has been revoked by the Court;
- The child ceases to have a home with the adult who holds the Child Arrangement Order;
- If the Child dies
- The child is in receipt of income support or jobseekers allowance
- The child has begun full-time employment.

Occasional or short periods of temporary absence away from the adults who holds the Child Arrangement home will not be taken into account, for example in connection with education, short breaks or hospitalisation. Termination of financial support will only take place when the child leaves the home permanently.

If an overpayment has been made for example because it is found that the child is no longer resident, or for any other reason, the local authority may wish to recover the overpayment.

The review form sent to families should state their liability to repay monies if they give false information or fail to notify the local authority of a significant change in circumstances.

The Local Authority reserves the right to change their policies in respect of Child Arrangement Order and provide reasonable notices of intent to change.

Allowances to Applicants Living Out of the Local Authority Area

North East Lincolnshire would support a Child Arrangements Order for a child who resides in the Local Authority area at the time of the making of the order.

For relative, parents or others who have a Child Arrangements Order in place and a need for help arises after the Child Arrangement Order has been made then the

responsibility for assessment to meet any needs will rest with the Local Authority in whose area the child and carer live at that time.

Similarly, if a child/ren has come to North East Lincolnshire on a Child Arrangements Order with a Child Arrangement Order allowance being provided by another Local Authority, it is expected that the placing and responsible Authority will retain ongoing financial responsibility, subject to the placing Local Authorities policies and reviewing procedures.

However, if the child/ren have moved into North East Lincolnshire with a Child Arrangement order in place but no allowance and hardship, need and risk is apparent, North East Lincolnshire may provide financial assistance in terms of goods or service, and in exceptional cases cash, to address identified needs to safeguard and promote a child's welfare under Section 17(6) of the Children Act 189