

# Special Guardianship Policy

Children and Young People's  
Service

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This policy covers all aspects of Special Guardianship Support Services, including assessment for support services and financial support.

The policy should be read in conjunction with the Family and Friends Policy.

## **Relevant Legislation / Guidance**

- [Section 115 Adoption and Children Act 2002](#)
- [Special Guardianship Regulations 2005](#)
- [Special Guardianship \(Amendment\) Regulations 2016](#)
- [DfE Special Guardianship Guidance](#)
- [Adoption Support Fund](#)
- [Firm Foundations: Complaints about Council Support and Advice for Special Guardians \(Local Government and Social Care Ombudsman\)](#)
- [The Designated Teacher for Looked After and Previously Looked After Children: Statutory Guidance on their Roles and Responsibilities](#)
- [Best Practice Guidance: Special Guardianship Orders \(Public Law Working Group, 2021\)](#)

## **Special Guardianship Support Services Policy**

### **1. Introduction- Special Guardianship Order Support**

1.1. Information regarding kinship care arrangements including Special Guardianship Orders (SGO) are outlined in the Family and Friends policy. This document provides details as to the support available to SGO carers and the assessment process. A One Minute Guide and SGO Flowchart are attached to this policy.

1.2. North Yorkshire Council recognises that in many cases it will be necessary to provide support to Special Guardians to enable them to care for children that are the subject of Special Guardianship Orders (SGO). The support that will be provided

will be dependent upon the needs of the individual child and the Special Guardian. Support may be provided in many ways such as advice, one-off payments for items such as a bed and/or regular payments for routine expenditure. The purpose of this support is to ensure that the child's needs are met and the relationship between the child and Special Guardian is preserved. Lack of support, financial or otherwise, should never be the reason why a Special Guardianship arrangement fails.

- 1.3. Special guardianship arrangements should not fail just because of financial problems. Each case must be considered on its own facts.
- 1.4. There may be circumstances where decisions have to be made as a matter of urgency. In such circumstances North Yorkshire Council will not be bound to follow the procedures set out below and will take the necessary steps to promote and safeguard the welfare of the child. If there is an urgent need of a service, the assessment process should not delay provision. Urgent approval can be given by the Group Manager, however a review should take place as soon as possible after the provision of the support. This will ordinarily take place at the next Family and Friends Panel.
- 1.5. In operating this policy North Yorkshire Council will not discriminate on grounds of race, gender, disability or any other characteristic that may put a service user at a disadvantage to others.
- 1.6. On 15 June 2020, the Public Law Working Group (PLWG) published its final report and best practice guidance (BPG) on special guardianship orders (SGOs). The final report highlights the competing needs for the court to have a robust and evidenced assessment and the child to have a stable long-term placement, against the 26-week deadline for care proceedings. It makes the following four recommendations for immediate change:
  - (SG) special guardianship assessments and support plans should be more robust and comprehensive, with greater focus on the child-SG relationship. SGs should have a period of caring for the child on an interim basis before a final decision is made, and the support plan should include support services for the child and SG's immediate and future needs.
  - Local authorities (LAs) should provide SGs with preparation and training akin to that for prospective foster carers and adopters.
  - There should be a reduction in supervision orders with SGOs being made.
  - There should be renewed emphasis on parental contact and how this should be supported and managed.

1.7. The final report also makes four longer-term recommendations, including the need for an ongoing review of the primary and secondary legislation relating to SGOs. There needs to be further exploration and analysis of the fostering regulations, the possible introduction of interim SGOs, placing further duties on LAs to identify potential carers earlier, and greater support for SGs. The PLWG wants legal aid to be made available for prospective SGs to obtain legal advice and make applications. The guidance makes it clear that pre-proceedings work also needs to become more effective at assessing potential carers and the importance of local authorities engaging with parents and wider family network at an earlier stage.

## **2. What is a Special Guardianship Order?**

- 2.1. A Special Guardianship Order is an order appointing a person or persons to be a child's special guardian. Special Guardianship offers an option for children needing permanent care with someone other than their birth parents. It can offer greater security without absolute severance from the birth family as in adoption. It will address the needs of a significant group of children, mainly older, who need a sense of stability and security but who do not wish to make the absolute legal break with their birth family that is associated with adoption. It will also provide an alternative for achieving permanence in families where adoption is not an option.
- 2.2. A Special Guardianship Order offers greater stability and legal security to a placement than a Child Arrangements Order. Children who were looked after immediately prior to becoming subject to a Special Guardianship Order are eligible for additional support with their education.
- 2.3. Special Guardians will have Parental Responsibility for the child and, whilst this will be shared with the child's parents, the Special Guardian will have the ability to exercise this responsibility on a day to day basis without seeking permission from the parents.
- 2.4. A Special Guardianship Order made in relation to a Looked After Child will replace the Care Order and the Local Authority will no longer have Parental Responsibility. A Care Order will not automatically revoke a Special Guardianship Order although the special guardian's exercise of parental responsibility will be restricted as the local authority will have primary responsibility for decision making under the Care Order.
- 2.5. People thinking about becoming special guardians will be provided with clear, user-friendly information to help them make informed choices. This should include information on support available and how this is reviewed.

### **3. Who may Apply?**

3.1. Applications for Special Guardianship may be individual or joint. Joint applicants do not need to be married. Special Guardians must be 18 or over.

3.2. The following persons may apply without having to obtain the leave of the court:

- Any guardian of the child;
- Where the child is subject of a Care Order, or an Interim Care Order, any person who has the consent of the Local Authority;
- A local authority foster carer who the child has lived for a period of at least a year immediately preceding the application;
- Anyone who is named in a Child Arrangements Order as a person with whom the child is to live;
- Anyone 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 three out of the last five years, providing the child has not ceased to live with the proposed applicant more than 3 months before the making of the application;
- Anyone who has the consent of all those with Parental Responsibility for the child;
- A relative with whom the child has lived for a period of at least one year immediately preceding the application
- Any other person (including the child and other than a parent) may apply for a Special Guardianship Order if he has obtained the leave of the court to make the application. If the Applicant is a child the court will only grant the order if it is satisfied that the child is satisfied that the child has the appropriate understanding to make the application

3.3. The parents of a child may not apply to become their own child's Special Guardians.

### **4. Parental Responsibility**

4.1. The Special Guardian will have Parental Responsibility for the child and will have clear responsibility for the day-to-day decisions about caring for the child. 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.

4.2. 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:

- The change of surname of the child;
- The removal of the child from the United Kingdom for longer than three months;
- The sterilisation of a child.

## **5. When can a Special Guardianship Order be made**

5.1. Any person wishing to make an application for a Special Guardianship Order (SGO) must give 3 months' written notice to the Local Authority where they reside of their intention to apply. If the subject child is a looked after child 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. On receipt of notice of an application for an SGO the local authority must investigate the matter and prepare a report for the court dealing with the suitability of the applicant to be a Special Guardian. The only exception is where the court has granted leave to make the application and waived the notice period. A person who requires the court's permission to make an application for a Special Guardianship Order must have the court's permission to do so before they can give their notice of intention to apply to the local authority.

5.2. The Special Guardianship Report must be prepared including the information outlined in Regulation 21 as updated by the 2016 Regulations which includes assessing the prospective special guardian's parenting capacity to meet the child's current and future needs, including any needs the child may have arising from harm the child has suffered, their ability to protect from harm and ability to care for the child up to the age of 18.

5.3. The court still needs a report in relation to Special Guardianship when in other proceedings the making of an SGO is being considered. If previous reports have already been filed in other proceedings it may be possible to file a shorted special guardianship report dealing with any matters set out in the schedule which have not already been covered, however this is not usual practice.

5.4 In any family proceedings even if no formal application has been made when considering the welfare of a child the Court may make a Special Guardianship

Order. This does not include adoption proceedings. A local authority can not make an application for SGO but can recommend one in the final care plan.

## **6. Next Steps /Preparation of court report**

- 6.1. Once notice has been received that an application for Special Guardianship is to be made, the notice should be passed to the allocated social worker or, if the child is not previously known, arrangements must be made for the case to be allocated to a social worker. The allocated social worker should devise a plan as soon as practicable after the notice is received. The plan should clarify the steps to be taken, who will carry out the necessary assessments and who will contribute to the report for the Court. Court timescales will need to be clarified.
- 6.2. The social worker or social workers preparing the Court report should be suitably qualified and experienced. There are no specific requirements as to the level of qualification or experience required and it will be for the manager of the relevant social work team to ensure that the allocated worker is competent to write the report. Once completed, the Court Report should be submitted by the author(s) to their line manager(s) for approval it will then be forwarded to the Locality Group Manager.
- 6.3. In all cases, there will need to be an assessment of the current and likely future needs of the child (including any harm the child has suffered and any risk of future harm posed by the child's parents, relatives or any other person the local authority considers relevant).
- 6.4. An assessment of the prospective Special Guardian's parenting capacity including:
  - i. Their understanding of, and ability to meet, the child's current and likely future needs, particularly any needs the child may have arising from harm that the child has suffered;
  - ii. Their understanding of, and ability to protect the child from, any current or future risk of harm posed by the child's parents, relatives or any other person the local authority consider relevant, particularly in relation to contact between any such person and the child;
  - iii. Their ability and suitability to bring up the child until the child reaches the age of eighteen.
- 6.5. The proposed contact arrangements and the support need of the child, parents and the prospective special guardian.



- 6.6. The assessment of the applicants should include their medical history, the references received and PNC ( Police National Computer) checks to see what convictions or criminal investigations the prospective special guardian may have been involved with. In North Yorkshire Disclosure and Barring Service (DBS) checks are also undertaken together with and other statutory checks required for the assessment.
- 6.7. Once completed the court report should be submitted to the line manager of the author for approval. The provision support must be considered and detailed in the Special Guardianship Support Plan.

## **7. Approval of Special Guardianship for Looked After Children**

- 7.1. If the child is Looked After and the application has considered at Best Practice and Scrutiny Forum and it is agreed as part of the child's Permanence Plan, the assessments will usually have been undertaken and the outcomes agreed as part of the permanence planning for the child.

## **8. Provision of Special Guardianship Support Services**

- 8.1. North Yorkshire Council must make arrangements for the provision of Special Guardianship Support Services as set out in Section 14F of the Children Act 1989, (which inserts amendments outlined in Section 115(1) of the Adoption and Children Act 2002).

- 8.2. Special Guardianship Support Services are defined as:

- a) Assistance, including mediation services, in relation to contact between the relevant child and their parents or relatives or any other person with whom the child has a relationship that North Yorkshire Council considers to be beneficial to the welfare of the child.
- b) Assistance which supports the continuance of the relationship between the child and the Special Guardian – this may include training for the Special Guardian to meet any special needs of the child; respite care and mediation in relation to matters relating to Special Guardianship Orders.
- c) Financial support
- d) Counselling, advice and information.
- e) Therapeutic services for the child
- f) Services to enable groups of relevant people as identified in S3(1)(b) to discuss matters relating to special guardianship

- 8.3. Special Guardianship Support Services should not be seen in isolation from other services commissioned or delivered by North Yorkshire Council. It is vital to ensure that children and families involved in Special Guardianship arrangements are assisted in accessing all services which they meet the thresholds for and are

aware of their entitlement to apply for any additional benefits such as Universal Credit and Child Tax Credit. Families will be signposted to the income maximisation team to ensure that all available benefits are being claimed. Any financial support paid by the Council is not designed to replace benefits and tax credits and any such payments will be taken into account in consideration of financial payments.

## 9. Entitlement to Assessment for Provision of Special Guardianship Support Services (SGSS)

9.1. Regulation 11 of the SGO Statutory Guidance refers to the assessment in relation to SGSS and outlines the circumstances where North Yorkshire Council must complete an assessment and where it may offer an assessment.

9.2. Where the child was looked after immediately prior to the making of the order, the following people **must receive** an assessment at their request:

- The child;
- The special guardian(s) or prospective special guardian(s);  A parent of the child.

9.3. Where the child was not looked after immediately prior to the making of the order, the following people **may be offered** an assessment of need:

- The child; (where not looked after)
- The special guardian(s) or prospective special guardian(s);
- A parent; (where the child is not looked after)
- A child of the special guardian(s);
- Any person with a significant on-going relationship with the child;

9.4. In the latter the local authority will use its discretion to decide whether or not to complete an assessment. It is important that children who were not looked after are not unfairly disadvantaged. Where a request is made for an assessment and requires allocation to a worker in the children and families service, the Multi Agency Screening Team (MAST) will ensure these are sent to the responsible teams to undertake the assessment. Where financial support is requested any request should be taken to Family and Friends panel with an assessment as to the needs of the children and the reason for the suggested financial support.

9.5. If the child is a looked after child, or subject to ongoing public law proceedings then the support plan will be submitted to the Locality Group Manager who will progress to Best Practice and Scrutiny Forum for consideration. For approval of plans relating to children who are not looked after any financial support requires consideration at Family and Friends Panel.

- 9.6. In cases where discretion is exercised and the local authority decide to undertake an assessment the same procedure should be followed as will be used where people who have an entitlement to the assessment and a means test will be undertaken.
- 9.7. If a local authority decides not to carry out an assessment where they have discretion, they must give the person that decision in writing, including the reasons. The person who requested the assessment must then be allowed 28 days to make representations. The allocated Social Worker must notify the Special Guardian about the outcome of the support assessment and provide them with a copy of the assessment and proposed support plan (if applicable) within 5 working days of it being authorised by a manager. The Special Guardian should be asked to comment on the proposed plan within 28 days.
- 9.8. It is possible for some support to be provided without undertaking an assessment such as providing information, advice or counselling services.

## **10. Assessment for support**

- 10.1. The assessment should be based on the DOH Framework for the Assessment of Children in Need and their Families.
- 10.2. There is a requirement for the assessment to use the domains of the Assessment Framework.
- 10.3. The assessment should consider and include:
- The developmental needs of the child
  - The parenting capacity of the Special Guardian to meet the needs of the child
  - The family and environmental factors that have shaped the life of the child
  - What the life of the child will be like with the special guardian
  - Any previous assessments undertaken in relation to the child or special guardian
  - Where it appears that there is a pre-existing relationship between the special guardian and the parent of the child, the likely impact of the special guardianship arrangements on the relationship between that person, that child and that parent.
- 10.4. After undertaking an assessment, the allocated Social Worker must prepare a written report of the assessment.

- 10.5. Services provided by other organisations or departments within the council must be consulted during the course of an assessment if needs identified relate to services provided by them and may have implications for them to make provisions. For example, housing; education; or health services.
- 10.6. In determining whether to provide support services other than financial support, the council will take into account what is available from other sources. The council will generally expect that the child's support needs will be met through that route.
- 10.7. When carrying out a support assessment, the allocated Social Worker will consider whether financial support over and above any regular allowance is necessary to enable the Special Guardian to care for the child who is subject to the Special Guardianship Order. Such support may include:
- Provision of furniture and domestic equipment
  - Adaptations of the special guardian's home
  - Provision of start-up items e.g. clothing, toys and other items necessary for the purpose of caring for the child.
- 10.8. At the end of the assessment and once the necessary approval has been obtained the social worker must inform the person requesting provision of its outcome including:
- Information about the outcome of the assessment and the reasons for it;
  - Where it relates to financial support, the basis on which this is determined;
  - The services (if any) that the Local Authority proposes to provide to help meet the child's needs;
  - If financial support is to be paid, the amount and conditions attached.

## **11. Support Services Plan**

- 11.1. If the assessment identifies the need for ongoing support services, the allocated social worker will produce an SGO Support Plan setting out the support that will be made available to ensure that the special guardianship arrangements are effective. This will include all provision of practical and financial support
- 11.2. The SGO Support Plan should include:
- a) The services to be provided
  - b) The desired outcomes and criteria for success
  - c) Timescales for provision
  - d) Procedures for review
  - e) A named person to monitor the provision of services in accordance with the Plan.

- 11.3. A copy of the SGO Support Plan will be placed on the child's file for reviewing and monitoring purposes. The allocated Social Worker will coordinate the reviewing process on at least an annual basis.
- 11.4. If the child is a looked after child, then the support plan will be submitted to the Locality Group Manager who will progress to Best Practice and Scrutiny Forum for consideration.
- 11.5. For approval of SGO plans relating to children who are not looked after, any ongoing financial support that goes beyond six weeks, will usually require consideration at Family and Friends Panel. However, any plans which do not have a financial element can be approved by the Locality Group Manager.

## **12. Local Authority Responsibility for SGSS**

- 12.1. Where the child who is the subject of the SGO was looked after by a local authority immediately prior to the SGO being granted the local authority where the child was looked after retains responsibility for the assessment and provision of special guardianship support services for the child, the special guardian, and any children of the special guardian for 3 years after the granting of the SGO regardless of where the child is placed or where the family resides.
- 12.2. Where the child who is the subject of the SGO was not looked after by any local authority immediately prior to the SGO being granted, the local authority in whose area the special guardian lives is responsible for undertaking any assessment of need for SG support services and for the provision of services.
- 12.3. Under Regulation 5, if the Special Guardian and their family move to another local authority the responsibility for the assessment and provision of services will pass to the new local authority, unless as stated above the child under the Special Guardianship Order was previously in the care of North Yorkshire and it is less than 3 years since the making of the Special Guardianship Order.
- 12.4. The only exception to this is financial assistance. Ongoing financial support which is paid on a regular basis and which was agreed before the Special Guardianship Order was made will remain the responsibility of the local authority who agreed it and will only be removed when those in receipt of support no longer qualify for payments.
- 12.5. Based on the assessment of needs, local authorities can apply for funding from the Adoption support fund.

Child looked after immediately prior to the making of an SGO	The LA where the child was last looked after must provide assessment and support services on request for 3 years post order Responsibility for financial arrangements made prior to the making of the SGO remain with the LA where child lived for as long as need it remains the responsibility of the local authority which agreed it for as long as the family qualify for payments.
Child not Looked After by any local authority immediately prior to making of the SGO	The LA in whose area the special guardian lives may offer assessment and support services. If the family move responsibility passes to the new local authority as long as the family qualify for payments

### 13. Provision of Financial Support

13.1. Regulation 6 provides that financial support may be paid in the following circumstances;

- Where it is necessary to ensure that the special guardian or prospective special guardian can look after the child;
- The council considers that the child's assessed needs require a greater expenditure of resources than would otherwise be the case because of illness, disability emotional or behavioural difficulties or the consequences of past abuse or neglect;
- Where it is considered appropriate to make a contribution to the expenditure necessary for the purpose of accommodating and maintaining the child, including the provision of furniture and domestic equipment, alterations to and adaptations of the home, provision of means of transport, and provision of clothing, toys and other items necessary for the purpose of looking after the child

13.2. Financial support may be paid periodically to recognise a need which is likely to give rise to recurring expenditure (special guardianship allowance), or it may be paid as a single payment (possibly in instalments).

13.3. In cases where a support assessment is undertaken of a child who was previously unknown to Children's Social Care, whether the completion of a means test, to determine whether any financial support, will be offered is at the discretion of North Yorkshire Council. The process for assessing financial support is set out in detail in the Family and Friends Policy.

13.4. In cases where it is agreed a financial assessment should be carried out, the special guardians will be asked to complete a financial assessment form which

when completed should be passed to the finance officer responsible for carrying out means assessments. Once the means assessment has been carried out, the finance officer should send written notification of the outcome to the relevant social worker who must present this to the Locality Group Manager.

13.5. The finance team will then write to the special guardian setting out the amount of financial support agreed and information in relation to:

- Where financial support is to be paid in regular instalments and if so the frequency of the payments
- The amount of financial support
- The period for which the financial support is to be paid
- When payment will commence
- Conditions for continuing payment and date by which conditions are to be met, i.e. returning Review forms;
- Arrangements and procedure for review and termination

13.6. Means may be disregarded in relation to:

- The initial costs of accommodating a child who has been looked after;
- Recurring travel costs in contact arrangements;
- Any special care requiring greater expenditure due to illness, disability, emotional or behavioural difficulties or the consequences of the past abuse or neglect of a previously looked after child.

13.7. Where a child has previously been in the care of North Yorkshire Council, the Special Guardian will be entitled to non means tested financial support for the first 2 years after the making of the Special Guardianship Order, following which ongoing financial support will be subject to an annual means test. The process for assessing financial support is detailed separately in the Family and Friends Policy.

13.8. When determining the amount of the allowance which will be paid the finance team will have regard to the amount of fostering allowance which would have been paid if child were fostered. Taking into account the maximum amount of special guardianship allowance available is therefore equivalent to the fostering allowance (less child benefit and any child tax credit for the child subject to SGO) based on the child's age plus any enhancement that would be payable to meet assessed need.

13.9. Discretionary payments may be considered to support the care arrangement if the circumstances are such that otherwise the special guardian would struggle to maintain placement. Each case is unique and based on the assessed needs of the child, circumstances of the special guardian immediacy and risk to the care arrangement disrupting. These cases will be considered at Family and Friends Panel.



- 13.10. The amount payable is calculated using the means testing model developed by the Department for Education (DfE).
- 13.11. Special guardians must be helped to access any benefits to which they are entitled; this will include child benefit and tax credits such as Child Tax Credit and Working Tax Credit. To assist special guardians to achieve this they will be directed to the income maximisation team. Financial support should not duplicate any other payment available to the special guardian and so account is taken of any other grant, benefit, allowance or resource available to the person in respect of their needs as a result of becoming the special guardian of the child.
- 13.12. Legal Costs: The only circumstances when the local authority MUST disregard means is when providing financial support in respect of legal costs, including fees payable to a court in respect of a child who is looked after where the local authority support the making of the SGO.
- 13.13. North Yorkshire Council may provide financial support as a contribution towards legal advice to a prospective Special Guardian associated with:
- a) The making of a Special Guardianship Order or any application to vary or discharge such an order;
  - b) An application for an order under the Children Act 1989 section 8
- 13.14. Such a payment will be contingent upon the Team Manager considering that the application is necessary and in the best interests of the child; that any application for an order falling within (a) – (b) above is likely to succeed; that legal advice is necessary; and that funding for legal advice/representation is not otherwise reasonably available.
- 13.15. In deciding whether to contribute towards any legal costs, the council will also take into account the financial circumstances of the Special Guardian and the child subject to the Special Guardianship Order, other than where the legal costs are in respect of an application for a SGO for a child who is in the care of the council and the council supports the making of a SGO.
- 13.16. The solicitor advising the proposed Special Guardian will be expected to agree to work at the equivalent of public funding rates. Where there are ongoing care proceedings (or a family placement can be supported by a private law order) and a one off legal consultation is required for carers in relation to a SGO/CAO this can be approved by a Team Manager. The team must be in support of the application. The cost approved will be up to £300 + VAT which will allow appropriate consultation time regarding permanence options.



## **14. Review of Special Guardianship Support Plans including financial support**

14.1. Special Guardianship Support Plans must be reviewed taking into account the following:

- Any change of circumstances affecting the support;
- At whichever stage of implementation of the plan is considered the most appropriate;
- In any event at least annually

14.2. The reviews may be a paper exercise where there is no change or a minor change in circumstances. However, if there is a substantial change of circumstances, e.g. a serious change in the behaviour of the child, it would normally be necessary to conduct a new assessment of needs.

14.3. If the local authority decides to vary or terminate the provision of support after the review, notice in writing must be given and the person concerned should be given 28 days to make representation

14.4. Review of financial support:

14.5. Financial support paid periodically to a special guardian is reviewed in the following circumstances;

- On receipt of the annual statement (required pursuant to regulation 10);
- If there is any relevant change of circumstances of the family;
- At any other stage the council considers it appropriate to do so.

14.6. With regard to the frequency required to review the special guardianship order support plan this will be determined by the needs of the child and the carers. Where a financial payment is being made this will need to be reviewed annually, and may include, where possible, a face to face visit to the family. Alternatively, this will be undertaken through virtual / remote means.

## **15. Conditions for payment**

15.1. Where special guardians are in receipt of financial support, a finance officer will write annually to them with a financial assessment review form to be completed, together with a request for information about any change in circumstances for the special guardian or the child.

- 15.2. The assessment form should be forwarded to the finance officer for consideration. Where a change is approved, the special guardian should be notified in writing of the change together with the reasons for the changes.
- 15.3. Financial support paid periodically is not payable until the Special Guardian or prospective Special Guardian complies with the following conditions;
- 15.4. Inform the local authority immediately if:
- Change of address
  - Child dies
  - If there is a change in the financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable to him.
- 15.5. In addition, the special guardian or prospective special guardian will complete and supply the finance department with an annual statement as to:
- Financial circumstances
  - Financial needs and resources of the child
  - Address and whether the child still has a home with him
- 15.6. The Finance team will send a financial review application pack consisting of an application form, guidance notes and covering letter approximately 2 months before a review is due. This should be completed and returned to the team along with supporting documentary evidence, a list of suitable documentary evidence is contained within the application form. The team will contact the Special Guardian if any documentary evidence is missing. Once the financial review is complete and confirmation of the annual visit is received, the team will write out to the Special Guardian to inform them of the outcome. The Finance Administrative Team may be contacted for support if required, contact details are contained in the covering letter.
- 15.7. If conditions are not complied with the council may suspend or terminate payment. In cases where there is a failure to provide the annual statement before further steps are taken a written reminder will be sent out 28 days in advance of any action taken.

## **16. Suspension of financial support**

**16.1.** Payments are suspended when special guardians fail to provide an annual statement of financial circumstances or do not provide supporting evidence within the required deadlines. Payments will not resume until the financial review is complete and allowances are backdated to the point they were suspended once payments resume.

Payments may also be suspended if NYCC are made aware that a special guardian has moved and we haven't been notified as per the conditions noted in 15 above.

## **17. Ending of financial support**

17.1. Financial support will no longer be payable to a special guardian or prospective special guardian if:

- The child ceases to have a home with them;
- The child ceases full time education or training and commences employment;
- The child qualifies for benefits in his own right i.e. income support or job seekers allowance;
- 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 undertaking, in this case the SG will need to contact NYCC to arrange a referral for a children and families assessment. Such support is discretionary, requires referral to Family and Friends Panel, and is not guaranteed.
- Where an overpayment has been made, the financial team will contact the special guardian to arrange recovery of payment

## **18. Contact**

18.1. At the time of completing the Special Guardianship Report for court the agreed plan for contact should be discussed and the contents formally agreed by the prospective Special Guardian(s). The Social Worker should have sought the views of birth parents and anyone holding parental responsibility and attempted to reach an agreement about the appropriate levels of contact and the support required to enable this, prior to the Order being agreed. Where children have siblings in other placements, all professionals involved should plan to ensure any other contact arrangements already in place are not jeopardised by the new plans.

18.2. The Special Guardians would normally be expected to supervise contact arrangements where necessary, except in exceptional circumstances which should be detailed in the Special Guardianship Report.

18.3. Arrangements for contact must be included in the SGO Support Plan.

## **19. Entitlement to Leaving Care Services**

19.1. A child who was looked after immediately before the granting of the SGO, and had been looked after for a total of 13 weeks from the age of 14 years including at some point

past the age of 16, is recognised as a Young Person qualifying, under The Children (Leaving Care) Act 2000, when they reach 18.

- 19.2. The North Yorkshire core offer for care leaver can be accessed at: <https://www.northyorks.gov.uk/core-offer-care-leavers>
- 19.3. If the young person wishes to take part in a university course, then as a young person qualifying they are able to access a £2000 one off to support them at university
- 19.4. Revised statutory guidance require schools, through the designated teacher, to provide support to previously Looked After Children.
- 19.5. A previously Looked After Child is one who is no longer looked after in England and Wales because they are the subject of an Adoption, Special Guardianship or Child Arrangements Order which includes arrangements relating to with whom the child is to live, or when the child is to live with any person, or has been adopted from 'state care' outside England and Wales.
- 19.6. A young person aged 16 and not yet 21 who immediately before becoming subject to a Special Guardianship Order was a looked after child falls into the category of Persons qualifying for advice and assistance pursuant to s24 Children Act 1989.

# One minute guide



## Special Guardianship Order (SGO)

North Yorkshire Council is committed to supporting the best outcomes for looked after children and promoting permanence. Research shows that the most stable and beneficial placements are with long term carers where children know their carers are committed to bringing them up into adulthood, they are able to put down roots and concentrate on other aspects of their lives.

### What is Special Guardianship?

When a carer becomes a child's Special Guardian, they share legal responsibility for the child with the child's parents, but are able to make day-to-day decisions about their care without having to consult anyone else. These include where the child will live or where they will go to school.

A Special Guardianship Order lasts until the child is 18 years old.

### What are the advantages of a Special Guardianship Order?

For the carer, a Special Guardianship Order makes the care arrangements more legally secure than a child arrangement order, and enables the child to maintain stronger links with their birth family than if they were adopted. It also allows carers to have more control over decisions about the child's care, although parents retain some rights and responsibilities.

For older children, Special Guardianship Orders can strike the balance between their need for a safe, stable, caring home throughout their childhood and maintaining strong links with their parents.

Under a Special Guardianship Order, the child is not looked after by the local authority and carers can make all the day to day decisions. This will give you more freedom to raise the child without having additional duties such as attending regular review meetings, annual health need assessments, form filling and having regular social work visits.

## Support

If a child was looked after before the Special Guardianship Order was made, we have a duty to assess the needs of:

- The child
- The Special Guardian            The child's parents

After this assessment, we will look at what support we can offer to help the care arrangements run smoothly.

Support can include:

- Mediation between the child's parents and the Special Guardian
- Counselling, advice and information
- Access to support groups

## Financial Support

Where carers are applying for a Special Guardianship Order as an alternative to remaining on or being placed on a Care Order for cases in care proceedings, the Children and Families service will undertake a means-tested assessment using the Department for Education's recommended means test calculation. This means that a carer may continue to receive up to the weekly allowance (equivalent to the age-related fostering allowance), minus Child Benefit (as an application can then be made for this).

Where the carer is a former foster carer for the child, the fostering allowance will be 'protected' for a two-year period to recognise the transitional period.

The local Authority may consider making discretionary payments to support the care arrangements in relation to other cases. Each case is unique and the circumstances will be considered at Family and Friends Panel.

It is a condition of on-going payments to carers that financial circumstances are reviewed annually. This review may include a face-to-face visit or may be undertaken via remote / virtual means. Payments to carers will usually cease when the child reaches age 18 or if any of the terms of the agreement have not been met.

## Contact us

**North Yorkshire Council, County Hall, Northallerton, North Yorkshire, DL7 8AD**

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