



# Special Guardianship Support Policy

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Together for Families



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## 1. Introduction

This policy will be used to guide Cornwall Council's decision making around support services for special guardians, including financial support.

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. Under Section 14F, Cornwall Council is required to make arrangements for the provision of special guardianship support services in order to meet the needs of people affected by special guardianship.

Cornwall Council provides a range of support services to special guardians under the terms of these Regulations, these are:

- Information, advice and guidance;
- Assessment of support needs;
- Services to enable children, their parents and prospective special guardians to discuss matters relating to the arrangements for the child;
- Assistance including mediation in relation to contact between the child and their parents, relatives or other significant people for the child;
- Therapeutic services for the child(ren);
- Assistance to ensure the continuance of the relationship between the child and the Special Guardian to include access to training; and
- Financial support where appropriate, subject to annual assessment.

Support services should not be seen in isolation from mainstream services and it is important to ensure that special guardians are signposted and assisted to access mainstream services, including their entitlement to child benefit, tax credits and other appropriate welfare benefits.

## 2. Financial Support

Whilst local authorities cannot act as a benefits agency or replace family responsibility for the care of their children, including the cost of care, Cornwall Council has a statutory duty to consider support for special guardians.

The general principle is that where a person is seeking to make a permanent and substantial commitment to caring for a child by means of a Special Guardianship Order, this commitment should include a willingness and ability to meet the costs associated with caring for a child in the long-term. The

financial means of the prospective special guardians to care for the child, as with prospective adopters, is an important part of the assessment of their suitability and ability to meet the needs of the child.

Financial support will be considered only where Cornwall Council has assessed the prospective special guardian to be a suitable carer and financial support is considered to be necessary to ensure that the prospective special guardian can care for the child.

Financial support may include:

- A single lump sum payment to meet a specific assessed need;
- A series of lump sum payments to meet a specific assessed need;
- A periodic or regular payment to meet a specific assessed ongoing need, to be determined by Cornwall Council and reviewed annually.

Cornwall Council reserves the right to set the level of financial support and to review the general level of financial support in line with statute and guidance.

A minimum notice of 28 days will be given for any change in allowances, so that special guardians can make representations.

### 3. Single lump sum payments/instalments

Where Cornwall Council supports the plan for a Special Guardianship Order as being in the best interests of the child the provision of a lump sum payment or by way of instalments can be made to secure the arrangements for the child, such as setting up costs, home adaptations, provision of transport, etc. The means of the prospective special guardian will be taken into account when a request for a single lump sum payment or instalment is made.

### 4. Assistance with legal costs

Cornwall Council may contribute towards the legal costs of a prospective special guardian where this is considered to be appropriate and beneficial to the child's welfare. The means of the special guardian will not be taken into account when considering whether to agree to contribute towards the legal costs of the prospective guardian. The authority of the appropriate Head of Service is required before any contribution towards legal costs can be agreed.

## 5. Financial support to former local authority foster carers

Regulation 7 of the Special Guardianship Regulations 2005 (as amended) makes specific provision in regard to financial support for special guardians who were formerly foster carers recruited and assessed by the local authority or an independent fostering agency as professional foster carers and they were foster carers for the child concerned.

The general principle underlying these regulations is that financial support for special guardians should not include any element of remuneration or fee. However, former local authority or agency foster carers for the child are exempt from this principle and any allowance may include an element of additional financial support to offset the loss of a fee element for a period of up to two years from the date of the Special Guardianship Order. Regulation 7(2) provides that this may be extended beyond 2 years in exceptional circumstances.

Cornwall Council's policy is that any decision to extend periodic payments which are commensurate with foster carer's weekly maintenance/fee payments (the 'no detriment' principle) will be considered on a case by case basis, taking into account:

- (a) The needs of the child;
- (b) The resources of the prospective special guardians;
- (c) Any individual and special circumstances that may be relevant.

The only deductions will be the grants, benefits, allowances and resources that become available as a result of becoming a special guardian e.g. child benefit and child tax credits or universal credit. These deductions will not reduce the combined weekly financial support to care for the child.

The final decision in these cases is made by the Service Manager for Fostering and Adoption, in consultation with the relevant Head of Service, taking into account the views of the child's Independent Reviewing Officer.

## 6. Responsibility for assessing support services (not including financial)

Where a child was not previously looked after, it is the local authority where the special guardian lives that is responsible for undertaking an assessment of need and provision of any special guardianship support services in response to

that assessment. If the special guardian and his family move, then the responsibility passes to the new local authority. Where the child was not previously looked after and the special guardian is in our area, Cornwall Council is not under an obligation to assess the need for support services and will consider whether to do this on a case by case basis. If Cornwall Council decides not to carry out an assessment we will give the person notice of the proposed decision in writing including reasons for the decision. The person requesting the assessment will be allowed 28 days to make representations in relation to the decision. Representations are considered by the Head of Service responsible for the Children in Care and Care Leavers Team.

Where the child was previously looked after by Cornwall Council, Cornwall Council shall be responsible for the assessment and provision of support services, if assessed as being required, for three years from the date of the Special Guardianship Order, regardless of where the special guardian lives during those three years. Cornwall Council is able to arrange for special guardianship support services to be provided by another body on its behalf if this is appropriate. After the three year period, if the special guardian no longer resides in Cornwall, the responsibility to assess and provide support services is passed to the local authority where the special guardian lives.

## 6.1. Responsibility for assessing and providing ongoing financial support

A distinction is made between ongoing financial support and other support services. Where financial support is paid on a regular basis and was agreed before the special guardianship order was made, the assessment and provision of such financial support will remain the responsibility of the local authority who originally agreed it (subject to annual assessment).

A financial assessment is offered in all cases where a child has been looked after by Cornwall Council immediately preceding the application for the Special Guardianship Order.

Where a child has not been looked after by Cornwall Council immediately prior to the application for a Special Guardianship Order or the Council does not support the application for a Special Guardianship Order as being in the best interests of the child, financial support is not automatically payable and a financial assessment will not be offered automatically following an application for a Special Guardianship Order. However, in line with the principle that a lack of financial means should not be the sole reason for a special guardianship arrangement failing to be put in place or survive, a decision whether to carry out a financial assessment will be made on a case by case basis. If Cornwall

Council decides not to carry out a financial assessment we will give the person notice of the proposed decision in writing including reasons for the decision. The person requesting the assessment will be allowed 28 days to make representations in relation to the decision. Representations are considered by the Head of Service responsible for the Children in Care and Care Leavers Team.

Where, through private arrangements, whether through legal proceedings or otherwise, a family make arrangements for a child to be cared for under special guardianship, Cornwall Council will initially consider such financial support as may be required under its obligation to children in need in its area under Section 17 of the Children Act 1989 and will only consider financial support under this policy where appropriate.

## 7. Cessation of financial support

Financial support ceases to be payable to a special guardian if:

- a) The child ceases to have a home with him;
- b) The child ceases full time education or training and commences employment;
- c) The child qualifies for Income Support or Jobseeker's Allowance in his own right;
- d) The child attains the age of 18 unless he continues in full-time education or training, when it may continue until the end of the course or training he is then undertaking (subject to assessment);
- e) The special guardians household income rises above the level at which they qualify for financial support; or

## 8. Conditions of financial support paid periodically

If financial support is paid periodically, the special guardian must keep Cornwall Council updated in respect of any change of address; if the child dies; any change in the special guardian's financial circumstances or the financial needs or resources of the child; and any of the changes outlined in paragraph 7 above.

Financial support will be reviewed annually and the special guardian must provide Cornwall Council with an annual statement of his financial circumstances; the financial needs and resources of the child; and his address and whether the child still has a home with him. Failure to provide this information may result in the termination of financial support. If not received,

the local authority will send a written reminder for the annual statement and allow 28 days for the information to be provided before terminating any payments.

## 9. Calculating financial support

Where Cornwall Council is under a duty or has agreed to undertake a financial assessment, any financial support payable to special guardians is subject to means testing. Cornwall Council takes into consideration the financial resources of the prospective special guardians, including tax credits or universal credit and any other benefits that accrue from attaining Parental Responsibility for the child. Any allowances payable will complement but will not replace or duplicate financial support which may be available via the benefits and tax credit/universal credit system is the responsibility of the special guardian, supported by the Local Authority if appropriate, to apply for and claim any benefits to which they become entitled to as a result of acquiring Parental Responsibility for the child(ren) e.g. child benefit. The Local Authority will deduct the amount of benefits for which a special guardian is entitled to from the amount of financial assistance payable, regardless of whether the Special Guardian claims the benefit(s) or not.

Even where a financial assessment has been carried out, financial support will not be payable automatically, and the decision to pay financial support will be made on a case by case basis taking into account the outcome of the financial assessment.

If, when completing a financial assessment (including a review of the same), it is identified that the special guardian has not declared additional income or savings the assessment will be revised accordingly and the revised Financial Support Plan will be implemented, with a start date being the date the Plan is authorised by the Head of Service. Any overpaid monies will be recovered from the special guardian. Depending on the amount of the overpayment this may be by instalments as part of a repayment plan as agreed with the special guardian to avoid financial hardship.

Failure to provide information that is required to undertake the financial assessment or review is likely to result in the termination of financial support (see 7 and 8 above).

## 10. Support plans and reviews

Cornwall Council shall prepare a plan if they propose to provide special guardianship support services, to include financial support, to a special guardian. The support plan will generally be reviewed annually, usually to coincide with the anniversary of the date of the Order, unless a change of circumstances requires an earlier review.

If Cornwall Council proposes to vary or terminate the provision of special guardianship support services to any person, it will provide the person the outcome of the review and reasons for the proposed decision in writing and that person will have an opportunity to make representations on this decision. In respect of an amendment to or termination of any financial support, Cornwall Council may suspend financial support pending the outcome of the representations if they think it appropriate. Representations must be made within 28 days and will be considered in the first instance by the Head of Service responsible for the Children in Care and Care Leavers Team. The outcome of the representations will be notified in writing. Appeals to the decision following representations are made in writing to the Service Director, who will deal with them at stage 1 of the complaints procedure. If the special guardian is still not satisfied they have recourse to the complaints procedure at stage 2.

## Document information

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### Further information

Contact the Children in Care and Care Leavers Team 01872 322200

### Alternative formats

If you would like this information in another format please contact: **Cornwall Council, County Hall, Treyew Road, Truro TR1 3AY**

Email: [comments@cornwall.gov.uk](mailto:comments@cornwall.gov.uk) Telephone: **0300 1234 100**

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