



**TRAFFORD  
COUNCIL**

**Trafford Council Children, Families and Wellbeing Service**

## **Special Guardianship Order Policy and Procedures**

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**By:**

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3.0

## 1. Introduction

Special Guardianship offers an option for children needing permanent care outside their immediate birth family. It can meet the needs of children, who need a sense of stability and security but who would benefit from a level of ongoing contact with their birth family, which is usually not associated with adoption.

Special Guardianship aims to:

- give the carer clear responsibility for all aspects of caring for the child
- provide a firm foundation on which to build a lifelong permanent relationship between the child and their carer.
- provide legal security
- preserve the link between the child and their birth family
- allow access to a range of support services.

A Special Guardianship Order offers greater stability and legal security to a child than a **Child Arrangements Order**, such as providing the carer with a greater level of parental responsibility. However, when determining what type of Order is the most preferable option, for permanent care, the needs of the child are the paramount factor in decision making.

Special Guardians have **Parental Responsibility** for the child and, whilst this is shared with the child's parents, the Special Guardian has the ability to exercise this responsibility without seeking permission from the parents (in most circumstances).

A Special Guardianship Order made with respect to any child who is the subject of a Care Order or a Child Arrangement Order would discharge those orders. A Care Order, however, does not automatically revoke a Special Guardianship Order although the Special Guardian's exercise of Parental Responsibility would be restricted as the Local Authority would have the primary responsibility for decision-making under the Care Order.

Special Guardianship Orders can be varied or discharged, by further application to the court. However, the thresholds for revoking a Special Guardianship Order are higher than a Child Arrangement Order. A birth parent can only apply for a Special Guardianship Order to be overturned where the court has granted permission for the application because the parent has been able to demonstrate a significant change in circumstances.

## 2. Who may apply?

Applications for Special Guardianship may be individual or joint. Joint applicants do not need to be married. Special Guardians must be 18 years old or over and must not be a parent of the child in question.

Subject to giving notice to the relevant Local Authority, the following people are entitled to apply for a Special Guardianship Order without needing to first seek the leave of the court:

- Any guardian of the child;
- Any person who is named in a child arrangements order as a person with whom the child is to live;

- Any person who has the consent of each person named in a child arrangements order as a person with whom the child is to live;
- Anyone with whom the child has lived for a period of at least three years (which need not be continuous, but must not have begun more than five years before, or ended more than three months before, the making of the application);
- A relative with whom the child has lived for a period of at least one year immediately preceding the application;
- Where the child is in the care of a local authority, any person who has the consent of the local authority;
- Any person who has the consent of all those with parental responsibility for the child;
- Any other person aged 18 or over (other than a parent) may apply for a Special Guardianship Order if he or she has the leave of the court to make the application.

The court may also make a Special Guardianship order in any family proceedings concerning the welfare of a child; this applies even when no application has been made and includes adoption proceedings.

### 3. Parental Responsibility

The Special Guardian will have **Parental Responsibility** for the child and, subject to any other order in force, will have clear responsibility for the day-to-day decisions about caring for the child to the exclusion of anyone else who might have Parental Responsibility (apart from another Special Guardian).

The child's parents will continue to hold Parental Responsibility but their exercise of it will be limited. The parents will, however, retain the right to consent or not to the child's adoption or placement for adoption. The Special Guardian must also take reasonable steps to inform the parents if the child dies.

In addition there are certain steps in a child's life which require the consent of everyone with Parental Responsibility or the leave of the court, for example:

- Causing the child to be known by a different surname; or
- Removing the child from the United Kingdom for longer than three months.

The court may, at the time of making the Special Guardianship Order, give leave for the child to be known by a new surname and/or to be removed from the United Kingdom for longer than three months, either generally or for specified purposes.

For the avoidance of doubt, a child is any child or young person under the age of 18 years.

### 4. The Circumstances in which a Special Guardianship Order may be made

**4.1** An eligible Applicant (see section 2) can make a freestanding application to the court for a Special Guardianship Order.

In doing so they must give 3 months' written notice to their Local Authority of their intention to apply. In relation to a Looked After Child, the notice will go to the Local Authority looking after the child. In all other cases, the notice will be sent to the Local Authority for the area where the Applicant resides. The Local Authority receiving the notice will then have a duty to provide a report to the Court. The only exception to the requirement for 3 months' notice is where the Court has granted leave to make an application and waived the notice period.

**4.2** A Local Authority may choose to apply to the court within Public Law Proceedings (as part of its final care plan) or after a Care Order has been granted, where the Local Authority determines that Special Guardianship is the most suitable permanency plan for a child.

**4.3** The Local Authority may encourage and support an application from an eligible applicant for a child known to the Local Authority but for whom they do not share Parental Responsibility, where the Local Authority determines that the Special Guardianship Order would be the most suitable plan for the child as an alternative to care proceedings.

**4.4** The Court may make a Special Guardianship Order in any family proceedings concerning the welfare of the child. This applies even where no application has been made and includes adoption proceedings.

## **5. Responsibility for Making the Application**

**5.1** Freestanding applications e.g. for children not previously known to the Local Authority or for applications not supported by the Local Authority, should be made by the applicants legal representation. The prospective Special Guardians will need to instruct their own solicitor to draft the application and represent them in the court proceedings.

**5.2** Applications agreed by the Local Authority for children not currently Looked After by the Local Authority should be made by the Applicants legal representation. The prospective Special Guardians will need to instruct their own solicitor to draft the application and represent them in the court proceedings.

**5.3** Applications for children subject to a Care Order or Interim Care Order should be made by the Children's Services legal department. The legal department will then draft and submit the application upon receipt of the reports, statements and plans completed by the social workers.

## **6. Responsibility and Process for Completing the Assessment**

### **6.1 Applications for any Child not previously known to the Local Authority:**

Upon receipt of the 'Notice of Intention' from the applicant or the court the Local Authority will allocate a social worker from the Family Placement Team (FPT).

The allocated Social Worker (SW), from the Family Placement Team, will contact the applicants to discuss the assessment process, provide them with the relevant guidance and discuss available support within **2 weeks** of the receipt of the notification.

The allocated SW, from the FPT, will progress the assessment, by meeting with and gathering information from the applicants, the children, the birth parents and any other relevant adults or children and completing all necessary checks.

The allocated SW will complete the [SGO/Connected Person Assessment Report](#) and identify the required package of support and record this in the [Support Plan \(See Support Offer\)](#) within **12 weeks** of receipt of the notification.

Once approved a copy of the report and plan should be provided to the applicants, who may wish to further consult their independent legal advice regarding the assessment and support offered.

The FPT Social Worker will be the principal author of the report, but may ask other professionals to contribute.

The assessing Social Worker should be prepared to attend court as required in respect of the application.

### **6.2 Freestanding application from a Foster Carer:**

Where the child is Looked After but the Local Authority has not identified Special Guardianship as the plan for the child, the carer will need to make a freestanding application for an SGO. Again, the carers should be advised to obtain their own independent legal advice in relation to their legal options.

The prospective Special Guardian should then write to the Fostering and Adoption Service Manager for the Adoption and Special Guardianship team and should include the following information:-

- their name and address,
- the name and date of birth of the child,
- the child's social worker's name and office details,
- their Supervising social worker's name.

The letter should also include a statement to notify the department of their intention to apply for a SGO. The applicant must give written permission for statutory checks to be undertaken and should sign and date the letter.

The "Notification" will be formally acknowledged by the Service Manager for the Adoption and Fostering team and forwarded to the Child's Social Worker and the Foster Carers' Supervising Social Worker within **2 weeks** of receipt of the notification.

The Child's Social Worker should then (**within two weeks**) request a Care Planning Meeting with the Strategic Lead and Children's Services Legal Department to determine whether the Local Authority is in agreement with the proposed SGO. A member of the Family Placement Team should be invited to the meeting and the IRO should also be consulted for their views, prior to the meeting taking place.

If the LA is in agreement with the application a Social Worker, from the Family Placement Team, will be allocated, to lead the completion of the assessment and support plan, in conjunction with the Child's current Social Worker and the Foster Carers Supervising Social Worker.

Once approved a copy of the report and plan should be provided to the applicants, who may wish to further consult their independent legal advice regarding the assessment and support offered. The

prospective Special Guardians will need to instruct their own solicitor to draft the application and represent them in the court proceedings.

If the LA opposes the application legal advice should be sought as to what action the Local Authority could take.

The FPT Social Worker will be the principle author of the report. However the Child's SW and the Carers Supervising SW (if applicable) are also expected to contribute. The child's SW should also make their own recommendation as to the outcome of the assessment, as required.

All Social Workers should be prepared to attend court as required in respect of the application.

### **6.3 Applications for Children and Families known to the Local Authority:**

#### **6.3.1 Applications within Public Law Proceedings or Pre-Proceedings (PLO):**

The decision to pursue an application for a SGO will be agreed with the applicants and the LA through the pre-proceedings (PLO) process or following a Legal Planning Meeting, if there has been no period of PLO.

A member of the Family Placement Team should be invited to the initial Legal Planning meeting to discuss and agree any carer assessment needs.

Once a potential Special Guardian/Connected Person has been identified the allocated children's Social Worker should complete a 'Viability Request' form for each carer application (joint or individual) via LCS to notify the Family Placement Team, within 5 working days.

The Family Placement Team Duty Worker will complete a screening call within 24hrs (or as soon as possible if weekend/public holiday) and notify the Child's SW of the outcome.

The Child's SW will then arrange a home visit, within 7 working days of the positive screening, with a FPT Duty worker to progress the Viability Assessment.

The Child's SW and FPT Duty Worker will complete the viability Assessment Form and agree the most appropriate outcome within 5 working days of the visit.

The viability assessment will consider whether it is viable to proceed with an SGO assessment. If this is not appropriate, the assessment will consider if a Connected Person assessment is more suitable.

Upon the completion of a positive Viability Assessment a Supervising Social Worker from the Family Placement Team will be allocated, within 2 working days, to progress the assessment.

The allocated Social Worker from the Family Placement Team will lead the Assessment and in collaboration with the allocated Child's Social Worker complete the [SGO/Connected Person Assessment](#) and [Support Plan](#), within **12 weeks**.

The Assessment Report should be approved by a Service Manager or a Team Leader in their absence.

The Support Plan should be approved by the Agency Decision Maker, but may be delegated to a Strategic Lead in their absence.

Once approved a copy of the report and plan should be provided to the applicants, who may wish to seek independent legal advice regarding the application and support offered.

The final agreed Assessment Report and Support Plan should be submitted 2 days before the Final Care Planning Meeting to the Strategic Lead.

A copy of the approved and agreed Assessment Report and Support Plan must also be sent to the legal department to accompany the Final Evidence and or to enable them to prepare an SGO application (if required).

The FPT Social Worker will be the principle author of the report. However the Child's SW and the Carer's Supervising SW (if applicable) are also expected to contribute. The child's SW should also make their own recommendation as to the outcome of the assessment, as required. All Social Workers should be prepared to attend court as required in respect of the application.

### **6.3.2 Applications for a child subject to a Care Order with the agreement of the Local Authority:**

An application for a Special Guardianship Order is a permanence option for the child and must be evaluated with the same thoroughness as any other permanence plan. The legal status of a child in care should be considered at every statutory review and for children in long term care, special guardianship should be considered as an option. Any decision to apply for a Special Guardianship Order should clearly be based on meeting the needs of the individual child.

Every effort must be made to involve the prospective applicants, birth parents and the child in the planning process and to fully consider with them the reasons for making an application and whether it is advisable to do so. The prospective applicants must be advised of the role of the Local Authority in reporting and making recommendations to the court, including their duty to consider and report on other options the court may wish to consider.

Where the review makes the recommendation that a Special Guardianship Order should be considered the Child's Social Worker should make a referral to the Children's Services Legal Department and request a Legal Planning Meeting to discuss and agree the decision with the Strategic Lead, within **two weeks** of the Review Meeting or other decision making forum. A member of the Family Placement Team should be invited to the initial Legal Planning meeting to discuss and agree any carer assessment needs.

The meeting should consider the:

- background history
- the child's needs, wishes and feelings
- legal context
- outcome of any previous assessments and current relevance
- the overarching plan as agreed at the last Statutory Looked After Review
- outcome of any family group conference
- wishes and feelings of the child's carers, parents and significant others
- views of the department.

It is recommended that an application for the discharge of the Care Order is made, asking the Court as part of the application to replace the Care Order with a Special Guardianship Order.

The carer should be advised to seek independent legal advice in relation to their legal options. They need to consider the advantages and disadvantages of applying for an SGO compared to remaining a Foster Carer/Connected Person Foster Carer or whether applying for a Child Arrangements Order or Adoption Order is more appropriate.

If the Foster Carer/Connected Person Foster Carer agrees to proceed with an SGO, the SGO/Connected Person Assessment and Support Plan will be completed by a Social Worker from the Family Placement Team, in collaboration with the allocated Child's Social Worker and the Supervising Social Worker for the Carer (if this is not the assessing social worker), within **12 weeks** of the Initial Legal Planning Meeting

The allocated Children's SW must also complete a [Statement of Evidence](#) in respect of the discharge of the Care Order, within the same 12 week period.

Once the Assessment Report and proposed Support Plan are completed a further Legal Planning Meeting should be held to ratify the decision and the Support Plan should be sent to the Agency Decision Maker for further ratification.

Once authorised a copy of the Assessment Report, Support Plan and the Statement of Evidence should be sent to the applicants. The applicants can choose to seek further legal advice regarding the Assessment Report and or Support plan, if required.

A copy of the authorised Assessment Report and Support Plan along with the Statement of Evidence should be sent to the Legal Department who will progress the application.

The FPT Social Worker will be the principle author of the report. However the Child's SW and the Carer's Supervising SW (if applicable) are also expected to contribute. The child's SW should also make their own recommendation as to the outcome of the assessment, as required. All Social Workers should be prepared to attend court as required in respect of the application.

## 6. Support with Legal Costs

### 6.1 The cost of making the Application:

The Local Authority may contribute to initial legal costs where it is in support of the application and it is deemed to be a suitable alternative to care proceedings.

The Local Authority will only consider contributing to the applicant's legal fees where the following criteria are met:

- The Applicant is **not** eligible for legal aid;
- There **are** clear grounds for care proceedings;
- The application **is** part of a plan made at a Child Protection Conference, Looked After Review or Legal Planning Meeting and is supported by the Strategic Lead.

Any contribution to legal fees will be at legal aid rates and must be agreed by a Strategic Lead.

Once agreed the social worker should request a letter from the Children's Services Legal Department confirming our contribution. This letter should be provided to the applicant along with a

list of local solicitors (if required) in a timely manner to enable them to instruct a solicitor and consult with them regarding the outcome of the Assessment Report and proposed Support Plan

## **6.2 Legal Costs after the granting of the Application:**

The Local Authority may also contribute to future legal costs that are associated with the Order to continue to support the existence of the order, where the LA considers this to be appropriate. Any contribution to legal fees will be at legal aid rates and must be agreed by a Strategic Lead.

Once agreed the social worker should request a letter from the Children's Legal Department confirming our contribution. This letter should be provided to the applicant along with a list of local solicitors (if required).

## **7. The Assessment**

The allocated Social Worker should complete the [SGO and Connected Person Assessment Template](#), using the guidance information supplied within it, **within 12 weeks** of the decision or notification.

The Family Placement Team Social Worker is the primary author of the report, however the Child's Social Worker and or the Carer's Supervising Social Worker (if different) should be asked to contribute and verify the information contained within the final Report and Support Plan.

Any social worker or other professional who has contributed to the Assessment Report and or Support Plan should be prepared to attend court to progress the application.

The current and future needs of the Child and Applicants must be considered and clearly recorded in the Assessment Report and the Support Plan.

Social Workers should ensure they meet with and gain the views of as many relevant adults and children as possible, (the child, the applicants, the applicant's children/friends/relatives/employer/ex-partners, the birth parents, siblings, grandparents and other relatives as well as other professionals, where possible).

The prospective Special Guardians should be made aware of the need to obtain the personal details of their family for inclusion in the Assessment Report. The prospective Special Guardians should be seen at home both jointly and separately. The child should also be seen in the company of the applicants so that a view can be obtained regarding the family relationships. Any other residents of the home should be interviewed.

The child needs to know and have an understanding of his/her birth origins as well as to be aware of the implications of Special Guardianship. She/he should be seen alone if the child is old enough (e.g. over 5 years) and it is important to note that even young children can understand the difference between a 'parenting' parent and a 'birth' parent. It is essential that the child's views are recorded and taken into account. Where a child has strong bonds with the birth parents it is crucial that this matter is given careful consideration and contact issues addressed.

Any birth parent not agreeing to the application should be advised to engage a solicitor as soon as possible.

The safety of the child is paramount and the background of prospective special guardians must be rigorously checked.

The social worker preparing the report is responsible for the completion and submission of all relevant checks (DBS, Medical, LA, Probation, Health Authority, Education and CAFCASS) and References (Family Members, Friends, Employment and or Ex-Partner)

A DBS check should be completed on the Applicants and all adults in the household over the age of 18 years. DBS forms can be obtained from the Business Support Team.

The court requires a report of each of the interviews with the persons nominated by the prospective special guardian to provide personal references for him/her, to accompany the Assessment Report and Support Plan. Reference checks can be requested using the appropriate letter **template**.

All applicants who are not already set up on LCS as carers and in receipt of payments will need to provide their bank account details ([bank details form](#)) which should be sent as a request with their name and address details to LCS to set them up as a Special Guardian Carer and to ensure payments via ContrOCC can be made.

## 8. The Support Plan

Local Authorities are required to make arrangements for the provision of Special Guardianship support services to promote and support the permanent placement of the child with his/her Special Guardian and ensure that all services are in place in order that the child's needs are met. Special guardianship support services are defined as:

- financial support (regulation 3(1)(a))*
- services to enable groups of children for whom a special guardianship order is in force or in respect of whom is being formally considered, special guardians and prospective special guardians and parents of the child to discuss matters relating to special guardianship (regulation 3(1)(b))*
- assistance, including mediation services, in relation to contact between the child and their parents or relatives or any other person whom the child has a relationship that the Local Authority considers to be beneficial to the welfare of the child (regulation 3 (1) (c) )*
- therapeutic services for the child (regulation 3(1)(d))*
- assistance for the purpose of ensuring the continuance of the relationship between the child and their special guardian or prospective guardian, including training for the special guardian to meet any special needs of the child: respite care; and mediation in relation to matters to special guardian orders (regulation 3(1)(e))*
- counselling, advice and information (section 14F(1)(a) of the Act)*

Trafford's SGO Support Plan identifies some of the universal services accessible to Trafford residents as well as numerous resources and organisations which are accessible to all, which it considers relevant to all Special Guardianship Carers and Children.

The allocated Social Worker in collaboration with the Child's Social Worker and the Carers Supervising Social Worker (if applicable) should identify the needs of the individual children, applicants and birth parents and clearly record them within the plan.

Consideration must be given to both the **current and future needs** that can be identified.

If there are no identified needs, beyond those accessible to all, through universal services, the social worker should identify within the plan that '*there are no current or future needs identified at this time.*'

Any identified needs which require the resources of another agency such as Health or Education must be agreed with the relevant agency prior to finalising the plan.

Any identified social care resource with cost implications should be agreed by the Keeping Families Together Panel if it has not previously been agreed by a Strategic Lead, as part of the decision making process.

Wherever possible, needs of the child, Applicants and or Birth Parents should be met through the provision of a universal or specialist service available to any child or adult requiring that service in the community.

Where a service is available within the community the applicant should be signposted to that service and be provided with assistance to access the service.

Where an Applicant or Birth Parent lives outside of Trafford and are therefore not eligible for a Trafford service every effort should be made to signpost the child, applicant or birth parent to a relevant service in the area in which they live.

The views of the child, birth parents and applicants with regard to the Support Plan should be recorded. The Applicants should also be asked to confirm the level of support they would like to continue following the making of the order and for how long. Their decision to agree to a period of Child in Need and to be kept informed of relevant training and support should be clearly recorded within the Support Plan.

Once agreed and authorised a copy of the Support Plan should be provided to the applicants to accompany the Assessment Report. The applicants should be advised to seek independent legal advice regarding the proposed plan of support.

## **9. Therapeutic (Counselling) Support**

Should any therapeutic service be required for the child or young person they may be additionally eligible for help via the **Adoption/SGO Support Fund**. The ASF is available for children up to and including the age of 21 (or 25 with a SEN Statement/EHC Plan) who have been adopted or are subject to an SGO, from Local Authority care and for Special Guardians who care for children who were looked after immediately prior to the Special Guardianship Order.

The Local Authority that places the child is responsible for assessing the adoption/SGO support needs for **three years** after the order is complete. After three years it becomes the responsibility of the Local Authority where the child and applicant live (if different).

Any request for an assessment should be sent in writing to the **SGO Support Team** at Trafford Town Hall.

The Social Worker would be expected to talk about who can provide the types of service that are needed and which provider the individual would prefer. This could be the Local Authority itself, a neighbouring Local Authority, an independent provider, or an NHS provider.

Upon receipt of the request for assessment a social worker from the **SGO support team** will conduct an assessment within **12 weeks** and will notify the Special Guardian of the outcome of the assessment within a **further two weeks** of the Assessment completion date.

To access the ASF, upon completion of the assessment the LA should then make an application for funding to the ASF. In the case of a successful application, funding will be released to the Local Authority to commission the approved services.

Applications to the ASF must be made via the online portal. The **Adoption and Special Guardianship Team Leader** is the designated person within Trafford with access to the portal.

From **2017/18 Financial Year until the Financial Year 2019/20** the ASF will have two Fair Access Limits:

- £2,500 per child for specialist assessment
- £5,000 per child for therapy

These two Fair Access Limits are independent of each other and so the Fair Access Limit for Specialist Assessment cannot be used to supplement the Therapy Fair Access Limit and vice versa.

In exceptional cases, where there is urgent need for higher cost support, councils are asked to match-fund applications for support, (for details of the criteria for match funding see the link below).

The Adoption Support Fund can fund up to 50% of the service amount, which exceeds the Fair Access Limit(s) up to a maximum limit of £30k (including the Fair Access Limits).

In order to monitor these applications the cost centre 130444 should be applied to all approved requests. All requests to the ASF should be recorded on the child's 'Costs' Tab on LCS.

Further information about the assessments and therapies available through the ASF and those not deemed applicable as well as helpful guides as to how to access the online portal are available from <http://www.adoptionsupportfund.co.uk/Local-Authority>

## 10. Educational Support

### 10.1 Pupil Premium Grants:

The child/young person's education provision (Reception to Year 11) is eligible for a Pupil Premium grant towards the child/young person's educational support if informed of and provided evidence of the child's status as a previously Looked After Child who is currently subject to an SGO.

Funding is paid directly to schools for schools to use. Guardians need to self-declare their child's status to the school where their child is on roll. Guardians are required to provide evidence to the school, for example their Special Guardianship Order or a letter from the local authority that originally looked after the child. The school will use this evidence to record the child's status on the school census. Once schools have declared a child's eligibility on the school census, they can access Pupil Premium funding.

The Grant's use is not restricted to the individual child/young person. Schools can pool Pupil Premium money for numerous children to pay for collective support to gain maximum impact from the funding. The Pupil Premium is additional money for schools to improve the educational and personal outcomes of disadvantaged pupils including those previously looked after.

### **10.2 School Admissions:**

School Admissions for entry in the school year 2016/17 and any future years is governed by the [School Admissions Code 2014](#).

School Admissions Appeals are governed by the [School Standards and Framework Act 1998](#) (the Act) and the [School Admissions Appeals Code 2012](#)

Admission authorities must give highest priority to looked after children and previously looked after children. After prioritising 'looked after' and 'previously looked after' children, all other applicants must then be considered according to the oversubscription criteria.

Admission authorities for faith schools must give first priority to 'looked after' children and 'previously looked after' children of the faith before other children of the faith. Where they give any element of priority to children not of their faith, they must give priority in their oversubscription criteria to 'looked after' children and 'previously looked after' children not of the faith above other children not of the faith.

## **11. Contact Arrangement Support**

Issues of any on-going contact should be discussed fully with all parties.

Contact arrangements may be made informally if all parties are in agreement. Any contact arrangement made should consider the wider family and any other on-going arrangements that may jeopardise the plan.

Where there may be child protection concerns consideration may need to be given to on-going supervisory arrangements.

In the event of a dispute it may be necessary to consider the recommendation of a Section 8 order to run alongside the SGO.

If there remains a need for ongoing supervisory arrangements the **Contact Centre Manager** must be informed and the arrangements and review mechanism agreed on a case by case basis by the Contact Centre Manager and a Strategic Lead.

Any ongoing financial support requirement for contact must be agreed by the ADM or a Strategic Lead in her absence and clearly recorded within the support plan including the length of time the payment is applicable for.

## **12. Leaving Care/After Care Support**

The Special Guardianship Guidance notes that as a result of Regulation 22 of the Special Guardianship Regulations, 'Time spent under a special guardianship order is relevant when

considering the child's entitlement to leaving care services'. Section 24(2) of the Children Act defines a person qualifying for advice and assistance. This includes a young person aged 16 to 20 who immediately before the making of the Special Guardianship order was 'Looked After' by the Local Authority.

The Children Act 1989 defines 'Persons who may qualify for Advice & Assistance' and all the usual care leaving duties. The requirements are that the child must:

- have reached the age of 16, but not the age of 21;
- if less than 18 years old, have a special guardianship order in force;
- if 18 years old or above, have had a special guardianship order in force when they reached that age;
- and have been looked after by a Local Authority immediately before the making of the special guardianship order.

The relevant Local Authority should make arrangements for young people who meet these criteria to receive advice and assistance in the same way as for any other young person who qualifies for advice and assistance under the 1989 Act.

Regulation 22 (C.A 1989 S.G regs 2005) clarifies that the responsible authority for providing advice and assistance under these provisions would be the Local Authority that last Looked After the young person. It also suggests however that depending on the service required it may be more appropriate for the young person to seek support locally where he is resident for example health care.

The advice and assistance that a local authority can provide, for a young person, is outlined in C.A 1989 (24A), on the basis of a needs assessment. A local authority may provide advice and befriending services and in exceptional circumstances give cash. A local authority can also contribute to expenses for education, training but it can be conditional and take income of parents into account. In some circumstances local authorities may also include birth parents in terms of these considerations if they are still involved in the young person's life.

Once a child subject to a SGO, **who was previously looked after**, reaches **15 years and 6 months**, a **letter** will be sent out, by the Adoption and Special Guardianship team, notifying them of their entitlement to an assessment for Leaving Care Services and how they can request such an assessment.

If an Assessment is not requested a reminder of this entitlement will also be sent on or around the child's 17<sup>th</sup> and 18<sup>th</sup> birthday.

When an assessment is requested the Adoption and Special Guardianship Social Worker should notify the After Care Team **within 2 weeks** to complete an assessment of the young person's needs and inform the young person and their carer of the level of support available to them.

Some young people may be eligible for financial support equivalent to the leaving care grant or a University Bursary in the same way that this is open to care leavers. Any such requirement must be agreed by a Strategic Lead.

Refer to [After Care/Leaving Care procedures](#) for further details.

### 13. Family and Social Relationship Support

### **13.1 Life Story work/books**

Life story work should be completed with all children subject to a Special Guardianship Order. Responsibility for the updating/review of this work, as the child's capacity to understand their circumstances changes, should be clearly identified within the plan.

## **14. Placement Support**

### **14.1 Support and Training for Special Guardian's and Children**

Opportunity to complete 'Skills to Care' Training during the assessment period is available to all applicants who indicate a desire to do. An increased rate of allowance is achievable in doing so if eligible (see section 15 below)

Any Special Guardians who indicate they would like to be considered for future training and support opportunities will be kept informed of any relevant upcoming training that they can participate in.

An SGO Support Group will be arranged on a quarterly basis. The support group is open to all Special Guardians for the duration of the SGO.

All previously Looked After children subject to an SGO in Trafford can access advocacy services from the Trafford Children's Rights Service and will be invited to attend regular focus groups.

## **15. Financial Support**

### **15.1 Principles of Financial Support:**

Financial support should not be the sole reason for a special guardianship arrangement failing to survive, irrespective of whether the child has been in the care system or not.

*Regulation 3(2) provides that the provision of any services other than counselling, advice and information may include the local authority giving a person assistance in cash where the local authority considers this appropriate. For example, giving a special guardian cash to pay a babysitter, so they can have a break for an evening or money for petrol where a contact visit has been arranged. When cash is provided in this way it should not be means tested as it is being provided as part of a service rather than as financial support*

### **15.2 Ongoing Financial Support:**

*A distinction is made between ongoing financial support (financial support that is paid on a regular basis) which was agreed before the special guardianship order was made and other support services. The assessment and provision of such financial support will remain the responsibility of the local authority who originally agreed it for as long as the family in question qualify for payments. This distinction has been made because financial support can be paid without direct contact with the local authority who agreed to the payment of financial support, prior to the SGO'.*

### **15.3 Eligibility for a Financial Allowance:**

The guidance Regulation 6 (C.A 1989 S.G regulations 2005) states that "financial issues should not be the sole reason for an SGO arrangement failing to survive." The principle underpinning the

*regulations and guidance is that financial support should be available to ensure that financial aspects are not an obstacle. Regulation 13 outlines the expectation that special guardians should access the benefits that they are entitled to and that the role of local authorities is to be facilitative in this process. It also stipulates that any financial support made to special guardians under these circumstances should not duplicate any other payment that they receive.*

The areas that the local authority is required to consider as part of a financial assessment are;

- The financial resources – including investments of the (prospective) special guardian;
- Outgoings of the prospective special guardian;
- Financial needs of the child or young person.

Special Guardians or those applying for a Special Guardianship Order have the right to be assessed for financial support.

Special Guardians will be expected to apply for any state benefits to which they are entitled. Trafford Local Authority will offer help and advice to Applicants to access any benefits to which they are entitled; this will usually include child benefit and tax credits such as Child Tax Credit and Working Tax Credit or Universal Credit (depending on which Local Authority the Applicant resides in).

The Local Authority must also take account of any other grant, benefit, allowance or resource available to the person in respect of his needs as a result of becoming a Special Guardian of a child.

Financial support cannot duplicate any other payment available to the Special Guardian.

Regulation 9 states that financial support ceases to be payable to a special guardian or prospective guardian if:

- The child ceases to have a home with him;
- The child ceases full-time education or training and commences employment;
- The child qualifies for Income Support or Jobseeker's Allowance in his own right; or
- The child attains the age of 18 unless he continues in full time education, when it may continue until the end of the course or training he is then undertaking.

#### **15.4 SGO Allowance beyond 18 years of age:**

At the request of the Special Guardian continued payment of a revised SGO allowance may be considered if the young person over 18 is living at home with the Special Guardian for all or part of the year and/or the young person requires a high level of support from the Special Guardian, which is over and above what would be expected, and where there will be significant financial hardship which would impact on the support the Special Guardian could provide.

In determining whether all or some of the allowance continued to be paid beyond 18 years of age consideration would also be given to the Leaving Care allowance and/or other income received by the young person.

Any ongoing payment would need to be agreed by a Strategic Lead. The Strategic Lead would also determine the length of time the ongoing payment would be applicable for and any further review points.

Any request for financial support beyond 18 years of age must be made in writing to the Service Manager for the Fostering & Adoption Service, by the Special Guardian prior to the child's 18<sup>th</sup> Birthday.

### **15.5 Calculation of Allowances:**

The financial circumstances of any Special Guardian or proposed Special Guardian will be calculated using a means test model, developed by the Department of Education and Skills [DfE calculator](#).

The financial information that is required for the means test should be gathered using the [Financial Assessment Form](#).

To be assessed for financial support each applicant must provide details of their current income and expenditure (see section 17 for guidance). The information provided will be inputted into the [DfE calculator](#). The calculator will establish the amount to be paid prior to any financial allowance being agreed.

The final payment that will be made to Special Guardians will be the allowance that is defined as an outcome of the means test calculation minus any child benefit (for the respective child).

Generally the allowance payable is equivalent to Band 1 of Trafford's Fostering Rates but whether this or a greater sum is paid will depend on the individual needs of the child concerned and the experience and/or relevant qualifications of the carer.

### **15.6 Financial Assessment and Payment Process:**

The allocated Social Worker should obtain the applicants income and expenditure information using the [Financial Assessment form](#). The allocated Social Worker should also obtain the Applicants chosen bank account details using the [Bank Details Form](#).

The Applicants name, address and bank details should be obtained and details sent to the Liquid Logic Support Desk to enable the applicants to be set up on the LCS and ContrOCC systems.

The agreed calculated amount of Allowance should be entered manually on the 'Costs' tab section of LCS.

The agreed calculated amount should also be recorded in the Support Plan.

The allowance will be paid in to the applicant's chosen bank account on a monthly basis.

### **15.7 Allowance Rates:**

All Special Guardians are entitled to apply for the child's 'Child Benefit' payment. As such the Local Authority **will deduct** the equivalent of the child's child benefit entitlement from any financial support the Special Guardian has been assessed to be eligible for.

Generally the allowance payable to eligible Applicants is equivalent to **Band 1** of Trafford's Fostering Rates but whether this or a greater sum is paid will depend on the individual needs of the child concerned and the experience and/or relevant qualifications of the carer.

Eligible Applicants who complete 'Skills to Care' Training, within the assessment period, would be entitled to an allowance equivalent to **band 2**.

Eligible Applicants who are currently Foster Carers to the child would receive an allowance **equivalent** to the **band** they are presently receiving (see former Foster Carer Applicants below.).

For eligible Applicants an age related amount of allowance **will also be paid** each year for a holiday for the child, their birthday, and their chosen festival (such as Christmas or other religious celebration). Such payments will be equivalent to those payments made to looked after children.

All agreed allowances will increase in line with the age related increments of the child at the time of the annual review and may be adjusted in line with inflation.

The special guardian can be assisted to apply for benefits paid for by the Department of Work and Pensions and the Inland Revenue for which they may be eligible e.g. child benefit, child tax credits or pension credits.

Any applicant who can demonstrate they are in receipt of Income Support does not require a Financial Means Assessment and will automatically be eligible for the maximum applicable allowance.

In exceptional circumstances a Strategic Lead may authorise an additional payment (either lump sum or regular payment), in order to support the Special Guardianship arrangement or aide the initial transition to the arrangement.

In such circumstances the following forms of financial assistance can be considered and are not subject to a means test:

- 'settling in ' grant (excluding adaptations to the home)
- costs to be incurred in promoting beneficial contact between the child and a related person.

The Support Plan should clearly identify the month that the Applicant would expect the Birthday (usually the Child's birthday month), Festival (dependent upon religious and cultural beliefs) and Holiday (usually prior to the end of summer term but can be flexible) to be paid.

### **15.8 Former Foster Carer Applicants:**

Regulation 7 (C.A 1989 S.G Regulations 2005) makes specific provision in regard to financial provision for special guardians who were formerly foster carers for the specific child or young person. The general principle underpinning the regulations is that financial support should not include any element of remuneration but former foster carers are exempted from this for a period of up to two years. In exceptional circumstances such an element could continue beyond 2 years (Reg 7 (2)).

Trafford Local Authority agrees to pay a former Foster Carer, to the child, the age related Fostering Allowance plus skill band that they were receiving as a Foster Carer to the child immediately prior to the point the order was made, minus any child benefit entitlement, for the first two years.

After two years the Foster Carer will be expected to submit a Financial Assessment Form for a means tested calculation to be completed. The amount of ongoing financial support may be

adjusted according to the outcome of each annual means test. It is unlikely the amount of allowance paid will change significantly, after the first two years unless:

- The child is no longer living with you
- The child is living part time elsewhere.
- You have had a significant change in your household disposable income.
- There is a significant change in the individual needs of the child.

The decision to approve any continued payment, at the previous Foster Carer rate, beyond the first two years, will be made by a Strategic Lead, based on the outcome of the means test calculation and the needs of the child.

### **15.9 Changes in Circumstances:**

Special Guardians are required to inform Trafford Council of any changes to their financial circumstances **within 14 days**. These changes will trigger a review of the payments that are made and the level of payment may change as a consequence of this review.

Any significant changes to the financial circumstances of the Special Guardian's household are likely to result in a change in the level of allowance that is awarded.

An early review may be initiated if:

- The Local Authority becomes aware of any significant changes in the circumstances of the family
- The Special Guardian notifies the Local Authority of any significant changes or requests an earlier review.

If Special Guardians fail to inform the council of any changes to their financial circumstances; the Council reserves the right to seek a reimbursement of payments made to them, in any circumstances where the change in financial circumstance would have resulted in a reduction in the level of financial support.

### **15.10 Annual Review:**

Special Guardians are expected to comply with an annual review of their allowance for the duration of the order and to confirm the child remains in their care. The amount of ongoing financial support will be adjusted according to the outcome of each annual means test.

A [Financial Assessment form](#) and a [Review Letter](#) will be sent annually to all Special Guardians in receipt of financial support.

The Means Tested Assessment will not be applicable for the first two years, from the granting of the SGO, for all former Foster Carer applicants (see 15.8 above).

Special Guardians should return their completed financial assessment form **within 28 days** of receipt.

The Local Authority may suspend any allowance if the requested information or a valid reason is not provided by the Special Guardian with the required time frame.

A reminder will be sent after 28 days giving the guardian a **further 7 days to return** their completed form or to provide the Local Authority with a reason for the delay. The letter will also clearly outline the date that the Local Authority proposes to **suspend** payment should the requested information not be received.

Any significant increase in allowance (e.g. due to change in circumstances, benefits etc.) other than that resulting from a change for relevant age related allowance should be reported to and approved by a Service Manager prior to confirming our decision to the Special Guardian.

A formal decision letter will be sent out to inform the Special Guardian of the outcome of the means test within 2 weeks.

## **16. Ongoing Support and Review Process.**

### **16.1 Responsibility:**

The Regulations indicate that where the child was previously Looked After, the Local Authority that looked after the child has responsibility for providing support for the first three years after the making of a Special Guardianship Order. However Trafford Local Authority agrees to provide information and advice for all Special Guardianship Arrangements for the duration of the order.

Practical support (such as home visits, family support meetings or provision of services), where it is considered necessary, (not including ASF and Aftercare – see specific sections for details) will also be available to all SGO carers, birth parents and children who remain a Trafford resident for the duration of the order.

Non Trafford resident SGO carers and birth parents may need to be signposted to their relevant Local Authority. However, Trafford Local Authority cannot guarantee that another Local Authority will have a reciprocal service available.

Where the child was previously Looked After, the Local Authority that looked after the child has responsibility for the ongoing financial assessment and support for the duration of the order. In all other circumstances responsibility for assessing and providing support services is with the Local Authority where the special guardian lives.

### **16.2 Provision of Support and Reviews:**

Once an SGO Support Plan has been formulated it should be confirmed when, how and by whom the Plan will be reviewed.

All SGO arrangements will be offered a minimum of 12 weeks Child in Need support from the granting of the order.

The applicants should confirm whether they require Child In Need support and or ongoing SGO Support and this discussion and decision should be clearly recorded in the Assessment Report and or the Support Plan and a record placed on the child's file.

If the child does not have an allocated Social Worker then a Social Worker from the relevant area team should be identified and allocated prior to the order being granted.

Upon the granting of the Order if Child In Need support is accepted the Child's Social Worker should contact the CiN IRO to arrange a review meeting for 12 weeks after the date of the order. This review will establish if there is a need for ongoing Child In Need in support after the initial 12 weeks. A member of the SGO support team should be invited to attend the review to enable introductions to take place and the transition of support to the SGO support Team (if required).

If ongoing CiN support is required the IRO will agree a further review point. If the case is managed by the Permanence Team it may be necessary to re-allocate the case to the relevant area team.

If/when CiN support is not required the case will transfer to the SGO Support Team, if the applicants and or child request an ongoing offer of support.

The child's case file must be closed and archived at the point where the SGO is made and Child in Need support ends, unless there is an agreement by the Applicants to provide on-going support as set out in the support plan.

### **16.3 Role of the SGO Support Team:**

The ASGO Social Workers (Adoption and Special Guardianship), within the SGO Support Team will co-ordinate and manage the support and review process.

All communication and actions must be recorded and or uploaded in the SGO section of LCS.

If at any time a request or need for support is judged to meet the threshold for a higher level of intervention such as Child In Need or Child Protection, then the SGO Social Worker should make a referral to MARAT for further assessment.

Special Guardian's, Birth Parents and or the Child are able to contact the SGO support team for information and advice at any time throughout the duration of the Order. The level of support and advice available to them will be assessed on an individual basis and it may be necessary in some cases to signpost them to other services or Local Authorities.

All Special Guardians who have indicated they would like further support will (for the first 3 years and beyond if they remain a Trafford resident):

- Be contacted every three months for the first twelve months to check upon the welfare of the child and the overall implementation and success of the support plan.
- Be contacted annually to check upon the welfare of the child and the overall implementation and success of the support plan.
- Offered a formal review of the support plan to implement any further identified current and or future needs, at least annually.

All Special Guardians who are in receipt of financial support will:

- Be contacted annually to reassess their financial circumstances, Allowance entitlement and to confirm the child remains in their care.

The method of contact may entail the need for:

- A visit;
- Telephone contact;
- Formal letter/email or:

- meeting to review the plan.
- Financial Assessment request

When any review/intervention has taken place which results in a change to the agreed Support Plan the Adoption and SGO Support Social Worker should update the plan to reflect the changes and copies should be circulated to all the relevant parties.

Quarterly SGO support groups are available to Special Guardian Carers and relevant Foster Carer training opportunities (see section 8.8). All Special Guardians will be signposted to the support and training available to them while they remain a Trafford resident and if they indicate a desire to be kept informed of such a provision of support.

Previously Looked After children, subject to an SGO are able to request advocacy from Trafford Children's Rights Service and will be invited to attend regular focus groups, while they remain a Trafford resident.

## 17. Guidance on Completing the Financial Assessment Form and the Means Test Model

### 17.1 Pay

This section will include basic net monthly pay, before any deductions for saving schemes, social clubs, accommodation/food and loans. However, the incoming figure used will exclude any payments into pension funds.

Where one or both of the special guardians is self-employed, the only income which will be considered is 'drawings' as this is the equivalent of pay for a self-employed person. Any profit from the business which remains in a bank account will be taken into account as capital under other sources of income.

Where one or both special guardians receive overtime, fees, bonus/commission and/or gratuities on a regular basis this will be included as part of the monthly payment.

### 17.2 Individual Benefits and Pensions

Where the special guardian receives individual benefits (i.e. those that are not calculated on a household basis) these will be included in this section. If the benefit payments are currently received weekly then these are multiplied by 52 and divide by twelve to give a monthly amount. Benefits to be entered in this section should include:

- Employers sick pay
- Employment and Support Allowance
- Statutory maternity, paternity or maternity allowance
- Bereavement benefit
- Working tax credit (if paid directly and not as part of pay and excluding any childcare element received)
- All pension payments received
- Any other individual benefits

The Working Tax Credit Award notice held by the carers will provide information needed for this section of the assessment.

Where a childcare element is paid as part of the working tax credit or universal credit, this should be disregarded for the income section of the test. This type of credit needs to be considered when completing the expenditure section on childcare (see below).

Any other benefits received by the parents, for example help with costs associated with disability or mobility, should be recorded in the 'other benefits' section.

Financial support paid to special guardians under the regulations cannot duplicate (or substitute) any payment to which special guardians would be entitled to under the tax and benefit system. Only benefits that are currently being paid to the household will be included on the assessment form. If there are other benefits that Trafford believe the household would be entitled to this must be pointed out to the special guardian.

### **17.3 Benefits**

Where benefits are received by the family or members of household, as opposed to being paid directly to the parents, they should be recorded in this section. This is primarily for benefits which are calculated on the basis of household composition. Benefits to be included in this section are:

- Income Support
- Jobseeker's Allowance
- Child tax credit per household
- Child benefit for each child, excluding the child/children who are the subject of this assessment application
- Universal Credit

If a member of the household receives Income Support or Jobseeker's Allowance, the amount per household should be recorded. (Please note that where the only household income is Income Support, the maximum special guardianship basic fostering payment will be paid)

The benefits which should be detailed on the form should include child tax credit received for each child as at the time that the test is applied. All those who received child tax credit should receive an award notice setting out how much they will receive.

Child benefit should be included for each child living in the household, excluding the child/children who are the subject of this assessment application.

Housing benefit will be excluded from this section, as it is disregarded for the purposes of the expenditure section below. 7

### **17.4 Other sources of income**

Where the family receives income from capital, savings and/or investments, this will be assessed in terms of net monthly interest only, as paid. This is the income that is routinely available to the family, and should be clearly shown on statements/similar.

If the family receives income from boarders/lodgers, this should be calculated on a weekly basis (then multiplied by 52 and divided by 12 to give a monthly amount if the test is being completed on a monthly basis). To calculate the weekly income, all weekly payments for board and lodging must be added together, a £20 disregard applied and then 50% of any excess over £20 for each person deducted. This is how income from boarders/lodgers is calculated for income support purposes.

Examples of the approach for income from boarders/lodgers are as follows:

## **Boarder/lodger 1**

Weekly payment £100.00

Deduct £20 (disregard) £20.00

= £80.00

Deduct 50% of remainder - £40.40

### **17.4.1 Income from boarder/lodger 1 £40.00**

Where the family receive income from rent on an unfurnished property, this should be calculated on the following basis: monthly income received in rent after the deduction of any costs. Deductions can be made for:

- Interest payments on the mortgage (but not mortgage capital payments);
- Repairs;
- Council tax (if paid by the family being assessed)
- Agents' fees; and
- Insurance (buildings)

If income is received from furnished properties, the same calculation applies as above for unfurnished property, but an extra 10% deduction from the monthly rent received can be made as a 'wear and tear allowance'.

If the person who is the subject of the assessment has completed a recent tax return, local authorities may ask to see a copy of this. The tax return should have the information which may assist in the completion of this section of the form

Other income to take into consideration includes maintenance payments received for any child in the household and existing special guardian allowances (including enhancements for special needs) paid for any child. This latter may be paid where, for example, the family has become a special guardian for a child with a different local authority and therefore receives a separate allowance.

### **17.5 Income relating to the child/children becoming a special guardian child**

This section relates to the child/children becoming a special guardian child only. Any regular interest on capital and/or income in which the child/children has a legal interest and entitlement should be included here. This could be, for example, a savings account, trust fund, property or other legacy. 8 Payments from Criminal Injuries Compensation Awards should not be included.

Please also consider any other income to which the child/children might be entitled. This section does not record child benefit for the special guardian child, which will be deducted from the final payment resulting from this means test.

### **17.6 Income calculation**

The means test spreadsheet will automatically calculate the household monthly income, and will also apply a 20% disregard to this income figure.

### **17.8 Projected Family Expenditure**

#### **17.8.1 Home expenditure**

This section should include mortgage payments, made up of capital and interest, and also including any endowment payments linked to the mortgage. If the family pays rent, the monthly amount

actually paid should be recorded here, after any deductions made for housing benefit. The only other outgoing which should be included in this section is council tax paid; this should be the amount paid after the deduction of any council tax benefit received by the household or discount for single adult households or second homes.

### **17.8.2 Other outgoings**

Where the family pay regular monthly repayments on loans for housing improvement (e.g. extensions/new kitchens) or transport costs (e.g. new car), these are included in this section.

Other payments which can be included in this section include maintenance payments, payments relating to court orders, private pension contributions and national insurance if self-employed or not working.

The section for 'reasonable' child care costs will be determined by Trafford depending on (a) the circumstances of the family in question (e.g. how many hours the parents work); and (b) local costs for child care services. Costs recorded in this section should be those paid after any childcare element paid as part of the parents' working tax credit. All those who receive working tax credit will receive an award notice which sets out how much they will receive.

### **17.8.3 Core Regular Family Expenditure**

General household expenditure on items such as food, transport, clothes, recreation should be calculated using the Income Support allowance rates, increased by 25%.

Where the family's disposable income is less than £0, the spreadsheet will show the maximum special guardianship allowance as being the full pay basic carer payment.

This is because the special guardian has provided evidence via the disposable income calculation that shows they do not have the means to accommodate any further expenditure.

Where the family's disposable income is higher than £0, the spreadsheet will calculate an allowance as a percentage of the maximum basic fostering allowance payment. The further the disposable income figure rises above zero the lower the level of special guardianship that is paid.