



Financial Support for Children Subject to Special Guardianship Orders

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1. Approach

Northamptonshire Childrens Trust (NCT) has a commitment to ensure a child's need for a permanent home is supported.

The purpose of this policy is to provide information to practitioners, Special Guardians and prospective Special Guardians about the financial support available to support families and individuals offering a permanent home to a child through special guardianship.

Financial support will also be considered for special guardianship orders (SGO) in respect of children who would otherwise have become looked after if such orders had not been granted.

- 1.1 Carers who are proposing to/caring for a child under a SGO can request an assessment for support including financial support. This policy applies where NCT has assessed an SGO to be in the best interest of the child or young person and assessment for financial support may take place prior to the granting of an order.
- 1.2 The payment of financial support is subject to an assessment of need which will consider the means and resources available to the special guardian/prospective special guardian.
- 1.3 The Department of Work and Pension has the primary duty to provide a level of income in circumstances where carers are unable to provide an adequate level of financial support to a child including where an SGO is in place. It is important to ensure that special guardians are supported to access benefits to which they are entitled. NCT will therefore, provide the necessary information and support for special guardians or prospective special guardians to ensure they are aware of and taking advantage of all benefits and universal tax credits available to them.
- 1.4 The Special Guardianship Guidance which can be found at: <https://www.gov.uk/government/publications/special-guardianship-guidance> makes it clear that any other payment available to the special guardian or prospective special guardians (e.g. grant, benefit, allowance or resource) in respect of their needs as a result of becoming a special guardian of the child must be taken into account when determining the amount of financial support provided by NCT.
- 1.5 In Regulation 5 a distinction is made between ongoing financial support (financial support that is paid on a regular basis) which was granted before the SGO was made and other support services.
- 1.6 The assessment and provision of such ongoing financial support will remain the responsibility of the Local Authority/Children's Trust who originally agreed for it for as long as the family in question qualify for payments. Three years after the SGO is granted all other support needs will become the responsibility of the local authority where the child lives.

2. Underpinning Legislation and Guidance

Throughout this guidance specific reference is made to:

- Special Guardianship Regulations 2005 (“the 2005 Regulation”)
- Special Guardianship (amended) Regulations 2016
- Department for Education Special Guardianship Guidance: Statutory Guidance for Local Authorities on the Special Guardianship Regulation 2005
- Children Act 1989
- Adoption and Children Act 2002
- The children and Young Person’s Act 2008
- The Children and Families Act 2014

3. Eligibility for Financial Support for Special Guardians Who Have Not Cared for a Child in the Capacity of Approved Foster Carers

3.1 The central principle for the provision of financial support is set out in Regulation 6 of the 2005 Regulations as being:

“... to help secure a suitable special guardianship arrangement where such an arrangement cannot readily be made because of a financial obstacle.”

3.2 Financial support is payable to a special guardian or prospective special:

- a. To facilitate arrangements for a person to become the special guardian of a child where NCT consider such arrangements to be beneficial to the child’s welfare; or
- b. Support the continuation of such arrangements after a SGO is made

3.3 Such support is payable only in the following circumstances:

- 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 greater expenditure of resources than would otherwise be the case because of the child’s illness, disability, emotional or behavioural difficulties or the consequences of their past abuse or neglect
- c. Where NCT considers 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
 - (iii) an order for financial provision to be made to or for the benefit of the child

- d. Where it is appropriate to make any contribution to the expenditure necessary for the purposes 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 other items necessary for the purpose of looking after child
- e. Where assistance with travel costs is required in order to maintain the relationship through family time between the child and their relatives and/or significant others

4. Assessment

4.1 Where financial support is being requested an assessment must have identified that such support is required for the reasons set out above.

4.2 Regulation 13 sets out the key principle in terms of the assessment of need.

Financial support paid under the 2005 Regulations cannot duplicate any other payment available to the special guardian or prospective special guardian. NCT will support the prospective special guardian/special guardian to access the benefits to which they are entitled.

4.3 The SGO allowance rate will follow NCT's age-related fostering allowance rates including annual uplift and age related uplift. Any enhancement that would be payable in respect of the particular child will make up the maximum payment NCT can consider paying.

4.4 NCT will use the Department of Education Standardised Means Test Model to determine the level of financial support payable to special guardians and will consider the following:

- Any other grant, benefit, allowance or resource available to the person in respect of their needs as a result of becoming a special guardian of a child e.g. child benefits, universal tax credits
- The special guardian's income and means, including significant income from any investments, but not their main home. This includes income in respect of benefits and tax credits awarded to the special guardian for themselves, the subject child and any other children within the household
- The amount required in respect of reasonable outgoings and commitments e.g. housing and transport costs, and daily living expenses (but not outgoings in respect of the child)
- Financial needs that relate to the child (e.g. because of special diet or need for replacement bedding)
- The resources of the child (e.g. a trust fund, maintenance payments received, etc)

5. Disregard of Financial Means

5.1 In accordance with Regulation 13 of the 2005 Regulations NCT may disregard financial means when considering the level of financial support provided in the following circumstances:

- Payments made in respect of a settling-in grant (not inclusive of adaptations)
- Recurring costs in respect of travel within the UK for the purpose of visits between the child and a related person with whom they have family time where NCT would want to promote this family time
- Special care (referred to in Regulation 6 (2)(b)) which requires a greater expenditure of resources than would otherwise be the case because of the child's illness, disability, emotional or behavioural difficulties, or the consequences of their past abuse or neglect, where the child has previously been cared for by NCT
- Where there is an element of remuneration in financial support payments to ex-foster carers for the 'transitional period' (see section 7 below)

5.2 NCT will always disregard means when considering providing financial support in respect of the provision of legal advice to a Special Guardian or Prospective Special Guardian by a suitably qualified solicitor (NOT legal representation), and the fees payable to a court where:

- A SGO is applied for in respect of a child who is 'cared for' by NCT, and
- NCT supports the making of that order, or
- An application is made to vary or discharge a SGO in respect of that child

5.3 At the time of the policy being implemented the financial support available for the provision of legal advice by a suitably qualified solicitor is capped at £250. NCT will confirm in writing any financial support in respect of the provision of legal advice to a Special Guardian or Prospective Special Guardian by a suitably qualified solicitor. Any costs above the amount confirmed in writing by NCT must be met by the prospective special guardian.

5.4 NCT will cover the court fee incurred by foster carers and connected carers making an application for a SGO or to vary or discharge an SGO, where NCT is in agreement with the application and, where legal aid is not available.

5.5 Payments will only be made on submission of receipts.

5.6 NCT will not meet the legal costs of a SGO where they oppose an application by the prospective Special Guardians

6. Notification

6.1 Special Guardians or prospective special guardians will be notified in writing of the outcome of any assessment for support including financial support. Where NCT decides

that special guardianship financial support is to be provided, they will notify the special guardian in writing of:

- The basis upon which the financial support has been determined
- The amount of financial support including any deductions as set out above
- When the first payment of financial support is to be made, both for single and ongoing payments
- The frequency with which the payment will be made
- When the payments will cease
- The arrangements and procedure for review, variation and termination of financial support
- Any conditions attached to the payment

6.2 The basis for the decision should be set out in the special guardianship support plan or updated special guardian assessment of need/review. The payment amounts, details and timescales should be clearly recorded in the special guardianship support plan and Letter of Offer (written correspondence detailing payment arrangements and conditions attached).

Payments should be reviewed after 12 weeks to ensure that all entitled benefits have been applied for and SGO allowance has been adjusted to reflect entitlement.

6.3 Should the Special Guardian or Prospective Special Guardian wish to challenge the outcome of an assessment for support including financial support then should make representations to NCT Service Manager for Adoption and SGO Support in writing within 28 days from the date the decision is sent to them.

6.4 NCT will only commence the provision of support including financial support once the Special Guardian or Prospective Special Guardian has made representations or confirmed to NCT their agreement with the proposed decision and where applicable draft support plan including the financial decision or the period of time for making representations has expired.

7. Arrangements for Former Foster Carers

7.1 Specific provision is made in regard of financial support for Special Guardians who were formerly approved foster carers for the specific child or young person. The general principle underpinning this is that financial support should not include any element of remuneration to special guardians, but former foster carers may be exempted from this for a period of up to 2 years. This principle is to allow for a period of financial adjustment following the making of an SGO.

7.2 Regulation 7 of 2005 Regulations provides for the inclusion of an element of remuneration but the decision to include it must be taken before the special guardianship order is made and NCT consider this to be necessary for a person to become a special guardian where:

- a) the special guardian or prospective special guardian has been an NCT approved foster parent in respect of the child; and
 - b) an element of remuneration was included in the payments made by NCT to that person in relation to his fostering the child.
- 7.3** The element of remuneration ceases to be payable after the expiry of the period of two years from the making of the special guardianship order unless NCT consider its continuation to be necessary having regard to the exceptional needs of the child or any other exceptional circumstances.
- 7.4** Where a request is received for continuation of the remuneration after the initial two year period this will be subject to an assessment of need and a means tested financial assessment.
- 7.5** As with special guardians who are not former foster carers, the same conditions for receiving financial support apply in accordance with Regulation 10 of 2005 Regulations. These conditions are listed in Section 9 Conditions for Receiving Financial Support
- 7.6** The SGO allowance rate will follow NCT's age-related fostering allowance rates including annual uplift and age related uplift. Any enhancement that would be payable in respect of the particular child will make up the maximum payment NCT can consider paying.
- 7.7** There may be cases where the applicant is an approved foster carer and intends to continue to foster. In these circumstances the income received from their role as a foster carer is disregarded in respect of the needs based SGO allowance. Any request for remuneration to be paid after the two years expires will require an assessment of need and means tested financial assessment. This financial assessment will consider all income, including any income received from fostering.
- 7.8** As per 4.4 above NCT will use the Department of Education Standardised Means Test Model to determine the level of financial support payable to special guardians.

8. Arrangements for Private Applications (Children not previously cared for by NCT)

- 8.1** Financial support may be considered for SGOs in respect of children who would otherwise have become cared for if such orders had not been granted.
- 8.2** Financial support will only be awarded following an assessment of the child/ren needs and will be means tested. Any allowance will be paid for a maximum of 12 months and will then be subject to review; this will include a means tested assessment. This will consider the needs of the child and all resources available to the family. Upon review the allowance may remain unchanged, reduce or cease.

9. Conditions For Receiving Financial Support

9.1 In order to receive regular financial support, the Special Guardian or Prospective Special Guardian must agree to the following conditions:

That they will inform NCT immediately if:

- a. They change address
- b. The child dies
- c. The child ceases to have a home with the special guardian/s
- d. The child ceases full-time education or training and commences employment
- e. The child qualifies for Universal Credit or Job Seeker's allowance (or equivalent income support allowance) in their own right
- f. The child attains the age of 18 unless he continues in full-time education or training, when the financial support may continue until the end of the course or training, they are undertaking. Funding will not continue where the child is in a work-based apprenticeship
- g. There is a change in their financial circumstances or the financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable to them.

9.2 To provide an annual statement to NCT of their financial circumstances (as per section 4.4 above). Where information is given orally, the Special Guardian or Prospective Special Guardian will need to confirm the position in writing the NCT within seven days. Advice and assistance can be provided on completing the forms upon request.

9.3 Financial support will cease to be payable where paragraphs 9.1 'b, c, d, e, f' apply or if the Special Guardian fails to provide an annual statement of their financial circumstances to NCT.

10. Review of Regular Financial Support

10.1 Regular reviews enable NCT and special guardians to reassess the effectiveness of any services provided and consider whether it is appropriate to continue that service or change the provision in some way. Special Guardians will be notified in writing 4-6 weeks prior to their financial review with request for provision of their annual statement of financial circumstances.

10.2 Where NCT provides regular financial support, it is a requirement of the 2005 Regulations that it must review the financial support:

- Annually (on receipt of the annual statement from the Special Guardian)
- If there is any relevant change of circumstances that the Special Guardian is required to notify NCT about (see section 5 above)
- At any (other) stage in the implementation of the plan that NCT considers appropriate

10.3 Whilst the SGO remains in place, continuation of the provision of regular financial support will remain in place if the following is met:

- a. The eligibility criteria in Section 3 and 5 continues to be met; and
- b. The financial assessment paperwork is completed and returned to NCT upon request. This must include the special guardian providing evidence of any income or expenditure which is dated within the last three months of the review date
- c. Following annual review the special guardian's means are such that they still require financial support
- d. The review evidences that any needs identified for the child remain, or an updated assessment identifies new needs requiring financial support
- e. Where continued financial support was agreed pre-order due to exceptional circumstances and is detailed in the special guardianship support plan

10.4 Periodic financial support will not exceed NCT fostering allowance rates. Where a review indicates the criteria for financial support continues to be met, payments will be based on the current age-related fostering allowance rates.

11.Reduction or Termination of Support

11.1 Where, as a result of the review, there is a proposed reduction or termination of financial support, NCT will notify the special guardian of the decision in writing.

11.2 If they disagree with the decision, the special guardian should make a formal representation to the Service Manager for Adoption and SGO Support within 28 working days. The Service Manager may decide to suspend payments pending the decision if this is deemed appropriate.

11.3 The Service Manager will consider any representations in accordance with the needs and circumstances of the child and the resource of the special guardian to meet these needs, following which the final decision will be provided.

11.4 NCT may suspend financial support where:

- Special guardians fail to provide an annual statement. In such case a final notice will be sent. Where the statement is not received within 10 days of the final notice NCT will take steps to suspend, terminate or seek to recover financial support after 28 days have expired from the date the initial notice was sent.
- Any other specific conditions have been agreed in relation to the provision and these have been non complied with, NCT may suspend or terminate payment of the financial support and seek to recover all or part of the financial support they have paid

11.5 NCT is committed to delivering this policy subject to, any change in legislation/statutory guidance and/or significant change in the financial circumstances of the special guardian which would require a means and needs assessment to determine the amount of continued financial support. This means that terms and conditions detailed within this policy may change.