



## **Policies and Procedures**

<b>Service:</b>	<b>Children and Young People's Services</b>
<b>Title:</b>	<b>Family and Friends Care Policy - Practice Guidance</b>
<b>Key Legislation:</b>	The Children Act 1989 Guidance and Regulations. Volume 2 Care Planning, Placement and Review March 2015  Family and Friends Care; Statutory Guidance for Local Authorities. April 2010.  The Children Act 1989 Volume 4. Fostering Services April 2011  Special Guardianship Regulations 2005 and 2016
<b>Manual:</b>	<b>Looked After Children</b>
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<b>Lead Officer:</b>	<b>Strategic Manager, Looked After and Permanence</b>

## **PRATICE GUIDANCE**

### **1. Roles and Responsibilities**

- 1.1 There are a number of reasons why a child may live with someone other than a parent. In all cases there are legal processes and restrictions about how these arrangements are made and how much involvement or responsibility the local authority has in the arrangement.

### **2. Family Care (informal) Arrangement**

- 2.1 A parent may arrange for a child to live with a close relative:
- a step parent;
  - a grandparent;
  - brother;
  - sister; or
  - aunt and uncle (whether of the full blood or half blood or by affinity).
- 2.2 Who makes the arrangement - this arrangement is made between the parent and the close relative and does not necessarily involve the local authority.
- 2.3 Who has parental responsibility - the parent maintains parental responsibility and will delegate certain day to day aspects to the family or friend carer.
- 2.4 Responsibility for financial support - the parent retains responsibility for financial support. The carer may apply for child benefit and child tax credits and will need to seek advice from the welfare rights service or benefits agency in respect of any entitlement to benefits.
- 2.5 If the child has been assessed as a child in need the local authority may provide financial support under Section 17 (6) of the Children Act 1989.
- 2.6 Local authority responsibilities - the local authority do not make the arrangement and social care services need not be involved.
- 2.7 Children & Young People's Services may be involved if the child has been assessed as a child in need and a child in need plan is made.
- 2.8 Support services available - universal services or identified services if child has been assessed as a child in need.

### **3. Private Fostering**

- 3.1 A Private Fostering Arrangement is made privately between the parent (or person with parental responsibility) and the carer. It can be defined as:-
- 3.2 Any voluntary placement of a child under the age of 16 (or under 18 if disabled) with someone who is not a close relative for longer than 27 days will be subject to the Children (Private Arrangements for Fostering) Regulations 2005.
- 3.3 A close relative is defined in para 2.1 above.

- 3.4 Who makes the arrangement - this arrangement is made between the parent and the private Foster Carer. These arrangements must be notified to the Local Authority by the parent/persons caring for the child.
- 3.5 Who has parental responsibility - the parent maintains parental responsibility and will delegate certain day to day aspects to the private Foster Carer.
- 3.6 Responsibility for financial support - the parent retains responsibility for financial support arrangements. The private Foster Carer may claim child benefit, child tax credit and working tax credit and the child may count as a member of the household for housing benefit and council tax purposes. The private Foster Carer should seek advice from the welfare rights service or benefits agency as any regular payment made by the child's parent may count as income in claims for any means tested benefits.
- 3.7 If the child has been assessed as a child in need the local authority may provide financial support under Section 17 (6) of the Children Act 1989.
- 3.8 Local Authority responsibilities - the local authority does not make this arrangement and their role is to receive notification from the parent and private Foster Carer, to undertake an assessment of the private Foster Carer and ensure that the arrangement is suitable and safe and meets the needs to the child and to monitor the arrangement. The child will have a social worker. The private Foster Carer will not be given a social worker.
- 3.9 Support services available - Universal services, and identified services if child has been assessed as a child in need and has a child in need plan.

#### **4. Child Arrangement Order**

- 4.1 A Child Arrangement Order gives the person with the Order parental responsibility for a child under 16 years (or 18 years if the child has disabilities) and parental responsibility / decision making is then shared between the person holding the Order and the birth parents.
- 4.2 The following are able to apply to the court for a Child Arrangement Order under Section 8 of the Children Act 1989:
- a parent;
  - a guardian;
  - a step-parent;
  - any other person who has obtained the consent of all those with parental responsibility;
  - any person who, if the child is in care, has the consent of the local authority;
  - any person who has obtained the permission of those who already have a child arrangement order for the child;
  - anyone who the child has lived with for at least 3 years;
  - a local authority foster parent if the child has lived with them for at least 1 year immediately preceding the application to court;
  - the child themselves if of an age and understanding; or
  - any other person who has a genuine interest in the child's welfare.

- 4.3 Who makes this arrangement - the above people are able to apply to a court for a Child Arrangement Order in respect of a specific child.
- 4.4 In the majority of cases the local authority will not have had any involvement with the child or the family or may have only had some low level involvement in offering advice and information.
- 4.5 The local authority may become involved at the request of the court under Section 7 of the Children Act, however the local authority will not have made the arrangement.
- 4.6 The local authority cannot apply for a Child Arrangement Order nor can they apply on someone else's behalf however; a Child Arrangement Order is one of a range of Orders that a court can make, during care proceedings.
- 4.7 For a child who is looked after by the local authority under a Care Order, the Care Order is extinguished when a Child Arrangement order is granted.
- 4.8 Who has parental responsibility - the holder of the Child Arrangement Order shares parental responsibility with the parent, the local authority does not share parental responsibility.
- 4.9 Responsibility for financial support - the parent is responsible for financial support arrangements. The holder of the Child Arrangement Order will be entitled to claim child benefit and child tax credit and the child will count as a member of the household for Housing Benefit and Council Tax Benefit. The holder of the Child Arrangement Order will need to seek advice from the welfare rights service or the benefits agency in respect of benefit entitlement in their own particular circumstances.
- 4.10 Under the Children Act 1989, local authorities have a discretionary power to make payments towards the cost of maintenance and accommodation of a child who is subject of a Child Arrangement Order.
- 4.11 If the child is a child in need the local authority may provide financial support under Section 17 (6) of the children act 1989.
- 4.12 Local authority responsibilities - the local authority does not have any care or decision making responsibilities in respect of the child nor is there any duty to oversee the arrangements.
- 4.13 The local authority is not involved in decision making in respect of the child but can offer advice, guidance and support.
- 4.14 The local authority will not make welfare visits or carry out reviews in respect of the child unless a Supervision Order or a Family Assistance Order is in force, or if the child has been assessed as a child in need and a child in need plan has been formulated.
- 4.15 Support service available – Universal services and identified services if a child has been assessed as a child in need and has a child in need plan.

## 5. Special Guardianship Orders

5.1 Those that can apply for a Special Guardianship Order include:

- Child's guardian
- Holders of a Child Arrangement Order in respect of a child
- Those with whom the child has lived with for 3 yrs of the preceding 5 yrs.
- Those with consent of parents and others with parental responsibility including a local authority where there is a Care Order in force.
- Local authority Foster Carers can apply within one year of placement with the permission of the LA and after one year in placement with permission.
- Those that have the leave of the court to apply.

5.2 Who makes the arrangement – the above people can make an application to the court in relation to a specific child.

5.3 The local authority cannot apply for a Special Guardianship Order nor can they apply on an individual's behalf.

5.4 A court may make a Special Guardianship Order even when it has not been applied for, if any question arises about the welfare of a child within any family proceedings. The local authority may have in this situation, placed the child under fostering regulations or may be aware of the arrangement due to involvement with the child as a child in need. The local authority is required to provide a report to the court, in accordance with the Special Guardianship Regulations.

5.5 If the child has been looked after by the local authority under a Care Order, the Care Order is extinguished when a Special Guardianship Order is made.

5.6 Who has parental responsibility – A Special Guardianship Order gives the Special Guardians parental responsibility, shared with the birth parents but allows the guardians to exercise parental responsibility to the exclusion of birth parents on most issues.

5.7 The local authority does not hold parental responsibility.

5.8 Responsibility for financial support – the holder of the Order is responsible for financial arrangements. The special guardian can apply to the court for an Order which directs the parent to make financial contributions towards the care of the child.

5.9 A special guardian can ask for an assessment of their special guardianship support needs including financial support. The local authority must undertake this assessment if the child has been 'looked after' immediately before the making of the Special Guardianship Order.

5.10 If the child is a child in need the local authority may also provide financial support under Section 17 (6) of the Children Act 1989.

5.11 Local authority responsibilities – the local authority has responsibility for investigating and preparing a report on the applicant's suitability to be a Special Guardian and report to the court on this matter.

- 5.12 Once a Special Guardianship Order is made the local authority will not make welfare visits or carry out reviews in respect of the child unless a Supervision Order is in force or if the child has been assessed as a child in need and a child in need plan has been formulated or if an assessment of special guardian support needs has indicated that a support plan needs to be in place.
- 5.13 The local authority is not involved in decision making in respect of the child but can offer advice, guidance and support.
- 5.14 Support services available – the local authority is required by legislation to make arrangement for the provision of special guardianship support services.
- 5.15 The following are services prescribed by legislation as special guardianship support services:
- counselling, advice and information;
  - financial support
  - services to enable groups of relevant children, Special Guardians, prospective Special Guardians, and parents of relevant children to discuss matters relating to Special Guardianship;
  - assistance including mediation services, in relation to arrangements for contacts between the children, their parent or relative or any other person significant to the child;
  - services in relation to therapeutic needs; and
  - assistance in relation to ensuring the continuance of the relationship between child and Special Guardian including training for the special guardian or prospective special guardian to meet any special needs of the child; respite care; and mediation in relation to matters relating to special guardianship orders.
- 5.16 In order to receive these services (other than counselling, advice and information) the local authority **must** undertake an assessment of needs at the request of:
- a relevant child (who is looked after or had been looked after immediately before the making of the Special Guardianship Order);
  - a Special Guardian or prospective Special Guardian of this child; and / or
  - a parent of such child.
- 5.17 The following people **may** be offered an assessment of their need for support services:
- a child (where not previously looked after);
  - the Special Guardian or prospective Special Guardian of a child (not previously looked after);
  - a child of the Special Guardian (regardless whether the child subject to the Order was a looked after child or not);
  - a parent (where child is not or was not looked after); and / or
  - any person who has significant relationship with the child

5.18 The guidance advises that it is important that children who are not or were not looked after are not unfairly disadvantaged by the local authority approach to delivery services. It further advises that support services delivery should be incorporated into mainstream services however there will be some areas that need to be discrete services for this group of people.

## **6. Looked After Children**

6.1 Children looked after are children where the local authority have an Interim Care Order or a Care order. Or the child is provided with accommodation under s20 Children Act 1989.

6.2 Section 22(C) of the 1989 Act applies where a Local Authority is looking after a child. If it is not consistent with the child's welfare or it is not reasonably practicable for the Local Authority to make arrangements for the child to live with a parent, a person who has parental responsibility or who held a Child Arrangement Order immediately before a Care Order was made (s22C (3) and (4)); under s22C(5) the Local Authority has a duty to place the child in the 'placement' which in the opinion of the Local Authority, is the most appropriate placement available.

6.3 Section 22C(6) defines "placement" as:

- (a) placement with an individual who is a relative, friend or other person connected with the child and who is also a Local Authority foster parent;
- (b) placement with a Local Authority foster parent who does not fall within paragraph (a);
- (c) placement in a children's home;
- (d) placement in accordance with other arrangements.

6.4 Section 22C(7) requires a Local Authority to give preference to a placement falling within paragraph 6(a) over placements which fall within paragraph 6(b) to (d).

6.5 Regulation 24 of the 2010 Regulations provides a mechanism for the Local Authority to approve a connected person as a Local Authority foster parent for a temporary period not exceeding 16 weeks (known as "temporary approval") to allow the child to be placed immediately with the connected person pending full assessment of the connected person as either a Local Authority foster carer or whilst the connected person is supported to make an application to court for a Child Arrangements Order or Special Guardianship Order.

6.6 Who makes the arrangement? The local authority is responsible for making the placement. Procedures for Temporary Approval of Connected Persons as Foster Carers in Urgent Case (CCLA/140) should be followed.

6.7 Who has parental responsibility? If the child is looked after by virtue of the local authority having gained an Interim Order or a Care Order then the local authority shares parental responsibility with the parent. If the child is accommodated under Section 20 by agreement with the parent then only the mother has parental responsibility and father (if he holds parental responsibility).

- 6.8 The family and friend carer does not have parental responsibility. Day to day care and decision making responsibilities may be delegated and the detail of these agreements should be recorded appropriately following the looked after children procedures.
- 6.9 Responsibility for financial support – the local authority is responsible for the care and accommodation of the child and as such the family and friend member is entitled to the Level 1 fostering allowances from the start of the placement.
- 6.10 The family and friend carer is not allowed to claim any benefits in respect of the child unless the child is entitled to disability living allowance.
- 6.11 Local authority responsibilities – the local authority have responsibilities to the child as a looked after/accommodated child and they also have responsibilities to prepare, assess, approve, train and supervise and support the Family and Friends Foster Carer.

## **7. Financial support eligibility criteria**

### **7.1 Section 17 payments**

- 7.1.1 The following criteria will be applied when considering whether to provide financial assistance or not.
- 7.1.2 Section 17 (6) provides that the family support services provided by the local authority may include giving financial assistance to the family.
- 7.1.3 The following criteria apply where a child has been assessed as being a child in need and an informal arrangement has been agreed by the parent and the Family and Friends Carer and the department has decided that the child does not require to be accommodated or looked after.
- 7.1.4 The level of financial help offered should reflect the family's circumstances, depending upon what the payment is for and bearing in mind the period for which the financial help is required and other stresses on the family.
- 7.1.5 Payments under S17 must adhere to the local authority's financial procedures. Financial support may include:
- a crisis (one off payment)
    - made to overcome a crisis and where it has not been possible to secure other sources of financial support available, for example from the benefits agency or charity;
  - equipment and clothing:
    - to ensure that the child can live safely at home, payment made after confirmation that there are no other sources of financial support available, for example from the benefits agency or a charity;
  - short term support:
    - via regular payment of an allowance;



- after an assessment of the 'informal' carers circumstances which takes into account their financial resources, any financial contributions from parents and entitlement to benefits; and it is evidenced that the carer needs to;
  - take unpaid leave from employment in order to care for the child;
  - take unpaid leave from employment to settle the child into his/her new situation; and
  - to take time and support to make adjustments to their own lifestyle;
- A weekly allowance up to a maximum payment that is equivalent to the dependent child rate for a couple; as defined by the Benefits and Pensions Rates;

7.1.6 The Finance Panel authorises payments up to an agreed limit and the Operations Manager provides further authorisation of payments within the agreed delegated spending limits.

## **7.2 Private Fostering Arrangement – where department had not been involved prior to the arrangement commencing**

7.2.1 In very exceptional circumstances there may be a need to offer financial support in arrangements where the department's only involvement has been in respect of their responsibilities under Private Fostering Regulations. In these circumstances the criteria and procedure for usual Section 17 financial support applies.

## **7.3 Child Arrangement Order allowance scheme**

7.3.1 The Local Authority has the discretion to make payments to an individual(s) caring for a child who is the subject of a Child Arrangement Order whereby a one-off payment may be made or a weekly payment made in respect of Transitional Financial Support for an identified time period. Eligibility to financial support is on the same basis as set out in Special Guardianship Allowance Scheme see Para 7.5

## **7.4 Children Looked After placed with Family and Friends Foster Carers**

7.4.1 Children can be placed with Family and Friends Carers once the department has made a decision that a child should be accommodated by agreement with the parent (Section 20) or by application and granting of an Interim Care Order or a Care Order (Section 31).

7.4.2 Children can be placed with the family and friend member who has been formally approved to care for the specific child under the Fostering Service (England) Regulations 2011 or they can be placed with a connected person under regulations 24 of the Care Planning and Case Review (England) Regulations 2010. In both cases the carers are entitled to Level 1 fostering payments.

Level 1 fostering payments include:

- a weekly age-related fostering allowance based on the National Minimum Fostering Allowance rates;
- a birthday allowance which is paid at the equivalent of one week's age-related fostering allowance;
- one religious festival allowance per year paid at the equivalent of one week's age-related fostering allowance
- one payment in May each year for children who are to be in placement during the school summer holiday break. This payment is paid at the equivalent of two weeks age-related fostering allowance;
- a clothing allowance paid at the carers request every 6 months. Paid at the discretion of the Team Manager;
- a clothing allowance paid at the carers request every 6 months. Paid at the discretion of the Team Manager
- mileage can be paid in accordance with fostering rates.

7.4.3 Payments will be paid from the start of the placement once a decision to accommodate has been agreed and the Agency Decision Maker has given temporary approval.

## **7.5 Special Guardianship Allowance Scheme**

7.5.1 The Local Authority has the discretion to make payments to an individual(s) caring for a child who is the subject of a Special Guardianship Order whereby a one-off payment may be made or a weekly payment made in respect of Transitional Financial Support for an identified time period, as set out in the local authority policy and procedures. The Children Act 1989 and the Special Guardianship Regulations 2005 (Amendment Regulations 2016) provide the framework for payment of this financial support.

### **7.5.2 Access to Benefits**

Prior to any application for financial support in relation to Special Guardianship, the Carer must first maximise income in respect of accessing eligible benefits including Child Benefit, Tax Credits, etc.

### **7.5.3 Means-Tested Allowance**

Where a financial assessment is required this will be based upon the Department of Education 'Financial Assessment Model' and a Carer(s) will be asked to provide documentary evidence to confirm all income and expenditure.

### **7.5.4 Notification of Entitlement**

A Carer(s) must sign the local authority 'Terms & Conditions' Agreement before any financial support will be paid. A 'Notification of Entitlement' letter will be sent to the Carer(s) to confirm the level of Transitional Financial Support payable, the date payment will commence/cease and the method of payment

## **8. Access to Additional Support**

The Relative Experience Project is a national organisation run by 3 charities, Grandparents Plus, Family Lives and Children's Trust. It is funded by the Big Lottery Fund Silver Dreams Fund and provides individual and group support to all kinship carers across County Durham, which includes:

- A volunteer befriender – someone who can visit on a regular basis, provide a listening ear and support the kinship carer to work on solutions to any issues they may have as a kinship carer;
- Support for kinship carers to set up a local support group or cluster;
- A link to Grandparents Plus National Support Network and advice line for kinship carers;
- Access to grants/gifts and other means of support;
- Training.