

	Action/Date
Title/Status-	Procedure
New document or revised	Revised
Responsible Head of Service	Head of Service for Children in care
Date SMT approved.	27 Feb 2020
Date review due	Feb 2021

## **Leicestershire Procedure**

### **Child Arrangement Order and Special Guardianship Order Allowances**

**Applies to-**

**All children**

### **Table of Contents**

SCOPE OF THIS CHAPTER.....	3
1. Introduction.....	3
2. Terms.....	3
3. Legislation.....	3
4. Principles of Financial Support .....	4
5. Eligibility Criteria .....	4
6. Types of Financial Support .....	5
6.1 Private SGO (following private law proceedings) and CAO applications for financial support .....	5
6.2 SPECIAL GUARDIANSHIP ORDERS - Foster Carers who seek a Special Guardianship Order/s for child/ren in their care.....	6
6.3 CHILD ARRANGMENT ORDERS - Foster Carers who seek a Child Arrangement Order for child/ren in their care.....	8
6.4 Special Guardian applications for financial support where child was not looked after....	9
7. Calculating the allowance: .....	10
8. Application for the allowance .....	12
9. Calculating the assessed charge .....	12
10. Decision-making.....	13
11. Making payments .....	13

12.	Review of allowance.....	14
13.	Termination of allowance.....	14
14.	Other types of payments for additional needs and expenditure.....	14

## SCOPE OF THIS CHAPTER

### 1. Introduction

This chapter details the principles and criteria for financial support to be provided to prospective Special Guardianship and Child Arrangements carers, including former foster carers who are seeking to achieve permanency for the foster child they care for through one of these orders.

### 2. Terms

**Special Guardianship Order (SGO)** - A Special Guardianship Order gives the Special Guardian parental responsibility (PR) for the child. Unlike Adoption, under the SGO the birth parents retain Parental Responsibility, but the Special Guardian is entitled to exercise it to the exclusion of others who hold it, apart from other Special Guardians. Save for in respect of changing the child's name or removing him/her from the UK for more than three months.

**Child Arrangement Order (CAO)** - A Child Arrangement Order settles the arrangements about who a child is to live with, and if the child has been looked after by a Local Authority under a care order, this ends, and the Care Order is extinguished. The Child Arrangement Order holder where they are named in the order as person with whom the child is to live with acquires Parental Responsibility for the child but unlike adoption, the parents' PR is not extinguished, and they continue to share it with the holder of the CAO.

### 3. Legislation

- Children Act 1989
- Care Planning, Placement and Case Review (England) Regulations 2010
- Family and Friends Care: Statutory Guidance for Local Authorities 2011
- National Minimum Standards for Fostering Services
- Special Guardianship Regulation 2005.
- Special Guardianship Guidance 2017 D of E

Further information about support can be found in Leicestershire County Council's [Permanence Passport: The Fostering, Adoption and connected Care Support Offer](#).

#### 4. Principles of Financial Support

- To place the child at the centre of decision making, ensuring their carers are able to meet their basic and more complex needs
- To overcome barriers to make permanence without continued direct state intervention possible.

(See Reg 6 general Principles.)

#### 5. Eligibility Criteria

- Holders of a Special Guardianship Order or prospective Special Guardianship obtained within public law proceedings or in respect of a child that is or was a 'Looked After' child are entitled to a financial assessment.
- Holders of a Child Arrangements Order for a child that is not their own, or holders of a Special Guardianship Order obtained through private law proceedings are not automatically entitled to a financial assessment and any award after assessment is discretionary.
- All financial assessments undertaken are on a means tested basis and the terms of assessment and payment apply equally to all foster carers and carers in receipt of an SGO or CAO
- The terms of assessment and payment apply equally to all foster carers and carers applying or in a receipt of a SGO or CAO, related or not
- Festive/birthday and holiday allowance decisions are made on a case by case basis and are within the reasonable discretion of the local authority, however, are made on an exceptional basis
- SGO and CAO assessments are required to include financial assessment. This assessment is means tested and subject to annual review
- Carers are required to submit financial information
- The national minimum fostering allowance will be used to reach the maximum

allowance payable, making adjustments to each particular application

- Birth parents cannot apply for allowances under this policy.

## 6. Types of Financial Support

### 6.1 Private SGO (following private law proceedings) and CAO applications for financial support

The local authority may make contributions following a financial assessment (means-tested) but any allowance is discretionary. If the child was about to be a Looked-After child prior to the making of the CAO then the local authority will take into account the duties it would have been under, alongside the means and needs of the child when determining whether to pay an allowance.

In private proceedings, e.g. where the applicant makes an application for a Child Arrangement Order (of the type akin to that previously known as a Residence Order) or a Special Guardianship Order in respect of a child, where the Local Authority is NOT party to the proceedings, then the applicant can make a request to the Local Authority to be Means Tested for eligibility for a Child Arrangement Order or Special Guardianship Allowance. This can only be done when the applicant has been granted and given a copy of the court order. Any such allowance available under these orders is discretionary.

If the applicant is eligible (following the means test) these allowances are subsequently paid at the same rate as the fostering allowance - less a sum representative of child benefit (which can be claimed by the CAO or SGO holder).

A Child Arrangement Order or Special Guardianship allowance is subject to an annual review, which ensures that all is going well, the child is still being cared for and that public money is spent in an accountable way.

If the Means Testing process is successful, payment of the Child Arrangement Order/SGO Allowance will be backdated to the date of application (referral) for an allowance. Payments will not be made retrospectively i.e. for orders granted in earlier years.

Whilst for SGO's and CAO's such payments are discretionary, family and friends' carers should be made aware of the eligibility criteria and when means testing applies, how to apply for any such financial help, and how and when decisions are made about eligibility.

## 6.2 SPECIAL GUARDIANSHIP ORDERS - Foster Carers who seek a Special Guardianship Order/s for child/ren in their care

A local authority foster carer or relative of the child who has been caring for them for at least one year is automatically entitled to apply for an SGO (under Section 14A (5) CA 89). Those caring for a child for a period of less than one year can still apply to the court for leave to make an application for an SGO.

The SGO holder will have clear responsibility for all the day to day decisions about caring for the child or young person e.g. education. The making of a SGO will bring a Care Order to an end. SGO's last until the child is 18.

SGO's are increasingly becoming the preferred plan for children where foster carers are wanting to make a permanent commitment to a child but have reservations with regards to going down the adoption route to permanency.

Once the order is granted and the child is in placement, Child Benefit and other state benefits can be claimed for by the holder of the SGO.

This order should provide a strong foundation for a lifelong relationship between a child and their former foster carer, so the child's needs in the present and into the future must be considered. Local Authorities are required to make arrangements for the provision of SGO support services and to undertake an assessment to address this.

In Leicestershire these will be provided akin to the Kinship support services. E.g. financial support, therapeutic support, respite care, support groups, training, contact support, legal advice etc.

Additional information:

Transitional arrangements (up to 2 years) are in place for foster carers who become

permanent carers can be agreed to allow for a period of adjustment in their financial situation. The decision about transitional arrangements sits with Permanence Panel. Terms of these arrangements are set out below:

- The foster carers should apply for all benefits to which they are entitled. If they choose not to apply, financial support will be reduced
- Foster carers transfer from fostering allowances to SGO or CAO financial support from the date of the making of the Order
- From that date for 12 months, the (foster carer) special guardian will receive a payment which is equivalent to the fostering allowance. This will be reduced pound for pound by any benefits they are entitled to claim as special guardians (e.g. Child Benefit, Child Tax Credit, Working Tax Credit etc.)
- However, if the (foster carer) special guardians would be better off receiving the SGO/CAO or financial support from the outset, they will go straight onto this system rather than be paid under transitional arrangements
- 10-12 months after the SGO or CAO Order is made, the carers will be sent a review form for a full financial assessment
- The payment will be reviewed annually thereafter unless they have a change in circumstances.
- Settling-in-grants are not payable to foster carer/special guardians as the child is already in placement with them.
- Any amounts of remuneration payable under the transitional arrangements will last up to a maximum of 2 years although they may be extended beyond that period where there are exceptional needs of the child or any other exceptional circumstances.
- In calculating the total amount of financial support payable under the transitional arrangements a distinction will be made between the amount payable equivalent to the fostering allowance and any extra amount (s) payable by way of remuneration for former foster carers transitioning from fostering allowance to SGO financial support.
- In undertaking the financial assessment, the Local authority will undertake a means test but may decide not to do so if it is considering providing financial support in respect of -

- 1) a child who has been previously looked after by the local authority and requires special care;
- 2) recurring travel costs for having contact with family members;
- 3) initial costs of accommodating a child who child who has been looked after by the local authority OR
- The local authority are considering including an element of remuneration for former foster carers transitioning from fostering allowance to SGO financial support.

### **6.3 CHILD ARRANGEMENT ORDERS - Foster Carers who seek a Child Arrangement Order for child/ren in their care**

Foster carers can apply for Child Arrangement Orders in certain circumstances - Section 9 of Children Act 1989 states that a person who is or was, at any time during the last 6 months, a foster parent of a child may not apply for leave to apply for a Section 8 order UNLESS the LA consents to this, OR he is a relative of the child or the child has lived with him for 1 year. There is no time restriction on a relative applying for a CAO.

The courts now have the power to grant a Child Arrangement Order until the child is 18. Child Arrangement Order Allowances are means tested allowances and are considered if Leicestershire is involved in the assessment of the Child Arrangement Order holder or upon referral to the Kinship Team - if the order is granted via private proceedings. Children who have been matched with their foster carers for Child Arrangement Orders will still continue to receive the appropriate fostering allowance up until the point that the Order is granted in court. At this point subject to agreements made in Permanence Panel prior to the order, the means tested Child Arrangement Order allowance will be paid instead of the Fostering allowance at a date to be decided by all relevant parties.

Birth parents are not eligible to apply for Child Arrangement Order allowances.

Child Arrangement Order Allowances will normally cease on the young person's 18th

birthday.

Additional information:

Transitional arrangements (up to 2 years) are in place for foster carers who become permanent carers can be agreed to allow for a period of adjustment in their financial situation. Terms of these arrangements are set out below:

- The foster carers should apply for all benefits to which they are entitled. If they choose not to apply, financial support will be reduced
- Foster carers transfer from fostering allowances to SGO or CAO financial support from the date of the making of the Order
- From that date for 12 months, the carers will receive a payment which is equivalent to the fostering allowance. This will be reduced pound for pound by any benefits they are entitled to claim as special guardians (e.g. Child Benefit, Child Tax Credit, Working Tax Credit etc.)
- However, if the carer would be better off receiving the SGO/CAO or financial support from the outset, they will go straight onto this system rather than be paid under transitional arrangements
- 10-12 months after the SGO or CAO Order is made, the carers will be sent a review form for a full financial assessment
- The payment will be reviewed annually thereafter unless they have a change in circumstances.

Settling-in-grants are not payable to carers as the child is already in placement with them.

#### **6.4 Special Guardian applications for financial support where child was not looked after**

Although the allocating of an allowance is discretionary, regard will be had to the circumstances that preceded the child moving to the care of the individual applying and the Local Authority is clear that children should not be disadvantaged purely due to the route by which they came to be under a Special Guardianship Order. Financial issues should not be the sole reason for a special guardianship arrangement failing to survive.

Should the LA decide not to assess the SGO holder, the applicant shall be advised of that decision, the reasons for it and be allowed a reasonable opportunity to make representations in relation to that decision in writing.

## 7. Calculating the allowance:

On an application by an SGO holder, the Local Authority must undertake a financial assessment of them. Financial support cannot duplicate any other payment available to the special guardian or prospective special guardian and, the local authority must take account of any other grant, benefit, allowance or resource which is available to the person in respect of his needs because of becoming a special guardian of the child.

In undertaking the financial assessment and calculating the allowance the Local Authority must consider the special guardian or prospective special guardian's financial resources, including any tax credit or benefit, which would be available to him if the child lived with him.

Where the financial assessment is means tested the assessment must also consider the amount required by the special guardian or prospective special guardian in respect of his reasonable outgoings and commitments, e.g. housing and transport costs, and daily living expenses (but not outgoings in respect of the child) and the financial needs that relate to the child (e.g. because of special diet or need for replacement bedding) and the resources of the child (e.g. a trust fund)

In determining the amount of any ongoing financial support, the national minimum fostering allowance plus any enhancement that would be payable in respect of the particular child, will make up the maximum payment the local authority could consider paying the family. Any means test carried out as appropriate to the circumstances would use this maximum payment as a basis, making adjustments to each particular application.

The following will be disregarded:

- Mobility and attendance allowance for the child
- After calculating what capital the applicants have, a £10,000 (as per the DWP) disregard is applied. A tariff income charge rate of £1 per every £250 of the residue after the disregard, will be applied.

The following types of income should be taken into account:

- Most Welfare Benefits
- Annuity Income
- Cash in Lieu of Coal
- Incapacity Allowance
- Income from Earnings
- Income from Insurance Policies
- Income from lettings
- Occupational Pensions
- Trust Income
- Tax credits
- State Pensions
- JSA
- Child benefit
- Income support (adopters)
- Any saving held whether it is cash (in a bank/building society) or investment into stocks, shares should be taken into account. Shares and other investments should be valued by the Treasures investment Section.

Expenses that can be declared:

- Rent
- Mortgage
- Council Tax
- Water and Rates

Expenses that can't be declared:

- House insurance
- Buildings and content insurance
- Life and care insurance

(20% of the income is allowed as an expense to cover those expenses not mentioned above).

The allowance paid shall not:

- Include any element of remuneration for the care of the child by the carers
- Exceed the amount of the fostering allowance excluding any element of remuneration in that allowance which would be payable if the child was previously fostered by the adopters
- Reduce the applicants to Income Support Level – to avoid this, the financial assessor will calculate the household's applicable allowance (typically this could be couple allowance, family premium, child premium per child, disabled premium, lone parent or any combination of these).

## 8. Application for the allowance

- Carers or prospective carers who wish to be assessed must complete an application form and provide proof of all income and expenditure. Failure to do so will result in a delay in processing the application and could affect the start date of any financial support
- All income available to the family and the child will be taken into account. Foster children (and any associated payments) are not regarded as part of the family for the purposes of the means test
- Where an applicant is self-employed, a copy of the tax determination from Inland Revenue to determine the net income, must be supplied
- Expenditure of the carer/s and the child/ren will be taken into account. This is worked out through a combination of “standard allowances” and the family's specific commitments
- All available benefits must be claimed. The receipt of these may partially reduce the amount of financial support from the local authority
- The financial assessor must check that all information is verified and if earnings are declared, that they are net. If not, the form should be returned to the applicants.

## 9. Calculating the assessed charge

In determining the amount of any ongoing financial support, the national minimum fostering allowance plus any enhancement that would be payable in respect of the particular child, will make up the maximum payment the local authority could consider paying the family. Any means test carried out as appropriate to the circumstances would use this maximum payment as a basis, making adjustments to each particular application

If, following the means test, the residual income is above zero then an assessment of the appropriate level of allowance to be awarded will be undertaken, with the national minimum fostering allowance plus any enhancement that would be payable in respect of the particular child as the starting point, with adjustments taking into consideration the following:

- (ii) the child's needs as assessed
- (iii) any additional benefits received by the family
- (iii) the extent of the residual income
- (iv) any exceptional circumstances.

## 10. Decision-making

- The local authority will consider whether an allowance may be paid in accordance with eligibility and the means test. The supervising social worker (Kinship Team) will provide information to the carers or prospective carers about allowances, including the basis upon which amounts of allowances are determined
- The applicants will receive written confirmation of the decision about whether the allowance should be paid and the proposed amount
- Where the decision is not to pay an allowance, the applicants may choose to make written representations to the Service Manager within four weeks of the date of the notification letter.

## 11. Making payments

All payments will be made by BACS. A form will be sent to the applicants/carers with the application form.

## 12. Review of allowance

- All cases will be reviewed annually
- An application form will be sent out a few weeks before the review date, and must be returned with all proofs of income and expenditure by the deadline date
- Financial support will be reassessed with effect from the date of review
- If the form is not returned by the deadline, financial support may cease and may not be backdated to the review date
- Where a change of circumstances occurs at any time that may affect the level of financial support, the special guardians must notify the Finance Team in writing, with the necessary proofs, and the financial support will be re-assessed accordingly. This applies in cases where income has increased as well as decreased. It must be impressed on special guardians that continuing to claim a level of financial support to which they are no longer entitled in effect reduces the agency's capacity to offer financial support to other special guardians
- Over-payments will be recovered.

## 13. Termination of allowance

Payments will end when –

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

## 14. Other types of payments for additional needs and expenditure

- a. ***Child need specific/ additional allowances that would have been paid to a foster carer based on the needs of the child - Discretionary payments separate to an allowance will be considered in exceptional circumstances***

All additional financial support for children subject to a CAO or SGO must be authorised by the Permanence Panel. The criteria for assessment are as follows:

- Additional needs are directly beneficial to the child as part of the support plan. These are set out under Section 3: Eligibility Criteria
  - Additional payments are discretionary and means tested - The applicants' contribution is calculated as part of the means test will be considered - to be available to pay for additional needs
  - These payments will only be made in exceptional circumstances
  - All payments will be time limited determined by the assessed need of the child which is likely to change over time
  - Benefits will be taken into account as a means to addressing the family's financial situation
  - Alternatives for funding and support are considered and described (e.g. health or education funding, voluntary support groups, disabled facilities or other grants etc.)
  - If the need no longer exists, the payment must stop.
- b. **Expenses to Facilitate Contact Arrangements** – Previously Looked After Children may need to maintain face-to-face contact with important people from their past, such as birth relatives. Where this contact includes significant travel and other costs, financial assistance may be given. Carers who have to make a round trip of 80 miles or more will be able to claim for the following, using the appropriate form and on production of the necessary receipts:

<b>Authorisation and Criteria –</b>	<b>Amount</b>	<b>Authorising Manager/ Budget Holder</b>
Mileage for agreed contact (Care Plan)	35 pence per mile	Kinship Team Manager