



NOTICE OF MEETING

CABINET MEMBER FOR CHILDREN, FAMILIES AND EDUCATION

THURSDAY, 2 NOVEMBER 2023 AT 5.00 PM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

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If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

CABINET MEMBER FOR CHILDREN, FAMILIES AND EDUCATION

Councillor Suzy Horton (Liberal Democrat)

Group Spokespersons

Councillor Ryan Brent, Conservative
Councillor Chris Dike, Portsmouth Independents Party
Councillor George Fielding, Labour

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

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AGENDA

- 1 Apologies**
- 2 Declarations of Members' Interests**

3 Special Guardianship Order Procedures and Financial Policy (Pages 3 - 50)

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Agenda Item 3



Title of meeting: Cabinet Member for Children, Families and Education
Decision meeting

Date of meeting: 2 November 2023

Subject: Portsmouth Special Guardianship Order (SGO) Policy

Report by: Mark Jowett, Head of Service, Children We Care For

Wards affected: All

Key decision: Yes/No

Full Council decision: Yes/No

1. Purpose of report

- 1.1 The purpose of the report is:
- 1.2 Inform the Cabinet Member of revisions to the Special Guardianship Order Procedures and Financial Policy which are being made to support increased permanence for children in their family network.

2. Recommendations

- 2.1 That the Cabinet Member approves the new Special Guardianship Order Procedures and Financial Policy as attached at Appendix A.
- 2.2 The recommendation supports best practice and ensures Portsmouth City Council complies with legislation, statutory practice, and case law.
- 2.3 The recommendations will ensure that special guardians are appropriately financially supported for children in their care.
- 2.4 The recommendations will ensure that the special guardians receive their existing allowance for a transitional period of two years, before they are means tested in line with the policy.

3. Background

The Legislative Framework

- 3.1 The Adoption and Children Act 2002 provides the legal framework for special guardianship under the Children Act 1989. Section 115(1) of the 2002 Act inserted new



sections 14A-F into the Children Act 1989. A special guardianship order is an order appointing one or more people to be a child's special guardian.

- 3.2 An SGO, is an order made by the Family Court that is one of the options for permanency for children and means that children do not remain looked after by the Council as the special guardian has parental responsibility for them.
- 3.3 An SGO can be recommended by the Council when a family member is assessed to be an appropriate carer, or when a family member makes it known to the Court that they wish to be a special guardian. It is usually an option considered as part of care proceedings, rather than a free-standing private law application. Any potential special guardian is assessed by the Council which reports their assessment to the court.
- 3.4 An SGO can be made to a child's existing foster carer where the carer wishes to become a child's special guardian and a court make an order in their favour. The council will support such applications when appropriate.
- 3.5 Regulations and the Government statutory guidance provide that the Council should as part of any SGO support services plan, consider and provide, when necessary, financial support. As part of the assessment to the Court the Council is required to include a SGO support services plan including details of the financial support to be provided to support the child.
- 3.6 The changes within the revised SGO Policy relate to how financial support is calculated. If financial support is included within the SGO support services plan it will be provided for the child's minority unless anything changes.
- 3.7 There is no proposed change to how the Council responds to requests for an assessment of financial support. As with the previous policy, the updated Policy requires the Council to:
 - undertake a financial means assessment annually; or
 - when a special guardian requests financial support; or
 - when circumstances are known to change such as a child leaving an SGO carer
- 3.8 As a condition of this policy, and in keeping with the proposals contained in this report, all applicants must agree to be financially assessed and to be reassessed annually by the Financial Assessment and Benefits Team (FAB team) or if their finances were to significantly change before the next review was due.

Current policy amendments

- 3.9 The current policy was approved by Cabinet meeting on 15th October 2015 to confirm implementation in line with the SGO Regulations. The report set out proposals to consult on the standardisation of the allowance framework for Special Guardians by reviewing baseline Fostering Allowance.



- 3.10 Cabinet approved this Special Guardianship Policy for implementation with effect from 1 November 2015, the aim of which was to ensure consistency and transparency of support, including the introduction of a reduced two-year period of financial support instead of up to the child's 18th birthday, for all new SGO Carers approved after 1 November 2015. If exceptional circumstances applied, a business case for allowances to continue beyond two years for a further two years could be submitted to the Director of Children's Services (DCS).
- 3.11 The report at the time noted that the proposed changes were consistent with the relevant statutory requirements and case law decisions and did seek to avoid the situation that in seeking an SGO, there would be a financial dis-incentive. It was recognised that the proposal would limit financial support to Special Guardians to £19.2k (based on the estimated average cost before means testing).

Means testing arrangements

- 3.12 On 20 February 2017 (effective 9 April 2017), Financial Assessments, Income and Recovery Department (FAB) produced the policy 'Means Testing Assessment for Adoption, Special Guardianship, Child Arrangement and Residence Orders'.
- 3.13 This Policy states all carers subject to an Adoption Order, Special Guardianship Order, Child Arrangement Order or a Residence Order require a full means tested financial assessment.
- 3.14 The Policy applied principles from the standardised means test model – as issued by the Department for Education and Skills, and The Care and Support (Charging and Assessment of Resources) Regulations 2014 to ensure continuity across services within Portsmouth City Council and to ensure the assessment process is a fair and transparent model when assessing financial support for families. There is no proposed change to this model of assessment.

4. Reasons for recommendations

- 4.1 The Special Guardianship Financial Policy has now been reviewed to clarify and bring Portsmouth City Council in line with the legislative framework, other Local Authorities policies and the Department for Education and Skills 2018 recommendations, the Care and Support (Charging and Assessment of Resources) Regulations 2014.
- 4.2 The policy as it exists pays financial support to SGO carers for two years after an assessment, with an option to request a further two-year extension if agreed by the DCS. The new policy will pay financial support after assessment, until a child is 18 unless there is a change in circumstances, in line with the legislative framework.
- 4.3 It is proposed that the new policy be applied to all new and existing SGO carers, and to carers where the two-year payment has stopped since 2017 (should they respond to our correspondence and request a further assessment). Payments will recommence whilst an assessment is completed. Should the assessment show a need then payment will be backdated to the date it stopped and continue in accordance with the policy. To

date we have identified 45 carers where this may apply, and we will be writing to them to undergo a new financial assessment to determine whether they are eligible for any further financial support.

- 4.4 The impact of the policy is stated in the financial comments below and will bring a pressure to the current budget envelope. However, the benefits will be children living within their family and community with all the benefits that this brings, a reduced number of children being cared for by PCC requiring long term placements in foster care or residential care.

5. Integrated impact assessment

- 5.1 The integrated impact assessment is embedded as Appendix B

6. Legal implications

- 6.1 This new policy is a fairer reflection of the intention of the SGO Regulations from 2005 and their statutory guidance.

- 6.2 A failure to update and change the current SGO does expose the Council to the risk from challenge by way of judicial review in the event that one of the previous SGO carers whose payments were ceased following the 2 year cap.

- 6.3 Subsequent to the implementation of Council's original Policy in respect of the SGO there have been a number of notable Court judgments on this issue including that of *In B v London Borough of Lewisham* [2008] EWHC 738, (Admin), Black J held that the London Borough of Lewisham had failed to have lawful regard to paragraph 65 of the statutory guidance. Black J held that although the guidance did not have the force of a statute, "the local authority had a duty substantially to follow it unless there was good reason to do differently". Nothing that Lewisham had argued in the proceedings "comes close to justifying a radical departure". Putting the matter at its lowest, "a local authority is not free, in my view, to devise a scheme which fails to do what is required by regulation 6 or which dictates that some types of placement for a child carry a significant financial disadvantage in comparison with others or, worse, would impose such a financial strain on a carer that they would be forced to choose another type of placement".

- 6.4 Also the case of *R. (on the application of Becker) v Plymouth City Council* [2022] EWHC 1885 (Admin), which confirmed that a local authority's departure from the government model for special guardianship financial support means testing was unlawful because it failed to give reasons for having done so. The departure in this case had produced a material financial disadvantage to special guardians in the local authority's area.

- 6.5 In the circumstances and in light of the legislative framework and the updated case law it would be prudent for the Council to look to changing its policy to be more in line with the intention of the Statutory Guidance and to consider a retrospective review of those families that have been affected by the current policy.



7. Director of Finance's comments

7.1 The actual cost of the new policy will depend on the increases in SGO awards, the length of the individual arrangements and the financial assessments of the carers. The 2023/24 SGO budget was increased by £0.2m to cover these additional costs, and it is envisaged that the additional costs can be met within the current budget.

7.2 A further budget provision was also created at the end of the 2022/23 financial year to cover any additional costs with regards to any retrospective financial assessments. The financial implications of the policy should be monitored in line with normal budget monitoring procedures and action taken where necessary to ensure that costs stay within the overall budget.

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Signed by: **Sarah Daly, Director Children, Families and Education**

Appendices:

- Appendix A - Portsmouth Special Guardianship Order (SGO) Policy
- Appendix B - Integrated Impact Assessment

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on ...2 November 2023.....

.....
Signed by: **Councillor Suzy Horton, Cabinet Member for Children, Families and Education**

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TITLE: Special Guardianship Order Procedures and Financial Policy	
DATE:	02.11.2023
EFFECTIVE DATE:	10.11.2023
KEYWORDS:	Special Guardianship Orders
ISSUED BY:	
SIGNED:	
DESIGNATION:	Deputy Director, Children's Services
Version Control.	
Amendment:	Date:

Purpose

This policy and procedure set out Portsmouth City Council's Children's Services statutory duties in respect of Special Guardianship Orders (SGO) and the assessment and monitoring process that must be undertaken including financial assessment and post Special Guardianship Order support.

Scope

This relates to children who are the subject of a Special Guardianship Order applications, and children made subject of such an order. This includes all applicants and subsequent granting of an order whether they are the child's foster carers, or relatives or other persons known to the child, and whether the child is a looked after child, or known to Children's Services as a Child in Need, or whether it is a private application where neither the applicants nor the child are known to Children's Services.

Policy Statement

Portsmouth City Council is committed to achieving stability for the children we care for and to supporting all children to have the opportunity for secure and permanent attachments to the adults who care for them.

Where children are unable to live with their own parents, permanent arrangements for their care should be made as quickly as possible to enable the child to feel secure.

A permanent legal arrangement outside of the public care system is preferable to the child remaining in the care of the Local Authority. The making of a Special Guardianship Order can be a way of achieving this, providing a firm foundation on which to build a lifelong permanent relationship between the child and their carer.

Portsmouth's practice framework is restorative in approach, using motivational interviewing and trauma-informed thinking. This will underpin the assessment of all special guardians which will focus on the best interest of the child. It will include consideration of the special guardian's ability to meet the child's physical, emotional and developmental needs, as well as their ability to provide safe and stable environment for their minority.

REFERENCES TO LEGAL, CENTRAL GOVERNMENT AND OTHER EXTERNAL DOCUMENTS

[The Children Act 1989](#)

[Adoption and Children Act 2002](#) (Section 115) and (Schedule 3)

[Children \(Leaving Care\) Act 2000](#)

[Special Guardianship Regulation 2005](#)

[Special guardianship guidance](#) Statutory guidance on the special guardianship services local authorities need to provide in accordance with the Children Act 1989. Updated 2017.

[DfE, Special Guardianship Guidance](#)

[Practice Guidance on Special Guardianship \(Family Justice Council, June 2020\)](#)

[Adoption Support Fund](#)

[Firm Foundations: Complaints about Council Support and Advice for Special Guardians \(Local Government and Social Care Ombudsman\)](#)

[Statutory guidance for local authorities on the Special Guardianship Regulations 2005 \(as amended by the Special Guardianship \(Amendment\) Regulations](#)

PORTSMOUTH CITY COUNCIL AND CHILDREN'S SERVICES DEPARTMENT REFERENCES

[Designated Manager \(Special Guardianship\)](#)

Corm BAAF connected persons assessment

Statement of financial circumstances form

Viability assessment referral form

DEFINITIONS

Looked After: Any child who is in the care of the Local Authority under Section 31 of the (Children Act 1989) i.e. a child for whom the Local Authority has a Care Order or accommodated under Section 20 of the (Children Act 1989), i.e. a child for whom the Local Authority is providing accommodation.

An approved foster carer is a person who has been assessed and recommended via the agency's Fostering Panel and approved via the Agency Decision Maker on behalf of the Director of Children's Services, to foster children, or is a foster carer approved by an independent and registered fostering provider. 'Foster carer' includes any person who is approved as a 'family and friends' foster carer.

A Special Guardian: is usually someone with a close relationship to the child, such as a family member, former foster carer or family friend, but not exclusively.

Care Experienced young people / Care Leavers

Eligible: Aged 16/17 years who have been looked after for at least 13 weeks since the age of 14 years and is still a child looked after.

Relevant: Aged 16/17 years who have been in care at least 13 weeks since the age of 14 years and who has left care.

Former Relevant: Aged 18 to 25 who were eligible or relevant.

Qualifying: A “person qualifying for advice and assistance” is a young person who:

- is aged at least 16 and under the age of 21 and who was a Child Looked After immediately prior to the making of a Special Guardianship Order,
- was subject to a private fostering arrangement until their 16th birthday,
- was successfully returned home for 6 months or more (aged 16/17) and was previously eligible or relevant,
- looked after for less than 13 weeks between the ages of 14 to 18, but including at least 24 hours aged 16 or 17,
- Is aged 16, and under 21 who was looked After in a series of pre-planned short breaks.

PROCEDURE

This procedure is arranged in the following sections:

- 1. Introduction**
- 2. Parental responsibility**
- 3. Legislation and Guidance**
- 4. Where a child was not previously looked after**
- 5. Where a child was looked after prior to Special Guardianship Order**
- 6. Closure of children following granting of Special Guardianship Order**
- 7. Special Guardianship Order - variations or discharge**
- 8. Care Experienced Young People**

Roles and Responsibilities

- 9. Where the child is not currently receiving a service**
- 10. Where the child is currently receiving a service**
- 11. A Child Subject to Court Proceedings**
- 12. Where the applicant is a foster carer**
- 13. Where the applicant is an Independent Fostering Agency (IFA) Foster Carer**
- 14. Financing the Special Guardianship Order Application**

Notification

- 15. Notification of a Special Guardianship Support Plan**
- 16. Notification of the decision in respect of the provision of Special Guardianship Support Services**
- 17. Procedure following notification of application for Special Guardianship Order where child is not looked after**
- 18. Receiving an enquiry or notification re: making a Special Guardianship Order application**
- 19. Procedure following notification of application for Special Guardianship Order where child is looked after**
- 20. Procedures for assessment of applicants for Special Guardianship**

Support

- 21. Special Guardianship Support**
- 22. Assessment of needs for Special Guardianship support services - Persons who can apply**
- 23. Local Authority responsibility for Assessment and provision of Special Guardianship support services**

Financial Support

24. Financial Support

25. Eligibility for financial support

26. Urgent Applications

27. Special Guardianship Orders in International Cases

28. Special Guardian Duty on the Death of the Child

Appendix 1

1. Introduction

- 1.1 Special Guardianship Orders (SGO) were introduced by the [Adoption and Children Act 2002](#) to provide, 'an alternative legal status for children offering greater security than long term fostering but without the absolute legal severance from the birth family that would be the case with an Adoption Order.
- 1.2 It can meet the needs of a significant group of children, 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.
- 1.3 It also provides an alternative for achieving permanence in families where adoption is not considered an option.
- 1.4 A Special Guardianship Order offers greater stability and legal security to a placement than a Child Arrangements Order.
- 1.5 Children subject to a Special Guardianship Order are eligible as previously Looked After Children for additional support with their education (Sections 20(4) and 20A(4) of the Children and Young Persons Act 2008). For further information, please see the [Education of Looked After and Previously Looked After Children Procedure. This does not apply in private Special Guardianship Order applications where the local authority had not looked after the child prior to the Special Guardianship Order being granted.](#)
- 1.6 Special Guardians have Parental Responsibility for the child and, whilst this is shared with the child's parents, the Special Guardian can exercise this responsibility without seeking permission from the parents.
- 1.7 A Special Guardianship Order made with respect to a child who is the subject of a Care Order or for an order for contact to a child in care discharges those orders.
- 1.8 A Care Order, however, does not automatically revoke a Special Guardianship Order although the Special Guardian's exercise of Parental Responsibility is restricted as the local authority has primary responsibility for decision-making under the Care Order.
- 1.9 For further details about Special Guardianship as a permanence option for Looked After Children, see [Permanence Planning Guidance.](#)
- 1.10 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.

2. Parental Responsibility

- 2.1 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).
- 2.2 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.
- 2.3 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 3 months.
- 2.4 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 3 months, either generally or for specified purposes.

3. Legislation and Guidance

- 3.1 The Adoption & Children Act 2002 provides the legal framework for Special Guardianship regarding:
- Who may apply for a Special Guardianship Order.
 - The circumstances in which a Special Guardianship Order may be made.
 - The nature and effect of Special Guardianship orders.
 - Support services for those affected by Special Guardianship.
- 3.2 Applications to become Special Guardians may be made by an individual or jointly by two or more people; joint applicants do not need to be married. Special Guardians must be aged 18 or over. The parents of a child may not become that child's Special Guardian.
- 3.3 A court may make a Special Guardianship order in respect of a child on the application of:
- 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 3 years (which need not be continuous but must not have begun more than 5 years before, or ended more than 3 months before, the making of the application).
- A relative with whom the child has lived for a period of at least 1 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 they have the leave of the court to make the application.

3.4 The court may also make a Special Guardianship Order in any family proceedings concerning the welfare of a child if it considers that an order should be made. This applies even where no application has been made and includes adoption proceedings. When considering whether to make a Special Guardianship order, the welfare of the child is the court's paramount consideration and the Welfare Checklist in section 1 of the Children Act 1989 applies.

3.5 Any person who wishes to apply for a Special Guardianship Order must give three months' written notice to the local authority of their intention to apply. The only exception to this is where a person has the leave of the court to make a competing application for a Special Guardianship order where an application for an adoption order has already been made. This is to prevent the competing application delaying the adoption order hearing.

3.6 On receipt of notice of an application, or if the court makes a request, the local authority will investigate and prepare a report to the court including a financial assessment about the suitability of the applicants to be Special Guardians. This requirement applies to both children we care for and other children. The information to be included in the report to the court is set out in the regulation 21 of the [Special Guardianship Regulation 2005](#) as amended by the 2016 regulations. 2016 regulations outline the special guardianship support services that local authorities must provide. For further guidance see [Special Guardianship Guidance](#).

3.7 The court may not make a Special Guardianship Order unless it has received the report covering the suitability of the applicants. The court still needs a

report in relation to Special Guardianship when in other proceedings where Special Guardianship is being considered. To ensure that the service complies with the standards of good practice set out in the statutory guidance, the social worker who prepares the report to the court should be suitably qualified and experienced. However, where this cannot be achieved, social workers who do not have suitable experience will be supervised by someone who has.

- 3.8 Before making a Special Guardianship Order, the court must consider whether to vary or discharge any other existing order made under Section 8 of the Children Act 1989. The court should also consider whether a Contact Order should be made at the same time as the Special Guardianship Order. A contact order may be made, for example, to require continued contact with the child's birth parents. At the same time as making a Special Guardianship order, the court may also give leave for the child to be known by a new surname and give permission for the child to be taken out of the UK for periods longer than three months.

4. Where a child was not previously looked after

- 4.1 Following the granting of a Special Guardianship Order the child's legal status must be recorded in the child's electronic record and any previous legal status that is no longer relevant ended.
- 4.2 Where there is a support plan in place and services, over and above a Special Guardianship allowance, are being provided the case must remain open within the connected person team. The special guardians' records and the child's records will be updated by the connected persons team as an involvement not an allocated worker.

5. Where a child was looked after prior to Special Guardianship Order

- 5.1 If the child is a looked after child and the application has been 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, in which case there will be no need to hold a planning meeting.
- 5.2 Special Guardianship as an outcome for a looked after child must be approved by a Head of Service as the designated manager. [Designated Manager \(Special Guardianship\)](#).
- 5.3 Where there are safeguarding or welfare concerns about a child, the statutory guidance is clear about the importance of local authorities engaging with the parents and the wider family network at an early stage. A Family Group Conference is one way to ensure the wider network is meaningfully involved to consider the support to the child and family and to explore alternative care arrangements. [Practice Guidance on Special Guardianship \(Family Justice Council, June 2020\)](#).

- 5.4 The Family Group Conference should be used to share information, resolve possible disputes and conflicts with the local authority and to address long-standing tensions within the family. Portsmouth commission Daybreak to deliver this service and the process for securing this can be found here. [Family Group Conferences Procedure.](#)
- 5.5 In assessing the appropriateness of any potential applicants, the local authority must assess whether any option would not be consistent with the child's welfare or would not be reasonably practicable.
- 5.6 It may be the case that applicants are identified, or come forward, late in proceedings, and the court will need to give careful consideration with regard to an extension of the 26-week timescale. See: [Timetabling and timescale for full family and Friends Assessments \(Family Justice Council\)](#) and [Care and Supervision Proceedings and the Public Law Outline Procedure.](#)
- 5.7 Where an assessment of a potential special guardian is needed it is to be expected that this will usually require a 3-month time scale.
- 5.8 Assessments should be robust, evidence-based and child-focused. Before the assessment, the prospective carers should be provided with full information about:
- What the assessment will involve.
 - The time and commitment needed from them.
- 5.9 A letter should be sent explaining the expectations of the carers and what they should think about during the process.
- 5.10 The assessment should carefully balance the strengths families may have: consider any existing relationships they have with the child; explore their parenting experience; the significance for the child of remaining within their family and network, against the carers' capacity to meet the assessed needs and the challenges that a particular child may bring on a long-term basis (including any additional needs as a result of significant harm or neglect they may have experienced), and until their 18th birthday.
- 5.11 In recognising that each situation will be looked at on an individual basis, an interim placement with the proposed special guardians may be appropriately considered to both establish relationships between the child and special guardians and confirm the applicants' ability to carry out their parenting responsibilities, meet the needs of the child and promote their welfare and best interests. This would be considered by the agency decision maker under the fostering regulations. If approved the applicant would be a temporary connected foster carer Regulation 24 Care Planning, Placement and Case Review Regulations 2010.

- 5.12 The child's Looked After Review should make a recommendation regarding the outcome of the Care proceedings for the child's Care Plan and this should be approved by the Designated Manager.
- 5.13 Final recommendations should not be made until the essential tasks and activities for a full Special Guardianship Order assessment are completed.
- 5.14 A Supervision Order should not be sought as a means to ensure support and services are provided by the local authority (or as a form of 'safety net' for a child). Where considered necessary, the report should detail the reasons why such an Order is required.
- 5.15 The prospective carers should have time to read the assessment report before it is filed and comment on the report.
- 5.16 Following the filing of the report, the prospective carers should be given the opportunity to seek independent advice and legal advice to understand fully the implications of any Orders made and if need be, make applications of their own.
- 5.17 A Special Guardianship Support Plan will need to be provided around the time of filing the Special Guardianship Order report and its recommendation, detailing the support to be provided to the carers and the child and include details of the family time for the child with their birth parents. The potential applicants should be able to seek legal advice about the Support Plan.
- 5.18 Where children were looked after immediately before the Special Guardianship Order was made, their Special Guardians will be informed in writing that the young person may qualify for advice and assistance under the [Children \(Leaving Care\) Act 2000](#) . Written information will include details of how to contact Portsmouth City Council Services to discuss needs and services at a future date.
- 5.19 The Local Authority who must provide advice and assistance to the child under the Children (Leaving Care) Act 2000 is the Local Authority who last looked after the child regardless of where the child is living when becoming a qualifying care leaver.

6. Closure of children following granting of Special Guardianship Order

- 6.1 Where no support services are being provided, including a Special Guardianship allowance, the child's records will be closed. All those involved in the Special Guardianship will be informed about the range of Special Guardianship support services that are available either through universal, targeted or specialist services. They will be informed in writing how to request an assessment of need for support services through the Portsmouth MASH should their needs change. They should be informed that the Local Authority

to approach at a future date will be the Local Authority where the Special Guardian is ordinarily resident.

7. Special Guardianship Order - variations or discharge

7.1 Special Guardianship Order can be varied or discharged on the application of:

- i. The Special Guardian (or any of them if there are more than one).
- ii. The local authority in whose name a Care Order was in force before the Special Guardianship Order was made.
- iii. Any person who is named in a Child Arrangements Order as a person with whom the child is to live.

With the leave of the court:

- i. Any parent or guardian of the child.
- ii. Any stepparent who has Parental Responsibility.
- iii. Anyone who had (but no longer has) Parental Responsibility immediately before the Special Guardianship Order was made.
- iv. The child (if the court is satisfied that the child has sufficient understanding to make the proposed application).

7.2 Where the applicant is not the child and the leave of the court is required, the court may only grant leave if there has been a significant change in circumstances since the Special Guardianship Order was made.

7.3 The court may during any family proceedings in which a question arises about the welfare of a child who is subject to a Special Guardianship Order, vary or discharge the Order in the absence of an application.

8. Care Experience Young People

8.1 Children who were Looked After by a local authority immediately before the making of a Special Guardianship order may qualify for advice and assistance under the Children Act 1989, [The Children Act 1989](#), as amended by the [Children \(Leaving Care\) Act 2000](#) and the [Adoption & Children Act 2002](#). In the context of Special Guardianship, to qualify for advice and assistance, section 24(1A) of the Children Act 1989 provides that the child must:

- Have reached the age of 16, but not the age of 21.
- If less than eighteen years old, have a Special Guardianship order in force.
- If eighteen years old or above, have had a Special Guardianship order in force when they reached that age.

Have been looked after by a local authority immediately before the making of the Special Guardianship Order.

Roles and Responsibilities

9. Where the child is not currently receiving a service

- 9.1 Where the child is not known to the department or not currently receiving a service, the referral will come through the MASH who will make a referral to the family support and safeguarding (FSS) for the area that the child lives. The FSS team will then make a referral to the Connected Carers Team following a viability assessment who will hold the child open until the point that the Special Guardianship Order is agreed in court. Special Guardianship Order assessments require both an allocated Child Social Worker and a Connected Carers Social Worker to complete the assessment.
- 9.2 If there is no person in the household with Parental Responsibility for the child a Child and Family Assessment will be completed.
- 9.3 The Connected Carers Team social worker will complete all assessment reports for the court except in circumstances where the applicant is the child's foster carer. In this case the Fostering Supervising Social Worker will complete the assessment alongside the child's social worker.

10. Where the child is currently receiving a service

- 10.1 Where a child is open to Children's Services, the child's Social Worker will make a referral to the Connected Carers Team with the viability assessment form. The assessment will then be allocated to a Social Worker in the Connected Carers Team. The Connected Carers Team Social Worker will carry out the assessment on the prospective carer. The child's social worker is responsible for filing the assessment with the court and presenting this within the court bundle.

11. A Child Subject to Court Proceedings

- 11.1 If the child is subject to court proceedings including care applications, the court can make a Special Guardianship Order which means that there does not have to be an application made by any person as this will become one option to consider during the care proceedings. In these circumstances a Special Guardianship Report will still be required. This will be completed by the connected carers team. Where the person being considered is a Portsmouth city council foster carer the Supervising Social Worker will carry out the Special Guardianship assessment report on the carers.
- 11.2 In circumstances where the child is subject of Care Proceedings and a family member, who is not already known to Children's Services and who has not been assessed by Children's Services, comes forward to apply for a Special Guardianship Order, the child's social worker should refer to the Connected

Carers Team and request an assessment following the completion of a viability form. The Connected Carers Team will complete the assessment for the carers, the child's Social Worker will remain responsible for completing the child and parent section of the report (A and B) and the support plan.

- 11.3 The Social Worker and Team Manager will be responsible for seeking legal advice on the contents of the report following Team Manager approval. The child's Social Worker is responsible for filing the report and financial assessment and special guardianship order plan with the court and sharing them with those being assessed.

12. Where the applicant is a foster carer

- 12.1 Where the applicant is the child's foster carer the applicant's Supervising Social Worker will complete the assessment of the carer for the Special Guardianship report and carry out all statutory checks and referee visits and reports and will ensure that the medical assessment of the applicants is completed. An up-dated health assessment and enhanced [DBS](#) check will be required for the foster carers unless their current health assessment has been carried out in the previous 12 months and DBS check has been carried out in the previous 3 years 12 months- apply same as medical.

- 12.2 The child's Social Worker will take the lead role in co-ordinating the assessment and completes section A and B of the Coram BAAF form and the Supervising Social Worker completes section C of the report for the court ensuring that court timescales have been clarified with the Supervising Social Worker. The child's Social Worker and the Supervising Social Worker should work jointly to consider the Special Guardianship support plan and the Special Guardianship Order financial assessment alongside the applicant.

13. Where the applicant is an Independent Fostering Agency (IFA) Foster Carer

- 13.1 If the child is placed with foster carers from an independent fostering agency (IFA) a meeting will be convened by the child's team manager with the fostering agency to consider how the report should be completed and what the Special Guardianship support plan should include.
- 13.2 The Social Worker/s compiling the reports and their Team Manager/s will sign the assessment reports.
- 13.3 The child's social worker is responsible for making the referral to the Finance and Benefits Team (FAB) who are responsible for carrying out a financial assessment of Special Guardians on behalf of Children's Services, and for reviewing any Special Guardianship Order allowances payable on an annual basis.

14. Financing the Special Guardianship Order Application

- 14.1 The Local Authority will only consider contributing to the prospective applicant's legal fees where the following criteria are met:
- The applicant is not eligible for legal aid.
 - The application is supported by the Local Authority.
 - The plan is to secure legal permanence for the child.
 - The application is supported by all of those with PR and is not being used to avoid Care Proceedings, whereby the Local Authority should take the lead.
- 14.2 Any agreement to provide legal fees must be at legal funding rates. Prior to obtaining any legal advice, prospective applicants must obtain confirmation from their legal advisor that any advice will be completed at Legal Aid rates and for them to provide a costs estimate if they are going to be completing the application and attending Court before funding is agreed.
- 14.3 The Local Authority will consider funding one session of up to one hour of legal advice. If advice is being obtained, then the prospective applicants must confirm their costs/fee before agreeing to proceed. The legal adviser must be an approved Children/Family panel solicitor.
- 14.4 Any contribution to legal fees will be at legal aid rates and must be agreed by the Head of Service.

Notification

15. Notification of a Special Guardianship Support Plan

- 15.1 Where the Local Authority intends to provide services a draft Special Guardianship support plan must be drawn up alongside the Coram BAAF assessment. The plan will detail the ongoing support to be provided from Children's Services via the Special Guardianship Support Service within the Connected Person's Team placement and access to support groups and training. The plan should consider support to be provided by other agencies such as health and education where this is required.
- 15.2 Before finalising the Special Guardianship Support Plan the Local Authority will allow the person the opportunity to make representations. The Regulations require that notice be given of the proposed decision and the Notice must contain the following information:
- A statement about the persons needs for Special Guardian support services.
 - Where the assessment relates to his/her need for financial support the basis upon which financial support is determined.

- Where the Local Authority intends to provide Special Guardian support services.
- The services that are proposed.
- The proposed amount of financial support (if any).
- Any conditions that apply.
- The time allowed for representations to be held – this should be 28 days.

15.3 A draft of the proposed plan (if any) should be attached to the Notice. The final decision should not be made until either the representations have been received or the time allowed has expired. In cases of urgency, where the completion of this process would result in delay to the urgent provision of necessary services the requirement does not apply.

16. Notification of the decision in respect of the provision of Special Guardianship Support Services

16.1 Once the Local Authority has made a decision in respect of the provision of services, they must give notice of that decision and attach a copy of the plan. Special Guardianship Support Plans must be reviewed considering the following:

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

16.2 If there is a substantial change of circumstances a new assessment of needs should be undertaken. 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 representations.

17. Procedure following notification of application for Special Guardianship Order where child is not looked after

17.1 If the court receives a Special Guardianship application and the child is not open to Children's Services, the court will inform the Local Authority and give three months' notice.

17.2 The only exception to this three month notice period is where someone has already applied for an adoption order and the court can give leave for someone else to apply for a Special Guardianship Order. In this case the three month notice period is disregarded to prevent the completing of the Special Guardianship application delaying the adoption order. The court then

considers both applications at the same time to decide which is the best option for the child.

- 17.3 Private applicants where Children's Services are not involved will have taken their own legal advice and it is their choice as to whether they are legally represented in court. The cost of legal representation and of the application will be borne by the applicants.
- 17.4 In existing family proceedings, including care applications, the court can make a Special Guardianship Order "of its own motion" – meaning that there does not have to be an application made by any person. In these circumstances a Special Guardianship report will still be required.
- 17.5 On receipt of notification of an application for Special Guardianship, the Local Authority has a duty to investigate and to provide a report to court about the suitability of the applicant/s to be Special Guardians. The court cannot make a Special Guardianship Order unless it has received the Social Work report on the suitability of the applicants and must have regard to the Welfare Checklist (Children Act 1989) when making their decision. All children will be referred through MASH to be allocated to the FSSS and remain open until the Special Guardianship Order has been agreed in Court. The child's Social Worker will refer to the Connected Carers Assessment Team.

18. Receiving an enquiry or notification re: making a Special Guardianship Order application

- 18.1 The prospective applicant will make first contact with MASH either by telephone or by using the online enquiry form accessed online.
- 18.2 If the child is known and open to an allocated social worker within Children's Services the MASH will forward the enquiry to the child's social worker so that the worker can refer to the Connected Carers Assessment Team and jointly assess and prepare the Special Guardianship report. Applicants should be reminded that they cannot make an application to court until three months after giving written notification of their intention to.
- 18.3 MASH will record the following information on the child's record:
- Name of child(ren) to whom the prospective applicant/s wish to become SGs and their dates of birth.
 - Child/ren's legal surnames and aliases.
 - Address and telephone numbers and all contact details of applicant.
 - Relationships – Birth parent/s and any other with PR; Siblings (can be entered at referral stage); any other person living in the household.
 - Reason is recorded as interest in SG.
 - Any current orders recorded under legal.
 - Involvements – solicitor's details (if known).

- 18.4 Unless at this stage the enquirer is only seeking information or advice regarding special guardianship MASH will allocate to the Family Support and Safeguarding Service who will refer to the Connected Carers Team.
- 18.5 On receipt the allocated social worker will refer to the Connected Carers Team and then send out a written acknowledgement of enquiry regarding intended application for Special Guardianship Order and will arrange to visit the applicants. Where possible this visit should be undertaken jointly with a member of the Connected Carers Team who can provide specialist knowledge regarding Special Guardianship. If the child is already living with the applicants and there is no person in the household with Parental Responsibility for the child a Child and Family Assessment must be completed by the child's social worker.
- 18.6 All Disclosure and Barring Scheme (DBS) checks for all in household age 18+, and all other statutory checks for carers (and carer's partner) will be carried out. Outcomes of checks to be recorded on Form- 'Record of Checks made in respect of Special Guardianship Application.
- 18.7 The Health and Safety checks for the household should be carried out using the Connected Carers t Team Health & Safety checklist. The applicants will provide three referees the Connected Carers Team social worker will visit thee referees. References will be recorded on the forms provided to the referees.
- 18.8 The Connected Carers Team arrange applicants must undergo a full health assessment. (Form AH Adult health Report) which will be returned to the Agency Medical Adviser (Fostering for comment.
- 18.9 All assessment reports for court will be completed within 3 months of receipt of written notification of the applicant's intention to apply using the Special Guardianship Court Report template. Checklist for content of the assessment report for child, child's family and applicants, including health assessments for prospective Special Guardians, statutory checks, references and household health & safety check, and assessment for support can be found within the Coram BAAF form.
- 18.10 The Special Guardianship report will contain an assessment of the needs of the child, as well as an assessment of the suitability of the applicant/s. An assessment of the proposed contact arrangements, as well as the support needs of the child, parents, and the prospective Special Guardian, should be included. Prior to the making of a Special Guardianship Order, the issue of parental contact with the child who may be made the subject of a Special Guardianship Order should be given careful consideration, in terms of:
- The purpose of contact.
 - The factors which are relevant in determining the form of contact, direct or indirect, and the frequency of contact.

- The professional input required to support carers in facilitating the same over time.
- The planning and support required to ensure the stability of the placement in the context of ongoing contact.

18.11 The applicants, birth parents or child, can request an assessment of their needs, including their financial needs. Where the child was not looked after prior to the special guardianship order it is at the discretion of the Local Authority and is the decision of the Service Lead as to whether an assessment of need is carried out. This would consider whether support is necessary to ensure the care arrangement can continue and to consider any additional needs of the child. (see section 26.3) If an assessment is not provided, the applicants must be informed of the reason for this in writing and given 28 days to make representation. Any appeal will be through the Children's Services Complaints process and applicants should be given a 'Comments and Complaints' leaflet at the beginning of the assessment process for further information.

19. Procedure following notification of application for Special Guardianship Order where child is looked after

19.1 Where it is intended that a looked after child will become subject to a Special Guardianship Order, those who must receive an assessment for special guardianship support services at their request include:

- The child.
- The special guardian or prospective special guardian.
- The child's parent.
- A foster carer who has cared for the child for a prescribed period (at least a year).

19.2 The local authority who last looked after the child retains responsibility for the assessment and provision of Special Guardianship support services for three years from the date of the making of the order. It also retains responsibility indefinitely for regular financial support agreed before the making of the Special Guardianship Order. In all other situations, including where the initial three year period has expired, responsibility for assessing and providing support services is with the local authority where the child will reside.

20. Procedures for assessment of applicants for Special Guardianship

Where the child is looked after by Portsmouth City Council

20.1 If the child concerned is looked after any notification should be directed to the child's social worker.

- 20.2 Applicants must give three months written notice of their intention to apply for a Special Guardianship Order (this includes the child's foster carers). On receipt of notification from the applicants the child's social worker will complete all Special Guardianship Order assessment reports for court within 3 months.
- 20.3 Unless directed by the court during proceedings, the trigger for preparing a Special Guardianship report is the written notice given by the applicants of their intention to apply to the court for a Special Guardianship Order. Special Guardianship is a private law order and applicants who are eligible can make a private law application to court three months following notification to the Local Authority. To avoid cancellation and rescheduling of court dates, and extra expense, reports will be completed within 3 months from notification by the applicants to ensure the report is available for the set court date following the application being made. If Special Guardianship is being considered within proceedings report timescales will be directed by the court.
- 20.4 For most looked after children the decision for foster carers, or someone else from the child's wider network, to apply to become a Special Guardian will be made at a planning meeting and, the intention to apply will be reflected in the child's Care Plan. A planning meeting to consider such a change to the child's Care Plan must include birth parents and all those with Parental responsibility. The plan must be agreed by the Service Lead and the change should trigger a Statutory Review for the child where the Plan should be ratified.
- 20.5 Where the child is looked after but there are no proceedings those wishing to apply for a Special Guardianship Order should be advised to formally give three months written notification of their intention to apply for a Special Guardianship Order which will trigger the preparation of the Special Guardianship Order court report by the child's social worker.
- 20.6 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 in respect of considering permanence for the child via special guardianship. The assessing social worker will be supervised by the team leader.

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). Where the assessment identifies that the child requires services from an agency other than Children's Social Care, the social worker should consult with the relevant Clinical Commissioning Group (CCG) or Local Education Authority.

- An assessment of the prospective Special Guardian's parenting capacity including:
 - Their medical history; DBS checks, references, and other statutory checks; any previous assessment undertaken in respect of the prospective special guardian; any likely impact the Special Guardianship Order may have on relationships between the child and the parent.
 - 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.
 - 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.
 - Their ability and suitability to bring up the child until the child reaches the age of eighteen.
 - An assessment of the proposed arrangements for family time and the support needs of the child, parents/those who have parental responsibility and the prospective special guardian.

Where the child is looked after by another Local Authority

- 20.7 The responsibility for all assessments and checks for the applicants lies with the Local Authority in whose area the child is a child in care.

Support

21. Special Guardianship Support

- 21.1 The Local Authority are required to make provision for a range of Special Guardianship support services.

- 21.2 Special Guardianship support services are defined as:

- i. Financial support.
- ii. Services to enable groups of children for whom a Special Guardianship Order is in force (or in respect of whom such an Order is being formally considered), special guardians, prospective special guardians, and parents of the child to discuss matters relating to special guardianship.
- iii. Assistance, including mediation services, in relation to contact between the child and their parents or relatives or any other person with whom the child has a relationship that the local authority considers to be beneficial to the welfare of the child.
- iv. Therapeutic services for the child.

- v. Assistance for the purpose of ensuring the continuance of the relationship between the child and their special guardian or prospective special guardian, including training for the special guardian or prospective special guardian to meet any special needs of the child; respite care; and mediation in relation to matters relating to Special Guardianship Orders.:
 - vi. Counselling, advice, and information.
- 21.3 Where the support provided includes respite care requiring the provision of accommodation, the child must be Looked After for the duration of the period of respite care to ensure that appropriate safeguards are in place.
- 21.4 Special Guardianship Support will be subject to the approval of the Designated Manager (Special Guardianship Support).
- 21.5 The provision of any services (other than counselling, advice, and information) may include cash assistance (for example to pay a babysitter to facilitate a break etc). When cash is provided in this way it should not be means tested as it is being given as part of a service rather than as financial support.
- 21.6 Support services should not be seen in isolation from mainstream services, and it is important to ensure that families are assisted in accessing mainstream services and are aware of their entitlements to tax credits and social security benefits.
- 21.7 Where the child was previously Looked After, responsibility for the assessment and provision of services for the child, the Special Guardian and any children of the Special Guardian all remain the responsibility of the local authority where the child was last looked after for 3 years after the making of a Special Guardianship Order. Thereafter the local authority where the Special Guardian lives will be responsible for assessing and providing support services.
- 21.8 If a child is not Looked After, the local authority where the Special Guardian lives has the responsibility for assessing and providing support services. This includes assessment and any support that is needed by the child's relatives who may live elsewhere. If the special guardian and their family move, then the responsibility passes to the new local authority. The local authority where the special guardian previously lived should cooperate as needed to ensure a smooth transition for the child.
- 21.9 Ongoing financial support (i.e. that paid on a regular basis), which was agreed before the Special Guardianship Order was made, remains the responsibility of the local authority that agreed it so long as the family qualify for payments.
- 21.10 Local authorities may also provide services to people outside their area in other circumstances where the authority considers it appropriate. For example, transitional arrangements by the originating authority where a family

move to allow time for the new authority to review the family's existing plan without a break in service provision.

- 21.11 In addition to the support provided by local authorities, the Adoption Support Fund in England also covers therapeutic support for children, living in England, who were previously in care immediately before the making of a Special Guardianship Order.
- 21.12 Based on the assessment of needs, local authorities can apply for funding from the [Adoption Support Fund \(ASF\) and commission a therapeutic support service meeting the criteria defined by the ASF](#)

22. Assessment of needs for Special Guardianship support services - Persons who can apply

- 22.1 Where the child is Looked After or was Looked After immediately prior to the making of the Special Guardianship Order, the following people will always receive an assessment at their request:
- i. The child
 - ii. The Special Guardian or prospective Special Guardian
 - iii. A parent
- 22.2 Where the child is not Looked After or was not Looked After immediately prior to the making of the Special Guardianship Order, the same people (22.1) may be offered an assessment of their need for Special Guardianship support services.
- 22.3 In all cases, whether the Special Guardianship child is looked after or not, the following people also may be offered an assessment of their need for Special Guardianship support services:
- i. A child of the Special Guardian
 - ii. Any person with a significant ongoing relationship with the child
- 22.4 If a local authority decides not to assess in cases where they have discretion as above, they must notify the decision in writing, including reasons for the decision, to the person making the request. The person who requested the assessment must be allowed at least 28 days to make representations in relation to the decision.
- 22.5 It will not always be necessary to undertake an assessment before providing information, advice, or counselling services. However, if the local authority is considering providing any of the support services (see listing above) then a full assessment should be carried out. However, where a request relates to a particular service or where it is clear that a particular service is what is

required, then the assessment process can be limited to looking at the need for that service.

- 22.6 The assessment should be based on the [Assessment Framework](#) and include the following:
- i. The developmental needs of the child.
 - ii. The child's educational needs.
 - iii. The parenting capacity of the Special Guardian or prospective Special Guardian.
 - iv. Family and environmental factors that have shaped the life of the child.
 - v. What the life of the child might be like with the proposed Special Guardian.
 - vi. Any previous assessments undertaken in respect of the child, the Special Guardian, or the prospective Special Guardian.
 - vii. The needs of the Special Guardian or prospective Special Guardian and their family.
 - viii. The likely impact of the Special Guardianship Order on any pre-existing relationship between the child, parent, and Special Guardian.
- 22.7 Assessments for special guardianship support services should follow the guidance set out in, and use the domains of, the Assessment Framework, recognising that the context is different from that for birth families. This takes into account the child's developmental needs, the parenting capacity of the special guardian and consideration of the family and environmental factors that together help to explain the child's life so far and what life might be like with the new family
- 22.8 Consultation with the relevant Clinical Commissioning Group and Local Education Authority should form part of the assessment process, and the person whose needs are being assessed should be interviewed unless the assessment relates only to information and advice or unless it is not appropriate to interview a child. In this case the child's actual or prospective special guardian may be interviewed.
- 22.9 The assessment process should be flexible and should not delay provision of appropriate services.
- 22.10 After the assessment has been undertaken, the local authority is required to prepare a written report of the assessment.
Special Guardianship Support will be subject to the approval of the Designated Manager (Special Guardianship Support).
- 22.11 At the end of the assessment and once the necessary approval has been obtained, the social worker will inform the person requesting provision of its outcome, including:

- i. Information about the outcome of the assessment and the reasons for it.
- ii. Where it relates to financial support, the basis on which this is determined.
- iii. The services (if any) that the local authority proposes to provide to help meet the child's needs.
- iv. If financial support is to be paid, the amount and conditions attached.

23. Local Authority responsibility for Assessment and provision of Special Guardianship support services

- 23.1 The Local Authority in whose area the Special Guardian is ordinarily resident is responsible for undertaking the assessment of need for support services and the subsequent provision of any services, including financial support and any services needed for a child's relatives who may live elsewhere, for further guidance see [Statutory guidance for local authorities on the Special Guardianship Regulations 2005 \(as amended by the Special Guardianship \(Amendment\) Regulations\)](#) . If the Special Guardian and family move, the responsibility for the assessment and provision of services (including financial support) passes to the Local Authority responsible for the area that the family move to (host Local Authority). The only exception to this is where a child was looked after before the Special Guardianship Order was made.
- 23.2 In circumstances where the child was looked after before the Special Guardianship Order was made, the child remains the responsibility of the Local Authority by whom the child was last looked after for 3 years following the date on which the Special Guardianship Order is made. In these circumstances the child's host Local Authority must provide services based on an assessment of need. This applies wherever the Special Guardian and his/her family live during the 3 year period. However, should the family move, and their circumstances change, the Hampshire and Isle of Wight Children's Services (the home Local Authority) may want to re-assess their support needs.
- 23.3 When the 3 year period from the making of the Special Guardianship Order has expired the Local Authority where the Special Guardian is then ordinarily resident assumes responsibility for assessing and providing all support services other than on-going financial support which was agreed before the Special Guardianship Order was made.
- 23.4 The assessment and provision of on-going financial support (Special Guardianship Allowance), which was agreed before the Special Guardianship Order was made, will remain the responsibility of the Local Authority who originally agreed it if the family qualify for the allowance.
- 23.5 Where an assessment identifies the need for ongoing support services, a Special Guardianship Support Plan must be completed.

- 23.6 Other agencies, such as education and health, may need to be consulted about the contents of the Plan.
- 23.7 As a previously looked after child, the child subject to a Special Guardianship Order will be entitled to additional education support. This will be accessed through the designated teacher in the child's school. For further information, please see [Education of Looked After and Previously Looked After Children Procedure](#).
- 23.8 From 1 September 2021, the [School Admissions Code](#) provides that children being raised by family and friends carers under a Special Guardianship Order or Child Arrangements Order, who struggle to get a school place during the year, will be supported in finding one.
- 23.9 The Plan should be written in such a way that everyone affected can understand and set out:
- i. The services to be provided.
 - ii. The objectives and criteria for success.
 - iii. Timescales for provision.
 - iv. Procedures for review.
 - v. A named person to monitor the provision of services in accordance with the Plan.
- 23.10 Special Guardianship Support will be subject to the approval of the Designated Manager (Special Guardianship Support).
- 23.11 Once the necessary approval has been obtained, the social worker will send the proposed plan to the person requesting support and allow 28 days for that person to make representations about the proposed plan. The social worker should also give information to the person concerned about who to contact to obtain independent advice and advocacy.
- 23.12 Where representations are received, they should be referred to the Designated Manager (Special Guardianship Support) to decide whether to amend or confirm the Plan. The allocated social worker must then write to the person concerned setting out the final Plan. A final notice of the authority's decision must then be given to include the following:
- i. Details of the plan and the name of the person nominated to monitor the provision of services.
 - ii. Where financial support is to be provided:
 - a. The method of determination of the amount of financial support.
 - b. The amount, frequency, start date and period of any payment in instalments.
 - c. When any single payment is to be made.

- d. Details of any conditions and the date by which those conditions are to be met.
- e. The arrangements and procedure for review, variation, and termination of financial support.
- f. The responsibility of the authority in relation to reviews and of the Special Guardian in respect of any conditions.

23.13 Special Guardianship Support Services (other than financial support payable periodically) will be reviewed:

- i. If there is any change of circumstances affecting the support.
- ii. At such stage of the implementation of the plan as is considered most appropriate.
- iii. In any event at least annually.

23.14 Where services are being reviewed the same procedure for assessment must be followed as in a first assessment.

23.15 If a local authority proposes to vary or terminate the provision of special guardianship support services to any person, before making any decision as a result of the review, it must give the person an opportunity to make representations and for that purpose it must give notice of the proposed decision and the time allowed for making representations. This notice must contain the same information as the notification of the outcome of a first assessment including a draft of the revised plan.

23.16 Any change to the Special Guardianship Support Plan will be subject to the approval of the Designated Manager (Special Guardianship Support). Local arrangements will determine whether any additional approval is required for changes to financial support.

23.17 If the local authority decides to vary or terminate the provision of support after the review, notice in writing must be given.

23.18 The format and content of the review will vary depending on the circumstances of the case. Notification of changes of circumstances and any review of the provision of support services need not always necessitate direct contact between the local authority and the special guardian.

Where the change of circumstances is relatively minor the review might be limited to an exchange of correspondence. In particular, the annual review of financial support might be achieved by exchange of correspondence between the local authority and the special guardian. Where the change of circumstances is relevant only to one service the review may be carried out with reference only to that service. However, where the change of circumstances is substantial, for example, a serious change in the behaviour

of the child, it will normally be appropriate to conduct a new assessment of needs.

Financial Support Policy

24. Financial Support

- 24.1 All payments of allowances/re-imbursments will be made in accordance with this policy. Funding must be agreed by the Service Leader and Head of Service for the children we care for according to the scheme of delegation Children and Families Scheme of Delegation.

25. Eligibility for financial support

- 25.1 The Special Guardianship allowance is a contribution towards the cost of accommodation and maintenance for a child in circumstances where the carers are found to be in financial need as deemed by the financial assessment.
All, part of, or none of the allowance may be payable following an assessment of the carer's income and expenditure so not every carer will qualify.
- 25.2 The local authority will carry out a financial assessment in circumstances where:
- Financial support is necessary to avoid the need for a child to be a looked after child and to obtain the best possible placement.
 - Following a request from applicants for a Special Guardianship Order in circumstances where the child is looked after or was looked after immediately prior to the making of the Special Guardianship Order.
- 25.3 Financial assessment and support are payable to facilitate arrangements for a person to become a child's Special Guardian and to support continuation of these arrangements once the Special Guardianship Order has been made. Under a Special Guardianship Order the birth parents do not relinquish their legal responsibility to contribute financially to the support of their child. Any payments to the child from the child's parents will be considered as income when financially assessing the Special Guardian. If the child's parents are not financially maintaining the child, the carer should where appropriate, make an application to the Child Support Agency.
- 25.4 In determining the level of Special Guardianship Order allowances, a Local Authority must legally 'give regard' to the amount of Fostering Allowance which would have been payable if the child were fostered. Portsmouth City Council has taken its fostering allowance rates payable as a starting point for calculating the level of Special Guardianship Order allowances.

- 25.5 In calculating the level of Special Guardianship Allowances payable, elements of the fostering allowance specific to the roles, such as skills fees has been deducted. The rationale being that these elements of Portsmouth City Council Children's Services fostering allowances are not relevant to Special Guardians. Special Guardianship Order allowances are specifically aligned to the element of fostering allowance that reflects the core cost of caring for the child and are means tested but does not take into account child benefit.
- 25.6 Where the prospective Special Guardian previously fostered the child and they received an element of remuneration in the financial support paid to them as the child's foster carer such as a skills fee, the local authority may continue to pay that element of remuneration for two years from the date of the SGO. The purpose of this two-year transitional provision is to enable Portsmouth City Council to maintain payments to foster carers who wish to pursue a more permanent arrangement for the children they care for by becoming their guardian and receive the same financial support as when they were when fostering, thus allowing the family time to adjust to their new circumstances. Whilst not a mandatory requirement, this discretionary payment will be available to all carers to support long term permanent care for our children. Following the two year transition the financial payments will be subject to a means assessment and the element of any remuneration costs may cease.
- 25.7 In addition to those where an assessment must be carried out the following circumstances may result in an assessment and subsequent payment to a special guardian or prospective special guardian:
- a) where it is necessary to ensure that the special guardian or prospective special guardian can look after the child
 - b) where the child needs special care which requires 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
 - c) where the local authority consider that it is appropriate to contribute to any legal costs, including court fees, of a special guardian or prospective special guardian associated with –
 - i. the making of a special guardianship order or any application to vary or discharge such an order
 - ii. an application for an order under section 8 of the Act (a contact order, a prohibited steps order, a residence order or a specific issue order)
 - iii. an order for financial provision to be made to or for the benefit of the child
 - d) where the local authority considers it 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

- 25.8 A Special Guardianship Order allowance is paid according to the Special Guardian's eligibility, following the financial assessment and subsequent yearly review. The FAB team will review the Special Guardianship Allowance annually which is means tested.
- 25.9 Where financial support is being paid as determined by the financial assessment, it is not payable until the special guardian agrees to the following conditions (implemented and monitored by the FAB Team):
- a) That they will inform the local authority immediately if:
 - They change their address.
 - The child dies.
 - Any of the changes mentioned in 26.8 above; or
 - There is a change in resources of the child which may affect the amount of financial support.
 - Where the information is given orally, that they will confirm it in writing within seven days.
 - b) That they will complete and supply the local authority with an annual statement as to their financial circumstances, the financial needs and resources of the child and their address and whether the child still has a home with them.
- 25.10 If information and supporting evidence is not provided within 28 days in order to complete the annual review, then payments will be ceased until all information is provided.
- 25.11 If the young person is a 'qualifying' care leaver and is continuing in education or training the child's social worker must ensure that Children's Services do not financially support the young person with rent and maintenance costs if these costs are being supported by way of a continuing Special Guardianship Order allowance paid to the carer.
- 25.12 A referral for a financial assessment is made by the relevant professional to the Financial Assessments and Benefits (FAB) Team detailing the court date. A FAB assessor will then meet with the carer wherever possible in person and complete the Statement of Financial Circumstances form with the carer to determine the level of financial support, based on assumed benefits applicable. The assessor will consider specific factors including any tax credit or benefit, which would be available to them if the child lived with them. This is consistent with the fact that financial support for Special Guardians is disregarded for the purpose of calculating income related benefits and tax credits.

- 25.13 The amount required by the Special Guardian should be considered in respect of his/her reasonable outgoings and commitments, e.g., housing and transport costs, and daily living expenses, but not outgoings in respect of the child. The financial needs that relate to the child such as a special diet or need for replacement bedding alongside the resources of the child such as a trust fund should also be considered. The proposed special guardian must provide evidence of their financial income and outgoings.
- 25.14 Once the financial assessment has been completed, the carer and social worker will be notified of the outcome. If the SGO is awarded, FAB will need to be notified so that contact can be remade with the carers to establish whether any support with benefits claims is required.
- 25.15 Carers are expected to apply for benefits if applicable, and to seek a financial contribution towards the maintenance of the child from the child's parents where applicable (the carer may need to make an application to the Child Support Agency). Any benefits or maintenance will be counted as income when the financial assessment is carried out. If the child is in receipt of Disabled Living Allowance (DLA) this will not be considered as income in the financial assessment.
- 25.16 The Local Authority shall ensure that Special Guardians are consulted about the amount of allowance paid to them and the terms and conditions under which the financial support is paid. These matters must be set out in an Agreement, signed by the applicant/s and the child's Service Lead and Head of Service. Once the Special Guardianship Order is made, the child placed, and the financial assessment has been completed, the child's social worker will complete a funding request for payment of the allowance and also complete a Payment Request which is signed by the child's Social Worker and Service Lead prior to the commencement of the Special Guardianship Allowance. The funding request is then sent to the Financial Assessments and Benefits (FAB) Team to set up payments from the date of commencement and write to carers confirming the amount and the date it is payable from.
- 25.17 The allowance will be paid from the date on which the Special Guardianship Order is made and will be reviewed annually by the FAB Team. Where annual reviews are not complied with, the local authority may suspend or terminate payment of financial support and seek to recover all or part of the financial support they have paid. However, the local authority may not take any steps to suspend, terminate or seek to recover financial support until they have contacted the special guardian who entered into the agreement a written reminder of the need to provide an annual statement; and 28 days have expired since the date on which the notice was sent.

Financial Assistance other than an on-going Special Guardianship Allowance

- 25.18 Under the Special Guardianship Regulations 2005 Reg 3 (2), the Local Authority has discretion to provide support services in cash e.g., to provide a

babysitter for a break; fund petrol costs to facilitate contact; assist with settling-in costs for a child. This provision will not be means tested and any application for such assistance will be considered on an individual basis and funding must be agreed by the Service Lead and Head of service.

On-going financial support and Local Authority responsibility

25.19 The assessment and provision of on-going Special Guardianship allowance will remain the responsibility of the local authority who originally agreed it for as long as the family in question qualify for payments which was agreed before the Special Guardianship Order was made.

Cessation of financial support

25.20 Financial support to a Special Guardian will cease if:

- The child ceases to have a home with the Special Guardian.
- The child ceases full-time education or training and commences employment.
- The child qualifies for Income support or jobseeker's allowance in his/her own right.
- The child attains the age of 18 unless continuing in full time non-advanced education or training when it can continue until the end of the course or training s/he is then undertaking.

25.21 Apprenticeships are not considered as continuing full time training unless they are paid below the national minimum wage.

Local Authority decision not to assess support needs

25.22 In circumstances where the Local Authority has discretion (where a child is not looked after or needing to be looked after in the absence of financial support) and decides not to carry out an assessment of support needs, they must write, giving the person notice of, and reasons for, the decision allowing the person who requested the assessment at least 28 days to make representation in relation to that decision. If they then wish to, the applicants should make representation through the Local Authority's Complaints Procedure, the details of which they should be given at the commencement of all assessments further guidance can be found at [How to make a complaint about children and families social care - Portsmouth City Council](#). However, it is an expectation of the court that all Special Guardianship applications will have a financial assessment and financial outcome.

26. Urgent Applications

26.1 Where a person has an urgent need of a service, the assessment process should not delay provision and arrangements can be made for support to be

provided as a matter of urgency in appropriate cases. The approval of the Designated Manager (Special Guardianship Support) will still be required. The local authority will need to review the provision as soon as possible after the support has been provided in accordance with the procedures set out above.

27. Special Guardianship Orders in International Cases

27.1 Identifying potential long-term carers for the child within the family may include those who are either resident in, or nationals in, overseas countries. Special guardianship can be considered in placing a child outside of the jurisdiction. Consideration must be given to how assessments are carried out in a legally compliant and culturally relevant manner. Thought should be given to:

- i. The status of special guardianship in that country and other legal matters.
- ii. The relevant matters associated with the care of children in that country: permanent, stable and secure family life; safeguarding; education and health; and specifically, how all of these relate to the personal living circumstances of the host family and their need for support services, including financial and therapeutic support and contact between family members including those resident in the UK.
- iii. Contacting local agencies in that country for guidance on the support that maybe offered.

27.2 In advance of the child being placed, a plan will need to be agreed about how the placement will be supported and what the contingency arrangements are for the child.

Note:

- i. Contracting states to the 1996 Hague Convention will be better placed to offer co-operation and support than some other countries (see [HCCH](#)).
- ii. Social workers should carefully explore the local authority's ability to provide financial support particularly after an initial 3 years. when 'out-of-area placements' are abroad.

See also: [Children and Families Across Borders \(CFAB\)](#).

28. Special Guardian Duty on the Death of the Child

28.1 If the child with respect to whom a Special Guardianship Order is in force dies, the Special Guardian must take reasonable steps to give notice of that fact to:

- i. Each parent of the child with Parental Responsibility; and

- ii. Each guardian of the child.

Appendix 1: Good Practice: Getting it Right First Time

The following suggested good practice is taken from the [Local Government and Social Care Ombudsman report Firm Foundations: Complaints about Council Support and Advice for Special Guardians](#) (May 2018).

The following is not an exhaustive list but sets out some of the positive steps councils can take:

1. Give early, clear and unambiguous advice to people who are considering becoming special guardians. Consider how this can:
 1. Explain what special guardianship is and what this means for parental responsibility, legal security and stability.
 2. Explain the council's role and that of the court.
 3. Set out who can apply to be a special guardian and what alternatives could be more suitable.
 4. Make the process of applying to be a special guardian clear, including the role of the council in writing a report to court.
 5. Explain the assessment process before becoming a special guardian. Explain that applicants may need to complete some training.
2. Be as clear as possible about the support that might be available and how the council will assess the applicant's support needs.
3. Be as unambiguous as possible about the fixed term duration of support and what it is likely to be used for.
4. Back up verbal advice and guidance in writing wherever possible, particularly where this may have long term consequences.
5. Manage expectations early on, for example where special guardians expect ongoing support or help with major personal expenditure.
6. Be as clear as possible with applicants that any support may be time limited.
7. Develop advice for social workers involved in supporting potential and actual special guardians. This could include:
 1. A flow chart showing responsibilities at key stages such as suitability assessment, financial assessment, permanence panel and court.

2. A checklist of things to cover at first assessment visit (for example explaining the process and financial situation).
3. A summary of the SGO assessment process including child information (for example attachment issues and any early neglect or trauma), carers information (for example current relationship and stability).
8. Keep clear and transparent records of contact with special guardians. This is always important, particularly where guardians will probably be supported by several different social workers and other officers over several years.
9. Write support plans that are clear, in plain English and set actions that are as specific, measurable and achievable as possible so the council and guardian can review progress.
10. Make sure support plans:
 1. Are shared, discussed and agreed with special guardians, and this is well documented.
 2. Are written so that they are easy to evaluate and keep under review. It should be easy for the council and guardian to decide whether all the support has been provided.
 3. Are regularly reviewed and kept up to date. Make sure plans continue to meet the child's needs as they change.
 4. Set out the approach to calculating special guardianship allowance. Explain this at the earliest stage as possible, making clear this will be reviewed and depend on evidence of continuing needs.
 5. Keep the best interests of the child at the forefront of decision making.

Form name	Integrated Impact Assessment
Reference	IA551643776
Date	03/10/2023



Policy details

Request date	03/10/2023 21:17
Directorate	PCC Children Families and Education
Service	Special Guardianship Support - Fostering Service
Title of policy, service, function	Special Guardianship Order (SGO) Policy
Type of policy, service, function	Changed
What is the aim of your policy, service, function, project or strategy?	For the policy to comply with legislation, statutory practice and case law, supporting permanence for children in their family network.
Has any consultation been undertaken for this proposal?	no

Equality & diversity - will it have any positive/negative impacts on the protected characteristics?

With the above in mind and following data analysis, who is the policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?	<p>The revised Special Guardianship Order (SGO) Policy sets out open and transparent guidance for both staff and families to ensure that support is accessed from a range of services and is appropriately targeted to meet the assessed needs of children/young people subject to a Special Guardianship Order, in accordance with regulations.</p> <p>The main focus of the revised policy is to support increased permanence for children in their family network, complying with legislation, statutory practice and case law.</p>
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<p>Will any of those groups be affected in a different way to others because of your policy, project, service, function, or strategy?</p>	<p>The revised policy is a fairer reflection of the Special Guardianship Regulations 2005 and the DfES guidance to the regulations. These guidance and regulations govern the processes by which local authorities exercise their discretion in determining requests for special guardianship support services, including Regulation 6 financial support. The finance policy has been developed to set the parameters to ensure all special guardianship carer applications for financial assistance are treated fairly and lawfully. The revised policy will pay financial support after assessment until a child is 18 or there is a change of circumstances.</p>
<p>If you are directly or indirectly discriminating, how are you going to mitigate the negative impact?</p>	<p>Some special guardian carers financial payments have been stopped since 2017 and it may be that they require a further financial assessment to determine a need to backdate payments and for payments to continue in line with the policy. To date 45 carers have been identified where this may apply, and we will be writing to them to undergo a new financial assessment to determine whether they are eligible for any further financial support.</p>
<p>Who have you consulted with or are planning to consult with and what was/will be your consultation methodology?</p>	<p>Feedback from special guardianship carers has been received but there has been no formal consultation.</p>
<p>How are you going to review the policy, service, project or strategy, how often and who will be responsible?</p>	<p>The policy will be reviewed annually by the Head of Children We Care For.</p>

Crime - Will it make our city safer?

<p>This section is not applicable to my policy</p>	<p><input checked="" type="checkbox"/></p>
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Housing - will it provide good quality homes?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Health - will this help promote healthy, safe and independent living?

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?	The policy should promote the opportunity for young people to live within their families which in turn would promote their emotional health and wellbeing.
How are you going to measure/check the impact of your proposal?	It will not be possible to measure/check the impact of the proposal.

Income deprivation and poverty - will it consider income deprivation and reduce poverty?

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?	The policy should promote the opportunity for young people to live within their families which in turn would enable them to be better supported. Special guardianship carers will be financially supported if appropriate following a financial assessment.
How are you going to measure/check the impact of your proposal?	Data showing the numbers of special guardianship carers receiving a financial payment from Portsmouth Council.

Carbon emissions - will it reduce carbon emissions?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Energy use - will it reduce energy use?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Climate change mitigation and flooding - will it proactively mitigate against a changing climate and flooding?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Natural environment - will it ensure public spaces are greener, more sustainable and well-maintained?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Air quality - will it improve air quality?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Transport - will it make transport more sustainable and safer for the whole community?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Waste management - will it increase recycling and reduce the production of waste?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Culture and heritage - will it promote, protect and enhance our culture and heritage?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Employment and opportunities - will it promote the development of a skilled workforce?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Economy - will it encourage businesses to invest in the city, support sustainable growth and regeneration?

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Social value

This section is not applicable to my policy	<input checked="" type="checkbox"/>
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Involvement

Who was involved in the Integrated impact assessment?	Mark Jowett, Head of Service, Children We Care For Page 49
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Name of the person completing this form	Mark Jowett
Date of completion	2023-10-03