# South Gloucestershire Council

# Financial Support Guidance

for

Special Guardians

and those holding

a Child Arrangement Order

## March 2018



**Confirmation of Receipt**

**Please complete and return this page in the pre-paid envelope provided.**

I/we acknowledge receipt of the Financial Support Guidance for Special Guardians and those holding a Residence Order and confirm that I/we

have read and understood its contents.

Name (print)..………………………………………

Signed ….…………………………..Date………………………………..

Name (print)..………………………………………

Signed ……………………………… Date………………………………

Address ………..………………………………………………………………………

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### Introduction

South Gloucestershire Council recognises the importance of providing legal permanence to children through private law applications such as Special Guardianship and Child Arrangement Orders (Residence Orders) and we are aware that the needs of children and young people who were previously looked after may involve additional costs.

We believe that financial barriers should not be the sole reason for such a placement failing to go ahead or continue until the child reaches independence and that, in certain circumstances, financial support may be required. However, just like any other parent, legal carers or guardians are expected to meet the general living expenses of the child.

Financial support packages are designed to be flexible and enable legal carers to meet a wide variety of needs of children and to facilitate permanent legal placements. Financial support can take the form of regular payments, a one-off payment or a short-term package of financial support. Financial support is not applicable to all children and the eligibility criteria are based on the child’s identified needs and the regulations of the Adoption and Children Act 2002.

As part of the support services available to legal carers, consideration may be given to providing financial support in certain circumstances. These may be paid on a regular or time limited or one-off basis. The level of payment will relate to meeting the child’s needs and cannot include any element of reward (except for people who have previously fostered the child – see section 7).

The legal regulations governing financial support require that any special circumstances relating to the needs of the child must be fully assessed. Financial support is not applicable to all children and the eligibility criteria are based on the child’s identified needs. Financial support cannot be provided if these needs can be met by existing benefits, as double funding is not permissible.

Financial support is intended to:

* ensure that prospective legal carers can look after the child where this would not be practicable without financial support and where the finance is not available from another source
* ease the transition where children are given legal permanence by their existing foster carers, where the difference in payments may otherwise be a barrier
* enable sibling groups to have legal permanence together, which may pose an additional financial strain on families
* promote legal permanence for children with special needs, where this would not be possible without financial support
* enable legal permanence for children for whom there may be difficulties in securing a permanent placement due to their age or ethnic origin.

Regular financial payments are paid on the understanding that they will be used to meet all anticipated expenditure in respect of the child’s emotional, educational, social, recreational and therapeutic needs, for the provision of any day care, and contact arrangements with the child’s birth family.

Financial support may be means tested and if a financial support package is applicable to the child, the proposed carer’s financial circumstances will be assessed, in some circumstances. The level of payment will be determined according to that assessment.

The exception to this is for foster carers who have been caring for a child immediately prior to an order being made.

Other payments such as one-off grants to help with initial costs when the child settles in may be available under certain circumstances.

All regular payments are subject to annual review. These will take into account any change in circumstance for the child and carer, including financial changes and any legislative or departmental requirements.

The appendix of this document detailing the available payments will be updated at the beginning of each financial year, which runs from April to March.

#### Financial support for special guardians and those holding a child arrangement order (residence order)

Please note: there is no automatic entitlement to financial support; decisions will be made on case by case basis

**1 Persons to whom this booklet applies**

1.1 The financial support described in this booklet applies to those who are offering legal permanence:

* through a Special Guardianship Order;
* a Child Arrangement Order (Residence Order) for a child who is looked after by South Gloucestershire Council;
* and have notified the Council of their intention to apply for a Special Guardianship Order.

As the legislation differentiates between groups of carers, there will be notes as to which group the provision relates.

* 1. Legal carers of children for whom another local authority had in their care immediately before the making of the order will be the financial responsible for that arrangement. The exception to this will occur if no regular payments were previously agreed and special guardians move to South Gloucestershire three or more years after the order was made. In such cases the responsibility to assess and potentially meet support needs falls to South Gloucestershire Council.

2 Assessment Process

* 1. A request for an assessment for financial support should be made to the child’s social worker; or to the Support Services social worker allocated to you when the placement of a child is being considered, or a report to court is being prepared, from the Family Placement Team.
	2. The assessment of financial support will take into account the age and needs of the child and the circumstances of the placement. This part of the assessment is undertaken by the Support Services social worker, who will also require details of the financial circumstances of the prospective legal carers, which may be passed to the Finance Officer if the means test is to be applied.

**3 Calculating an entitlement**

3.1 The calculation of entitlement and the means testing element of the financial assessment will be undertaken by the Finance Officer.

* 1. Financial support assessments may require use of a **means test**. Some payments do not require this, which is explained below. However, for regular support, known as a weekly allowance, a means test will be undertaken. This is a requirement of the Adoption Support Services (Local authorities) (England) Regulations 2003 and the Adoption Support Regulations 2005.
	2. When using the means test, we will take account of your total income (assessed as if the child were placed without the payment of financial support) and compare this to your total commitments and outgoings, including any costs relating to the child.
	3. **Proof of Income**. A government suggested means test is applied and requires the completion of a financial assessment form. This must be supported by proof of income on the following:
* **Salary or wages** in the form of pay slips for the last 3 months if paid monthly or the last 8 weeks pay slips if paid weekly. Please note – when providing your monthly or weekly wage an average will be taken over the financial year. We will take into account the Net wages from an employer (for both partners in the case of couples).
* **Employed by your own company**. Please provide proof of pay slips as above or P60 and proof of dividend payments received.
* **Self Employed**. If you are self-employed, the income statement and balance sheet for the previous tax year should be provided with your application. A copy of your signed ‘self assessment tax form’ or a ‘self employed form’ can be used if the claimant does not have accounts prepared by an accountant. The ‘self employed form’ can also be used to assess current income for the year if it is expected to be substantially different from the previous year, or if the income statement is not available, i.e. new business. The ‘self employed form’ is available from the Finance Officer, upon request.
* **Equity, Savings and Investments.** Income from savings and assets of £25,000 or less will not be included in the assessment and you do not need to provide us with this information. Income from savings, investments and assets (including equity in a second property) of £25,001 to £100,000 must be declared and will be included in the financial assessment. A notional income of £1 per week for every £250 applies to amounts over £25,001. Assets of more than £100,000 are likely to mean that an allowance will not be payable, however, each case will be considered individually and discretion may be applied.
* **Income from lodgers, tenants, sub-tenants or rental income** must also be declared in this section
* **Pensions.** All state and private pensions, including those paid for disabilities.
* **Benefits and Allowances**. All benefits and allowances including Disability Living Allowance, Housing Benefit, Employment and Support Allowance and any adoption or fostering allowances received for any child(ren) in your family. Please note Disability Living Allowance (DLA) will not be included in the calculation neither will the allowance for the child for whom the assessment is being carried out.
* **Child Benefit**. Please note the amount of Child benefit will be deducted from any allowance agreed.
* **Child Tax Credit and Working Tax Credit** is classed as income under the assessment and will be included in our calculations.
* **Maintenance** **payments.** Money received under a Maintenance or Separation Order, or from the Child Support Agency is also classed as income under the assessment and will be included in our calculations.
	1. **Commitments & Outgoings Payments.** You should supply details of all monies paid out by you and proof is required if you declare the following outgoings:
* **Council tax** – the most recent Council Tax bill provided by South Gloucestershire Council. If a rebate is given, the net figure must be declared.
* **Mortgage and rent.** Weekly or monthly rent or mortgage payments or Statements provided by the landlord or financial body to whom the payments are made
* **Household insurances** - to include both buildings (where not included in mortgage repayments) and contents.
* **Any commitments under a Court Order** includes such things as payments made under a Separation or Maintenance Order.
* **Child care costs –** such as payments to a nursery or child minder. Receipts of monies paid
* **Regular Family Expenses.** If there are any additional expenses not covered in the above classifications but to which you are already committed prior to the allowance being set up, or which are related to the placement, they can be declared. Examples include such things as play schemes or holiday clubs. Each case will be considered on its own merits and some discretion may be applied, which will be informed by the assessment details gained by the social worker in relation to the age and needs of the child and the circumstances of the placement.
* **PLEASE NOTE - CAR EXPENSES CANNOT BE CLAIMED FOR.**
	1. You must also declare the financial Resources of the Child. These would include:
* **Allowances.** If the child receives a Disability Living Allowance, it must be declared even though it will not be taken into account when considering eligibility for a standard allowance. However, it will be considered when assessing the amount of any enhancement that may be paid on the grounds of special needs.
* **Lump sum payments or trust funds.** Any lump sum payment or trust fund held in the child's name must be declared, along with any regular payment received in respect of the child. **NB: lump sum payment or trust funds will not effect your allowance payment.**
	1. In making the calculation, the basic age related fostering allowance payable to South Gloucestershire foster carers is used and no standard allowance will exceed this amount. An annual statement of these rates will be sent to those in receipt of allowances.
	2. Child Benefit, which can be claimed by the legal carer, is deducted from the allowance prior to payment.
	3. The Adoption and Special Guardianship Support Services Regulations 2003 do not

allow financial support to be provided that duplicates payments available through the tax and benefit system. Carers will be offered assistance in making claims for the appropriate benefits. If carers decide not to make a claim to a benefit to which they are entitled, this cannot be paid in the allowances from South Gloucestershire Council.

3.11 The allowance does not include any reward element unless the conditions in Section 7 apply.

1. **Agreeing Financial Support packages**

4.1 Once the financial assessment has been completed, you will be informed by letter of the outcome of the assessment. If a payment is to be made, you will be informed of the amount to be paid, the period it is to be paid and the conditions applicable to the payments.

The conditions, which apply to the payment of the regular payments, are a requirement and legal carers are obliged to agree to these conditions. Refusal to agree will result in payments not being made.

The conditions are:

* That the legal guardian(s) informs the local authority immediately if:
* S/he changes address
* The child dies
* There is a change in circumstance or the financial needs or resources of the child which may affect the amount of financial support payable to her/him
* The child ceases fulltime education or training and commences employment
* The child qualifies for Income Support or Job Seeker’s Allowance ESA or Universal Credit in her/his own right or
* The child attains the age of 18 years unless s/he continues in full time education or training until the end of a course s/he is then undertaking
* where the information is given orally, that it is confirmed in writing within seven days
* That s/he completes and supplies 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 her/him
* That, if the special guardian was formerly the foster carer for the child the above annual statement will only relate to the payment of the fee element of the periodic payment after two years have passed since the making of the Order
	1. You will have 28 days from the date of the letter in which to make a representation if you disagree with the decision. This period is reduced to 10 days if the application is made when already in proceedings in Court about the child.
	2. Your representations will be considered with the assessment after which a decision will be made and you will be informed by letter of the decision. If you are not satisfied about the decision then you have the right to make a complaint through South Gloucestershire Council’s complaint’s procedure. See section 16.
	3. If you do not reply to the first letter within the specified period, we will presume you have agreed to the decision.

**5 Taxable treatment of financial support**

5.1 Under the Income Tax (Trade and Other Income) Act 2005, no liability for Income Tax arises from payments made by a local authority in the course of providing financial support services.

* 1. Local authority financial support is also ignored for the purposes of calculating entitlement to Working Tax Credit, Child Tax Credit, Income Support and Job Seekers Allowance. For Housing Benefit and Council Tax Benefit, financial support is treated as income up to the value of the Income Support personal allowance for children, and any disabled child premium to which the family may be entitled.
	2. Previous foster carers who become legal carers are required to declare any post-order payments which were previously treated as a ‘Reward payment’ for the carer, rather than as financial support to help meet the child’s needs. In most circumstances, these payments will be incurred in the initial first two-year adjustment period. Any carer who feels that they need to declare their income or has any other query should contact the local tax office.
	3. South Gloucestershire Council cannot get involved in an individual's tax affairs. All carers need to check their situation properly.
1. **Court Fees**
	1. South Gloucestershire Council will pay the court fee for Special Guardianship orders applications where the child is looked after by the council, if not in opposition to the plan. Payment of legal fees will be subject to a means test (in the same way that we undertake a means test for applications for SGO allowances). Agreement for payment of legal expenses with regard to residence orders will be considered on a case-by-case basis.
	2. Financial assistance may be available for the legal costs of a special guardian in respect of future expenses associated with the order and continuance of the order such as:
* The making of the Special Guardianship Order or any application to vary or discharge such an Order
* An application for an order under Section 8 of the Act
* An order for financial provision to be made to or for the benefit of the child

6.3 The Court fees and legal expenses of foster carers applying for a Special Guardianship order for a child in care to this authority will be means tested.

1. Regular payments for existing foster carers

7.1 Financial support may be available to existing foster carers, who wish to make a long-term legal commitment to children placed with them, where the plan is supported by South Gloucestershire Council.

7.2 South Gloucestershire foster carers who become Special Guardians or the holders of a Child Arrangement Order (Residence order) for a child subject to a Care Order or Interim Care Order or placed with them as a foster child by this authority may receive a non means tested weekly allowance for the child. These payments will be equal to the fostering maintenance allowance previously payable for the child (minus child benefit). Payments will be adjusted with any agreed increments in April each year.

7.3 If the legal guardian was previously the child’s foster carer and received an element of remuneration in the financial support paid to them, then we will continue this reward payment at the level received at the time of the order for the protected period of two years from the date of the order. In exceptional circumstances, consideration may be given to continuing these payments for longer and will be means tested. Such payments should be declared for tax purposes.

**8 Reviewing financial support**

* 1. Legal carers in receipt of regular payments, with the exception as described in Section 7, are legally required to agree to supply details of their circumstances and financial situation annually.
	2. Carers will receive a letter and, where applicable, a financial declaration form, from the Finance Officer.
	3. Financial support will be suspended if legal carers do not complete a financial assessment form each year or if they fail to immediately provide South Gloucestershire Council with details of any significant changes in their practical or financial circumstances including their current address.
	4. We will not suspend payments until 28 days after sending a written reminder. Suspended payments will not be back paid.

**9 Ending financial support**

* 1. Financial support will cease at age 16 unless the child is in full time education or training, in which case the payments may continue until the end of the education or training course undertaken.
	2. If the child continues in full time education or training then financial support may continue until the end of the course of education or training undertaken. In these circumstances we will write to the legal carer every term requesting evidence that the child is still in full time education.

9.3 Financial support will end when the child:

* ceases to live with the special guardian
* leaves full time education or training and commences employment
* qualifies for Income Support or Jobseeker’s Allowance in their own right.
	1. Young people aged between 16 and 21, who are or were subject to a special guardianship order and were looked after by a local authority immediately before the order was made, are considered a ‘qualifying child’ under the Children Leaving Care Act 2000. They are therefore entitled to receive services from the local authority until they are 21 (or 24 if they are engaged in education). Such young people are entitled to financial assistance in exceptional circumstances.

##### Exceptional Payments

* 1. Under exceptional circumstances, consideration may be given to additional one-off grants, time limited payments or financial assistance that is deemed necessary to meet the child’s identified needs. These should be agreed as part of the support services plan, prior to the order and/or subject to senior management agreement.
	2. A request for an assessment for additional payments can be made at any time. There is no guarantee that such payments will be agreed and they will be subject to means testing.
	3. In line with the Financial Support Regulations, South Gloucestershire Council will not consider funding any additional items of expenditure except in the following circumstances:

(a) the additional expenditure is exceptional in nature, has been professionally advised and is unavailable through public funding; and

(b) the guardian is able to establish that existing payments are insufficient to meet any additional expenditure falling within paragraph (a) above; and

(c) we are satisfied that any payments to date have been utilised to meet the child’s needs as described in the support services plan.

In the above circumstances we will consider whether, and if so to what extent, we will

contribute towards the additional item(s) of expenditure.

* 1. For those living outside of South Gloucestershire and where the order is more than three years old, the local authority where the child is now living will be responsible for assessment and support, unless previously agreed in a support plan.
1. **Contact**
	1. Financial support may be available for the child’s birth relatives to assist with facilitating direct contact with the child.
	2. If no regular payments have been agreed then guardians are entitled to apply for financial support for any direct contact that has been agreed. This should be agreed in the support services plan
2. **Child Benefit**
	1. Special guardians and Child Arrangement Orders (Residence Order) holders should always apply for Child Benefit as soon as possible after the order has been granted.

##### 13 Payment arrangements

13.1 Payments are processed weekly on a Monday, covering all notifications received up

to Friday of the previous week. The payment period is Sunday to the following

Saturday. Payments made via BACS transfer are credited to accounts on a Friday, with funds available on that date.

13.2 On Bank holiday Monday weeks, payments will be processed one working day early and special arrangements apply at Christmas and New Year (and sometimes Easter), where payments are usually made in advance. Details will be notified at the appropriate time.

* 1. The payment advice slip gives basic details of the financial support provided, name of the child and payment week. Any arrears are broken down and shown for past payment weeks.

##### Overpayments

* 1. An overpayment might occur, for example, after it has been agreed that a financial support package will be reduced after the annual review but no adjustment is made, if a carer returns to employment or increases their hours.
	2. If the guardian discovers that they have received overpayments of any kind then

they must inform South Gloucestershire Council immediately on 01454 866047 (e-mail corpcypfinance@southglos.gov.uk ). If we discover that we have made overpayments then the recipient will be informed immediately.

14.3 Any overpayments must be repaid in full to South Gloucestershire Council.

14.4 South Gloucestershire Council’s computer system will automatically recover all overpayments by making deductions from subsequent payments. The system will attempt to recover the total overpayment from the next payment due, or where the overpayment amount exceeds normal payments for that week, from subsequent weeks until the full amount has been recovered.

14.5 In certain circumstances, alternative recovery arrangements can be made. Any requests to vary negotiate or write off overpayments will be assessed on a case-by-case basis according to circumstances.

* 1. It is South Gloucestershire Council’s policy to pursue overpayments actively through debt recovery action and ultimately through the courts/bailiffs if necessary. It is in the guardians’ own interests to settle outstanding overpayments promptly.

**15 Ongoing support**

* 1. A support services plan outlining the practical and financial needs anticipated for a placement will be written at the time of planning the placement. However, South Gloucestershire Council recognise that circumstances change and will therefore make a re-assessment of need on request at any time.
	2. In most situations South Gloucestershire Council believes that the provision of an actual service is the best way of meeting an identified need. An advisor is available to provide initial advice and guidance. A support team is also available to provide flexible individual and group support at any time.

##### 16 Complaints, compliments and comments

16.1 We believe everyone has the right to express their views and make complaints, suggestions or comments about the services we provide. We see your feedback as a way of improving the quality and effectiveness of our services, so we’re always ready to listen.

* 1. We hope that most things that you are concerned about can be settled by speaking to the person you normally deal with but if you would like to talk to someone different you can speak to the Complaints manager. Your enquiry will be taken seriously and dealt with under formal complaints and comments procedures.
	2. For more information about comments, complaints or compliments, you can contact

**Alison Parker**, Complaints and FOI Manager

South Gloucestershire Council,

PO Box 1955,

Bristol,

BS37 0DE

Tel 01454 864329

Alsion.parker@southglos.gov.uk

**Appendix – Payment Amounts 2018/19**

**SOUTH GLOUCESTERSHIRE DEPARTMENT FOR CHILDREN AND YOUNG PEOPLE**

FOSTER CARER ALLOWANCES

|  |  |
| --- | --- |
| **Age** | **Weekly Amount** |
| Pre-Primary (0-3) | £130.00 (£1.50) |
| Primary (4-10) | £143.00 (£2.50) |
| Secondary (11-15) | £164.00 (£5.00) |
| Secondary (16-17) | £191.00 (£8.00) |

**NOTE:** The figures in brackets refer to the allowance for pocket money contained within the fostering allowances.

If you are in receipt of Child Benefit: - this will be deducted from the Rate for Age above.