

# Developing Good Practice in Financially Supporting Special Guardians

a guide for local authorities

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Adoption and Special Guardianship Leadership Board



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## Acknowledgements

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## About the Adoption and Special Guardianship Leadership Board

The Adoption and Special Guardianship Leadership Board (ASGLB) was jointly developed by Government, local authorities and the voluntary sector to provide national leadership to the adoption system, improve its performance and tackle the key challenges it currently faces. In April 2018 the Board's remit was expanded to include issues affecting families subject to SGOs. This meant revising the membership to include representatives from the Kinship Care Alliance.

The Board's aims are that:

1. Decisions about permanency are consistent and informed by the evidence of what is in the best interests of the child
2. Children are placed with the right family without unnecessary delay
3. Every child in a placement and their family has access to high-quality support from day one to adulthood and beyond

Where appropriate, the Board will engage with other key stakeholders from the adoption, special guardianship and wider children's services sectors. Board members work together collectively to achieve the Board's objectives. This principle of cross-agency working is critical to ensuring that the Board delivers its overall aim of driving significant improvements in performance. Key aspects of the Board's work programme are taken forward by task and finish groups, defined on an issue by issue basis and involving a wider membership where appropriate. The Board will typically meet on a quarterly basis but may meet more frequently if required. The Board were meeting at the DfE offices until the start of the Covid-19 pandemic, where all meetings have taken place online via Microsoft Teams.

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## About Kinship

Kinship is the leading charity in England and Wales for kinship carers – relatives and friends who raise children when their parents aren't able to. We offer kinship carers expert advice as well as financial, legal, practical and emotional support and understanding from the moment they need it, for as long as they need it. We're always there to help with the complicated and stressful decisions that so many kinship families have to make, as well as to celebrate the good times.

Working alongside kinship carers and the children they raise, with their voice and views at the fore, we build communities of support and give everything we have to fight for each family and their rights, as well as to raise awareness of kinship care and secure better support for all those playing this critical role.

# Foreword

## Dr Krish Kandiah, Chair of the Adoption and Special Guardianship Leadership Board

Special guardians are some of the hidden heroes of the care system. Despite more children currently leaving care on a Special Guardianship Order than an Adoption Order, many people have little or no idea what special guardians are, let alone appreciate the countless hours of care and attention they pour into the lives of some of the nation's most vulnerable children.

I want to put on record my personal gratitude for the way special guardians have stepped up since the order was introduced in 2002. My wife and I have many close friends who were sisters, grandparents and aunts to children they now parent full time as special guardians. One of those children is our god-daughter. Despite the traumatic start she had in life, and her significant medical needs, we have seen her thrive in the stability of a loving family. I have seen first hand the difference that consistent love and commitment can bring to children and their outcomes. Special guardianship can be a genuinely wonderful opportunity for children to know the love of a family for life.

Since I became chair of the Adoption and Special Guardianship Board in early 2021, I have also heard from numerous special guardians across the country through our reference group, through surveys, at events and in peer support groups. One area of concern they have raised is the struggle many special guardians face to get the financial support they need. For those carers who did not expect to be bringing up children in their older age, or for those who had to give up work in order to attend to the needs of children who have experienced the trauma of neglect and abuse, there is a serious financial cost. For some that cost entails the risk of pushing them into poverty. I agree that this need for financial support must be acknowledged and addressed.

The three local authorities that feature in this report are being particularly ambitious, taking steps so certain special guardians are financially supported consistent with how children in foster carer are supported in their locality. They have been able to do this in a way that not only means that children's needs are met and prioritised, but also in a way that produces a net saving for the local authority. I am also grateful to Kinship for producing this deep dive research on behalf of the Board, as well as the Association of Directors of Children's Services for taking part in a roundtable event where results were shared with local authority leaders.

If we are going to make sure every child in care gets the loving permanent homes they require to flourish, we must be courageous and make sure that the needs of those children and their special guardians are both understood and met. I very much look forward to the positive impact this report will have, not only on the special guardianship system as a whole, but on the lives of individual children around the country.

# Background

Special guardianship orders (SGOs) were introduced by the Adoption and Children Act 2002 and came into force in 2005. They are underpinned by the Special Guardianship Regulations 2005, the Special Guardianship (Amendment) Regulations 2016, and Special Guardianship Guidance (2017)<sup>1</sup>.

SGOs are now an accepted form of permanence for children who are unable to live with their parents<sup>2</sup> and they are regularly used by the family court as an outcome of public and private care proceedings. Between 2011 and 2020 inclusive, data from the Ministry of Justice identified that overall, 66,909 SGOs were granted in England and Wales; 50,676 in public proceedings and 16,233 in private law care proceedings<sup>3</sup>.

There continues to be limited research into the use of SGOs, including on the experiences of special guardians and the children they care for<sup>4</sup>. The research available has identified that children who are subject to SGOs have commonly experienced various forms of loss and trauma through experiences such as parental serious illness or death, or abuse and neglect. These experiences usually have an adverse impact on children's development and result in them having additional needs<sup>5</sup>. Special guardians generally have similar demographics and have faced similar disadvantages to other kinship carers, which may differ to those faced by parents, foster carers, and adoptive parents. For example, special guardians are more likely to be older, have chronic limiting health conditions, live in poverty, experience

social deprivation, live in social isolation, and be insecurely housed<sup>6</sup>. Despite these challenges, the outcomes for children living with special guardians are generally good<sup>7</sup>.

These factors mean that many special guardians and the children they care for require additional support<sup>8</sup>. However, support for special guardianship families is often inadequate. One reason for this is that access to support is usually dependent on whether the child was previously in the care of the local authority rather than on their assessed needs<sup>9</sup>. Although local authorities have a duty to provide support services for special guardians<sup>10</sup>, many are not fulfilling this duty<sup>11</sup>. Special guardians often feel there is a 'cliff edge' to support where they are offered high levels of support during care proceedings that end once the SGO is granted<sup>12</sup>. Not only can this leave families unsupported when they are in crisis, it also leaves special guardians feeling abandoned and mistrustful of their local authorities. Concerns about the lack of support has resulted in the Local Government and Social Care Ombudsman taking action against several local authorities who have failed to properly support special guardianship families in their areas<sup>13</sup>.

Feedback from special guardians has identified that one of their main concerns is not being able to afford to raise their special guardianship children<sup>14</sup>. When people become special guardians in reality they take on full financial responsibility for the children they are caring for, which leads to many falling into poverty<sup>15</sup>.

1 Department for Education (2017)

2 Harwin et al (2019), Harwin and Simmonds (2019), Masson et al (2019)

3 Mistry of Justice (2020)

4 Harwin and Simmonds (2019)

5 Wade et al (2014), Bowyer et al (2015), Cafcass (2015) Harwin et al (2019), Masson et al (2019)

6 Wade et al (2014), Bowyer et al (2015), Cafcass (2015) Grandparents Plus (2017, 2018, 2019 and 2020) Harwin et al (2019),

Masson et al (2019), Kinship (2021), McGrath and Wrafter (2021)

7 Wade et al (2014), Harwin et al (2019)

8 Wade et al (2014), Bowyer et al (2015), Cafcass (2015) Harwin et al (2019), Masson et al (2019)

9 Masson et al (2019), Kinship (2021), McGrath and Wrafter (2021)

10 Department for Education (2017)

11 Local Government and Social Care Ombudsman (2018)

12 Wade et al (2014), Bowyer et al (2015), Cafcass (2015) Grandparents Plus (2017, 2018, 2019 and 2020) Harwin et al (2019),

Masson et al (2019), Kinship (2021), McGrath and Wrafter (2021)

13 Local Government and Social Care Ombudsman (2018)

14 Wade et al 2014, Grandparents Plus (2017, 2018, 2019 and 2020), Kinship (2021), McGrath and Wrafter (2021)

15 Ibid.

Poverty has a significant impact on children. Children who come from the most deprived backgrounds are more likely to experience social care interventions and have poor health when compared to their peers from more affluent communities<sup>16</sup>. Special guardians have identified that living in poverty affects their ability to meet the needs of their special guardianship children. For example, many have resorted to using foodbanks or going hungry themselves in order to feed their children<sup>17</sup>. Furthermore, when special guardians feel overwhelmed with their financial worries, they often feel less able to focus on the wider needs of the children such as their education or their therapeutic needs<sup>18</sup>.

The lack of financial support is a significant issue for special guardians. In a recent survey of nearly 2,000 kinship carers, 82% had worried about money during the preceding year<sup>19</sup>. The survey identified that although 75% of special guardians received an allowance, most were subjected to an annual means test and review which added to the stress of the role. Furthermore, 74% of special guardians who did receive an allowance found it was not sufficient to meet the needs of their special guardianship children. Kinship's advice service advises over 3,500 kinship carers every year. Last year, 64% of all contacts to the advice service were about financial issues, which included calls from special guardians who were struggling to cope because of the lack of financial support. A report commissioned by the Adoption and Special Guardianship Leadership Board identified that special guardians wanted clear information on what financial support is available and how it is calculated<sup>20</sup>. However, this is not always happening<sup>21</sup>. The lack of financial support for special guardians is a national problem. The Local Government and Social Care Ombudsman reported:

*We have found examples of councils who have not set out clear guidance on how they calculate allowances, faulty council policies and a council that failed to pay special guardianship allowance at the same rate it paid fostering allowance as the law requires.*<sup>22</sup>

Each local authority in England must have a policy in place that details the support they provide to special guardians and this should include financial support. However, the lack of consistency in the way local authorities financially support special guardians has resulted in a 'postcode lottery' where the financial support a family receives is based on where a child lives rather than on the needs of the children.

There is limited data on the impact that supporting special guardians has on children's social care. However, in April 2021 the previous Director of Leeds City Council's Children's Services, Steve Walker, argued that increasing support to special guardians contributed to saving the local authority £12 million annually<sup>23</sup>.

This guide aims to begin to build the evidence base to support local authorities to develop policies to provide secure financial support to special guardians. Three case studies are presented of local authorities that have chosen to go beyond their legal duties in certain aspects of the financial support they provide to some special guardians. Interviews were carried out with a senior member of staff in each local authority who was involved in the development of the financial support policy. The case studies are representative of the views of the professionals interviewed. The interpretation of findings from the interview are presented in the key findings, summary of findings, and the recommendations sections of this report. It is important to note that these case studies demonstrate small improvements in financial support and all three local authorities acknowledge there is a need to continue to develop the support offered to special guardians.

It is beyond the remit of this guide to address the issue of the provision of financial assistance for legal costs.

<sup>16</sup> Bywaters et al (2016)

<sup>17</sup> Grandparents Plus (2017, 2018, 2019 and 2020), Kinship (2021), McGrath and Wrafter (2021)

<sup>18</sup> Ibid.

<sup>19</sup> McGrath and Wrafter (2021)

<sup>20</sup> Adoption and Special Guardianship Leadership Board (online)

<sup>21</sup> Local Government and Social Care Ombudsman (2018)

<sup>22</sup> Ibid.

<sup>23</sup> Walker (2021)

# The regulatory framework of financial support for special guardians

## *Financial issues should not be the sole reason for a special guardianship arrangement failing to survive.*<sup>24</sup>

The primary legislation covering special guardianships is the Children Act 1989, sections 14A to 14G. The regulations and statutory guidance that provides for financial support can be found in chapter 2 of the Special Guardianship Regulations 2005, (as amended by the Special Guardianship (Amendment) Regulations 2016) and the statutory guidance<sup>25</sup> for local authorities on the Special Guardianship Regulations 2005 (as amended by the Special Guardianship (Amendment) Regulations 2016). There is also further statutory guidance (Department for Education 2011), which covers friends and family care more generally. The guidance on family and friends' care requires that all local authorities publish a family and friends policy that details how they plan to support children in kinship care<sup>26</sup>.

Regulation 6 of the Special Guardianship Regulations 2005 allows financial support to be paid to special guardians or prospective special guardians to enable them to take on the role. Financial support can also be paid to support special guardians or prospective special guardians to raise their special guardianship child. Financial support is payable if the local authority considers that it necessary to ensure that the special guardian can care for the child, or where the local authority considers the child's needs are such that they would require a 'greater expenditure of resources that would otherwise be

the case because of illness, disability, emotional or behavioural difficulties or the consequences of his past abuse and neglect.'

Paragraph 65 of the statutory guidance<sup>27</sup> directs local authorities to 'have regard to the amount of fostering allowance which would have been payable if the child were fostered' when determining the amount of a special guardian's financial allowance.

There are three key pieces of case law which are concerned with the amount of financial allowance payable to special guardians (links to these judgements are available in the resources section):

- B V London Borough of Lewisham [2008] EWHC 738 (Admin)
- Barrett v Kirklees Metropolitan Borough Council [2010] EWHC 467 (Admin)
- R (TT) v London Borough of Merton [2012] EWHC 2055 (Admin)

These court judgments are clear that local authorities must base their special guardianship allowance rates on their fostering allowance rates, the national minimum fostering allowance should be the minimum rate for special guardianship allowances, and local authorities must have a clearly justifiable reason to pay special guardians an allowance at a rate lower than that paid to foster carers.

<sup>24</sup> Department for Education 2017

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

The Local Government and Social Care Ombudsman have also upheld several complaints about local authorities either not having policies that address the financial support of special guardians, not following the policies they do have in place, or not providing special guardians with sufficient financial support<sup>28</sup>.

There are two guides available which give a detailed overview of the law surrounding the financial support for special guardians. One was written by Family Rights Group and the other by CoramBAAF. Links to these guides can be found in the resources section.

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<sup>28</sup> Local Government and Social Care Ombudsman (2018)



# Case Study 1

## Brighton and Hove City Council

### KEY POINTS OF BRIGHTON AND HOVE'S FINANCIAL ALLOWANCES POLICY FOR SPECIAL GUARDIANS

- Parents remain financially liable for their children who are subject to SGOs.
- If a child was looked after by the local authority prior to the SGO being granted and a fostering allowance was being paid, then the local authority will continue to pay an allowance until the child reaches the age of 18 or leaves full-time education.
- The amount of special guardianship allowance paid is based on the national minimum fostering allowance minus the child benefit rate.
- If the child was not looked after by the local authority prior to the SGO being granted then the special guardian can request an assessment for support, which can include financial support.
- There are three categories of financial support:
  - Subsistence crisis (one off) payment – for use in a crisis only.
  - Setting up payment – If the social worker is satisfied the carer's financial position requires support for when the child first moves in then a setting up payment can be made. Special guardians may have to repay this payment in certain circumstances.
  - Weekly living contribution – if the child was previously looked after by the local authority, then the local authority can make regular payments to the carers. The carers will also be supported to maximise their income through the welfare system.

### THE INTERVIEW

#### The current situation regarding financial allowances

Where a child was in local authority care before the SGO was granted, Brighton and Hove City Council will automatically pay an SGO allowance to the special guardians until the child reaches 18 or leaves full-time education. There is no means test in place for these special guardians.

All other financial support for special guardianship families is discretionary. However, in the following circumstances it is likely a financial allowance will be paid as described in the previous paragraph:

- If the child was not in local authority care but the SGO was granted in public law care proceeding,
- If the SGO was granted in private law care proceedings and the child would most likely have been in local authority care were the special guardians not caring for them.

However, if the child would not have come into local authority care if the SGO had not been granted, then the carer will not receive a financial allowance unless they are assessed as needing one.

The financial allowance paid to special guardians is the equivalent of the national minimum fostering allowance. Because special guardians are entitled to claim child benefit for their special guardianship children, the child benefit rate is deducted from this amount although discretion can be used with this in exceptional circumstances. If special guardians require more financial support the social worker must complete an assessment and financial support application, and the request needs to be authorised by a senior manager.

The current policy has been in place for nearly five years and is felt to be working well by senior management.

### What was the motivation for the policy?

The senior leadership team at Brighton and Hove believed there was a need to financially support special guardians who had either removed children from local authority care or prevented them from entering care. There were two influencing factors. First, analysis of the profiles of special guardians in the local authority area found that most were older carers living on pensions and pension credits and the majority of those of working age lived in poverty. It was felt to be wrong to expect people to spend the limited income they did receive on raising another person's child. Second, special guardians do not plan to care for their children and they had not budgeted for the extra costs it would entail. Once special guardians take on the care of the children their incomes usually decrease, and many families fall into debt. The current policy addresses these issues.

*Pension credit was created to make sure the poorest pensioners were kept out of poverty, and for us to expect them to care for their grandchildren when kinship care is the epitome of unplanned parenthood, it just felt wrong.*

Team manager

The research into the profiles of special guardians also identified that most lived in the poorest areas in the authority and over a quarter were totally dependent on welfare benefits to provide for their families. Means testing would not result in any change in the allowances received for most families.

There were cost savings attached to the new policy. The previous policy involved means testing special guardians, which took staff time and more complex decisions also involved a panel that included the Head of Service and Assistant Director. Stopping the means test stripped away a layer of costly bureaucracy.

Brighton and Hove also explored factors that would encourage kinship foster carers to become

special guardians and financial support was the key issue. The local authority felt it was wrong that finances were a reason that children remained in local authority care.

Council members are supportive of the policy.

### Challenges and difficulties with the policy

The current policy only gives the automatic entitlement to a non-means tested allowance to families where the children were previously in local authority care. It does not explicitly consider situations where the special guardians stepped in and took on the care of the child to prevent them from entering care. Although these families are likely to receive a non-means tested allowance, their situations can feel more precarious because they are not secured in the policy.

Historically, kinship carers have not received as much support as other cohorts of carers such as foster carers or adoptive parents. It can be difficult for members of the senior leadership team to prioritise paying an allowance to special guardians when budgets are being cut and the numbers of children in care and in need of protection are rising. It is expected that the impact of Covid 19 will mean that there will be more pressure on budgets and difficult decisions about which service to prioritise will need to be made.

The number of special guardians in the authority is increasing, which is putting pressure on local authority finances and resources.

There are still some special guardians who will not receive an allowance, namely those whose children would not have been in local authority care had the SGO not been granted and who are financially secure. However, the local authority believe it is not financially viable to support every family where the child does not live with their parents.

It can feel frustrating to be only one of a small number of local authorities leading on this issue. The postcode lottery for special guardianship support needs to end.

**What are the benefits of the current policy?**

*When people feel in a secure place financially, other things fall into place... if you are living in a place of insecure financial situation, it is generally going to increase your sense of insecurity and anxiety... (financial allowances) contribute to a carer's capacity to provide a secure base to a child, it's a huge part of feeling confident to provide a secure base if they are in a financially secure place.*

Team manager

The current policy has increased trust in the local authority among the special guardianship community. This has led to better working relationships between social workers and special guardianship families. Previously, bad feeling could develop when carers did not receive the financial support they believed they needed. A secure financial allowance allowed some special guardians to feel that the local authority had them 'in mind' and valued them. This could make them feel more confident that local authority support would be available if they needed it.

Special guardians fulfil a challenging role and are often caring for extremely vulnerable children. Providing a constant financial allowance reduces their stress and expands their capacity to meet

their children's needs. If the special guardians feel financially secure it supports them to provide the secure base that the children need.

The policy has led to a reduction in work for frontline social workers. The means test took up a lot of social work time. Most of the work on the means test took place before the final court hearing when social workers were at their busiest. The implementation of this policy has meant the social workers have greater capacity to focus on completing the evidence for the court and creating a thorough support plan.

**Learning for other local authorities**

- It is important for local authorities to gather data on special guardians. Analysing this data allowed Brighton and Hove City Council to evidence why removing the means test would be beneficial to the children, the special guardians, and the local authority.
- Gather evidence on the positive impact that financial allowance has on children in special guardianship families. Financial allowances increase the special guardians' capacity to meet the children's more complex needs.
- Listen to and act on the views of special guardians when putting together a friends and family policy.

**KEY FINDINGS**

- ✔ A secure financial allowance allows special guardians the capacity to focus on meeting the needs of the children.
- ✔ The provision of good support builds trust in children's social care.
- ✔ Providing financial allowances and removing the means test has saved social worker time and reduced bureaucracy.
- ✔ Gathering and understanding data on the profiles of special guardians allowed the local authority to tailor support to their needs.
- ✔ Secure financial support encouraged friends and family foster carers to become special guardians.
- ✔ Support from council members helped the financial support policy progress.
- ✔ It is difficult to include all special guardians into the current policy due to budget constraints and increasing demands of services.

# Case Study 2

## Leeds City Council

### KEY POINTS OF THE FINANCIAL ALLOWANCES POLICY FOR SPECIAL GUARDIANS

The policy that details the financial support of special guardians is currently being updated.

### THE INTERVIEW

#### The current situation regarding financial allowances

Leeds's financial allowances policy is currently being updated and the new policy has not yet been fully implemented. The new policy has been developed in partnership with several of the local authorities in West Yorkshire and has been supported by One Adoption West Yorkshire.

The new policy, when it is implemented, will ensure that all special guardians who are caring for children who were previously looked after are entitled to a financial allowance equivalent to the kinship foster carer allowance minus child benefit. This support will not be means tested. The allowance will be payable until the child is 25 years old if they remain living with their Special Guardian and remain in education.

Special guardians who were supported to make a private application for an SGO to prevent public care proceedings will have an assessment of need and financial support will be determined on a case-by-case basis. Special guardians who obtained their SGOs through private care proceedings can request an assessment of need which will consider their financial circumstances and any financial support they may need. Leeds will look at each of these cases on its own merit and any financial support will be means tested.

The means test for special guardians has been designed in consultation with the other local authorities in West Yorkshire and is compatible with Universal Credit.

All special guardians will be supported to maximise their incomes through the welfare benefits advice team.

#### What was the motivation for the policy?

Leeds City Council has always tried to be a leader in supporting special guardians and they strive to develop their policies to this end. Ultimately, Leeds wants to ensure children are raised by their families where possible.

Historically, Leeds had a high number of stable kinship foster placements where the children did not need to be in stranger foster care. However, the lack of certainty about financial support meant that most of the carers did not want to become special guardians. For example, the means test could be unfair.

Leeds collected and analysed the data on this and concluded it would be more cost effective to support these children to move to SGOs by paying the special guardians a guaranteed allowance.

Leeds's financial allowances policy is part of a long-term vision that it is envisaged will eventually mean that all special guardians will get support regardless of the way the SGO was granted. It is believed that achieving this will encourage more kinship carers to apply privately for SGOs, minimise the need for children to be placed in stranger foster care, and reduce the number of public care proceedings.

Receiving a non means test financial allowance where children have previously been looked after will offer more consistency and stability to vulnerable children and their special guardians. It enables support plans to be clear about the long-term financial support that will be received by the family.

Being a special guardian is financially challenging. Feedback from special guardians in the local authority indicated that they usually have full financial responsibility for the children, and this adds to the pressure on the family. The financial pressures that most special guardians face meant they often worried about paying their rent or mortgage, buying school uniforms, paying for school equipment, and feeding the children. Special guardians also have the additional pressure of caring for children who have usually experienced high levels of trauma and have complex needs. However, feedback has also indicated that paying a secure financial allowance has helped reduce this stress and increased the special guardians' capacity to meet their children's needs.

Means testing is complex and time consuming, especially when the carers are in receipt of Universal Credit or working in the gig economy where wages are not stable. The costs of means testing were escalating:

*There is a lot of expense in reviewing the financial provision that we know is going to be extended anyway because (special guardians') circumstances don't change, the children's needs do not get less, and families' financial provisions do not usually improve.*

Team manager

This meant there was a strong financial case to remove the means test.

There was also support for the policy from council members which was important:

*The lead member for children in Leeds has always had a positive approach to supporting kinship families and we have had nothing but support from them.*

Team manager

### Challenges and difficulties with the policy

Having policies that provide high levels of support can put pressure on budgets. As budgets continue to be cut it will be harder to provide the same levels of support to children and families.

SGO Regulations can prevent flexibility in the offer of financial support.

Changing the policy can be a slow process because of the governance procedures.

Developing a special guardian reference group was challenging. It was difficult to know who to invite because of the different types of special guardians, i.e. previous foster carers, SGOs granted to family and friends through public care proceedings, SGOs granted to family and friends through private care proceedings, SGOs granted for previously looked after children etc. It was hard to develop a policy that was right for all special guardians.

Social workers and other practitioners who worked with special guardians who had a private SGO and were still being means tested found it hard to justify why the means test was still in place when challenged. The children and families commonly had the same needs which could lead to difficult conversations. Although the current system is an improvement on the previous one, there needs to be continued improvement.

Some special guardians disengage from support shortly after the SGO is granted, which can mean they miss out on financial allowances.

There are a small number of carers who either apply for an SGO themselves or are put forward as prospective special guardians by the children's parents, but who do not pass the SGO assessment. In these cases, the local authorities generally do not support the making of the SGO in court. However, if the SGO is still granted, then the local authority will financially support the special guardians as it would all others.

### What are the benefits of the current policy?

Special guardians reported that not having to endure the review process has reduced their stress. Even carers who were confident that their allowance would continue at the review said they were still stressed in the months leading up to it.

The reduction in stress for special guardians allows them to focus more on meeting the needs of the children.

It is hoped that the policy will result in more children leaving kinship foster care and being made subject to SGOs.

Having this policy in place allows the local authority to gather data on the impact of financial support on families.

The special guardianship reference group was generally positive about the changes.

### Learning for other local authorities

- Consult with special guardians about policy changes.
- Invest to save, being more progressive in how allowances are provided will save money over time as more children leave care on SGOs and fewer children need to go into care.

## KEY FINDINGS

- ✔ Gathering and recording data on special guardians allows tailored support services to be developed.
- ✔ Developing support services for all special guardians is challenging and takes time and resources. However, it is expected that this investment will result in a reduction in demand on services in the future.
- ✔ A secure financial allowance reduces the stress experienced by special guardians and allows them to focus on meeting the needs of their children.
- ✔ Means testing financial allowances is resource intensive. Most special guardians continued to receive an allowance after experiencing the stress of the means test process. Removing this bureaucratic process has been cost effective.
- ✔ Support from council members helped the development of the policy.
- ✔ The pressure on budgets is a possible future threat to the provision of support.

# Case Study 3

## Shropshire Council

### KEY POINTS OF THE FINANCIAL ALLOWANCES POLICY FOR SPECIAL GUARDIANS

- Financial allowances are payable to special guardians whose children were previously in local authority care. Special guardians whose children were not previously in local authority care because they stepped in to look after the children will be considered for a financial allowance. The local authority will pay financial allowance to special guardians who meet the above criteria until the child reaches 18 or leaves full-time education unless there is a significant change in their financial situations.
- There is an annual review process where the special guardians must provide an overview of their financial circumstances. However, despite there being a review process, the financial allowance is guaranteed unless the special guardians have had a significant change in their financial circumstance.
- The local authority will support special guardians to ensure they are getting financial support from other agencies, including welfare benefits.
- The amount of financial allowance paid will match the rate paid to foster carers.
- Special guardians whose SGOs were granted in private law care proceedings will still be required to have a yearly means test.
- Foster carers who become special guardians will retain the skills element of their allowance for two years after the SGO is granted. This can be extended in exceptional circumstances

### THE INTERVIEW

#### The current situation regarding financial allowances

Initially the policy was drafted and shared with council members. It was widely accepted because the business case was evidence based and clearly demonstrated its benefits. The business case argued that moving children from local authority care to being subject to SGOs would lead to long-term benefits for the children and lead to financial savings for the local authority. For example, there would be a significant reduction in social work time spend focusing on the bureaucracy associated with children being in local authority care and outcomes for children subject to SGOs are better than those for children in care.

Where the children were previously in local authority care they will receive a financial allowance equivalent to the care rate of the fostering allowance until the children reach the age of 18 unless there is a significant change in financial circumstances.

All SGO support plans are considered by the resource panel, which must consider what financial support the family need. The financial support offered does not end at a financial allowance, if it is identified that a child will benefit from further financial support this can be provided if the panel agree. The local authority strives to be flexible in how they financially support special guardians.

The support for special guardians falls under the remit of a specific team within the local authority. This team has good oversight of which children are likely to be made subject to an SGO at an early stage in the process and are involved in the planning for post order support. This means they

are aware of the support they will need to provide once the SGO is granted.

The local authority is planning to increase staffing capacity to keep up with the rise in the number of special guardians.

### What was the motivation for the policy?

Shropshire had a high number of kinship foster placements. Most of these families were stable and the children did not need to be in local authority care. SGOs allow children and families to have the privacy and autonomy to be able to live their lives in the way that is best for them. However, when the child moves from being in foster care to being subject to an SGO their needs do not change and therefore their financial support should remain the same too.

***The needs of the children do not change because one day they are on a care order and the next they are on an SGO.***

Service manager

Data were gathered examining why kinship foster carers were not becoming special guardians. The main reason identified was the potential that they would lose their fostering allowance leaving them unable to cope financially. It was found that people were more likely to apply for an SGO if financial support was guaranteed. The local authority was aware that there was a lack of parity in the support offered to special guardians to that offered to foster carers and adopters. The local authority wanted to start developing policies that increased the support offered to special guardians:

***We are turning the tide on the families who drop off the edge of a cliff once they have an SGO.***

Service manager

Special guardians are usually committed to their children and will often endure difficult and challenging situations longer than other types of carers. This can have a detrimental impact on them and the children, and they need support to prevent them from reaching crisis point:

***...because (Special guardians) tend to be family, they tend to stick in longer, they don't tend to give up on the children... but what they do do is suffer and struggle for years and we see impacts on mental health and carer health.***

Service manager

If children in special guardianship placements have to return to local authority care because of family breakdown, they would more likely be older and have more complex care needs. Support (including financial support) is needed to prevent this from happening.

Professionals in the family court were also concerned that once an SGO was granted, support would stop. This was beginning to have an impact on court decision making. This policy will reassure professionals that Shropshire Council is committed to supporting special guardians.

### Challenges and difficulties with the policy

The current policy is primarily aimed at children who left local authority care via an SGO. It is felt to be more difficult to create a policy that covers privately acquired SGOs where there was little local authority involvement before the order was granted because the local authority often do not have the data on their specific needs.

There was an initial increase in expense when the new policy was put in place. There is also a need to increase capacity within the team to support the implementation of the policy.

It has proved challenging to keep the same level of support during the Covid-19 pandemic and there is a backlog of cases coming through the system.

The number of children being made subject to SGOs is growing, however more are now reaching adulthood so it is expected the rate of growth will eventually stabilise.

It is challenging to implement a new policy for all eligible special guardians at the same time. The local authority chose to move all new special guardians to the new policy straight away and



move existing special guardians to the new policy at their next review or if they requested further support.

There has been a very small number of wealthy special guardians who requested an allowance but were declined. The pressures on local authority budgets meant the local authority did not feel able to financially support wealthier special guardians.

Some families need significant amounts of financial support, especially when the children first move in, which can be costly.

There is still historical mistrust in the local authority and some kinship foster carers do not believe the support will be available as promised. It is challenging to build trust, and this is likely to take time.

The question about whether the responsibility for financially supporting special guardians should sit with the local authority or central government was raised in the interview.

### What are the benefits of the current policy?

Although the policy is still relatively new there are emerging benefits.

There appears to be an increase in people moving from being kinship foster carers to being special guardians.

The provision of financial allowances has increased the dialogue between the local authority and the special guardianship community.

The policy appears to have started to build trust between special guardians and the local authority. This has resulted in more special guardians requesting support when issues are beginning to emerge, which will reduce the need for crisis interventions:

*Financial allowances provide families with a safety net and reassurance we are there to support them.*

Service manager

It is envisaged that financial support will reduce the risk of breakdowns of special guardian families:

*If we don't offer families robust support packages, we are going to see breakdowns. We would leave families who often don't give up because they are family in really precarious positions and that is not okay.*

Service manager

Having a guaranteed allowance provides the families with security and stability and allows them to be able to plan their lives. This is especially important for special guardians who also have young birth children and want to provide them with the standard of life they had originally planned.

Special guardians are understandably concerned about how they will be able to afford to raise their special guardianship children. It is common for special guardians to be raising several special guardianship children, which increases the stress within the family. Financial allowances help to remove some of the worry they experience.

### Learning for other local authorities

- Gather data and put together a strong evidence-based business case detailing why financial support is essential for special guardians, this will help senior leaders and council members with making the decision.
- Ensure there is someone with expertise overseeing the implementation to the policy. There is also a need for a senior manager to have oversight of the policy.
- Keep planning to expand support for special guardians. Good support for special guardians will reduce the numbers of children in local authority care resulting in better outcomes for the children, and financial savings for the local authority.

## KEY FINDINGS

- ✔ A strong evidence-based business case will support the argument for a secure financial allowance for special guardians.
- ✔ Data needs to be gathered on special guardians to allow the correct support services to be developed.
- ✔ Close working between the child's social work team and the SGO support team is essential to ensure the correct support is put in place for the family post-order.
- ✔ There must be investment in specialist staff to support special guardians.
- ✔ Financial support can be seen as preventative because it reduces the stress faced by special guardians, which reduces to chances of a family breakdown.
- ✔ Even where there is the provision of secure financial support some special guardians remain mistrustful of the local authority.
- ✔ There is early evidence that the financial policy is leading to more kinship foster carers becoming special guardians.
- ✔ If trust is built between local authorities and special guardians it can increase the likelihood they will engage in support sooner, which will reduce the need for crisis interventions

# Summary of findings

- There are significant benefits to local authorities, families, and children when special guardians receive a non-means tested financial allowance that is not reviewed:
  - It reduces the likelihood of special guardianship families living in poverty.
  - It reduces the stress experienced by special guardians allowing them to focus on meeting the often-complex needs of their special guardianship children.
  - The reduction in stress is likely to reduce the instances of special guardians' family breakdowns.
  - It leads to more children leaving local authority care and moving to SGOs by reassuring kinship foster carers that they will be financially supported.
  - It will encourage more family members to become special guardians and prevent children from entering the care system unnecessarily.
  - It removes the cost and bureaucracy involved in means testing and reviewing the financial circumstances of families. The prevalence of poverty among special guardians means most families would not have had their allowances reduced at the review.
  - Not having to carry out a means test or review on special guardians' allowances frees up social worker time.
  - It builds trust between special guardians and local authorities. This trust leads to more special guardians requesting support sooner and reduces the need for crisis interventions.
  - It builds trust in other professionals that the local authority is committed to support special guardians.
  - It leads to practitioners feeling proud of the support they offer special guardians, increasing the feeling of job satisfaction.
- Local authorities face several challenges to providing special guardians with a non-means tested allowance that is not reviewed:
  - The legislation, regulation, and guidance on the provision of SGO allowances, including on issues such as means testing and annual reviews, is being interpreted in different ways. For example, the guidance in the briefings from Family Rights Group and CoramBAAF which is based case law and Local Government Ombudsmen judgments does not always align with the legal advice given to local authorities by their legal departments.
  - To implement the policy, the support of senior leaders and council members is essential. It is important that they are presented with a well evidenced business case about why providing financial allowance should be a priority.
  - Local authority budgets are coming under significant pressure due to increasing demands on services, including more children coming into foster care, and the reduction in funding for children's social care. This means that some local authorities may not feel able to afford paying a regular allowance to special guardians.
  - Special guardians can struggle to trust that local authorities will fulfil the commitment to offer a secure financial allowance.
  - There can be an initial financial outlay before savings are realised (invest to save).
- There has to be strong, empathetic and evidence-based leadership to be able to implement a progressive financial allowance policy. There also has to be support from council members. Their support can be encouraged by providing them with an evidenced business case demonstrating the need for the policy.

- Some families will need more financial support than just a regular financial allowance, especially families with children with very high levels of need.
- The lack of support for special guardians, especially financial support, can reduce trust in the local authority and lead to special guardians not seeking support when they need it in the future.
- Local authorities which provide more progressive financial support to their special guardians have been able to identify benefits for the children, the families and children's social care. This commonly leads to them extending the access criteria to ensure more families benefit from secure financial allowances.
- There is a question of whether the responsibility to provide a secure financial allowance to special guardianship families should remain with local authorities or should it be centralised with national government, possibly through the welfare state.

# References

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# Resources

## THE SPECIAL GUARDIANSHIP RESOURCE PACK

This pack of resources has been developed by leading experts in special guardianships including Professor Harwin from Lancaster University, Dr Simmonds from CoramBAAF and Sir James Munby the former President of the Family Division. The pack also includes the 'key elements of a special guardianship support service' guide, which was commissioned by the ASGLB.

The pack can be found here: <https://kinship.org.uk/for-professionals/resources-to-support-special-guardians/special-guardianship-resource-pack/>

## LEGAL BRIEFINGS

Family Rights Group

Financial support and special guardianship: the legal and practice framework relevant to special guardianship allowances: <https://frg.org.uk/wp-content/uploads/2021/08/SG-allowance-briefing.pdf>

CoramBAAF Adoption and Fostering Academy

Practice Note 75: Financial Support for Special Guardians (England): [https://corambaaf.org.uk/sites/default/files/Members%20Area/Resources/Practice%20Notes/PN%2075%20Financial%20Support%20for%20Special%20Guardians\\_Englandv2.pdf](https://corambaaf.org.uk/sites/default/files/Members%20Area/Resources/Practice%20Notes/PN%2075%20Financial%20Support%20for%20Special%20Guardians_Englandv2.pdf)

## LINKS TO RELEVANT CASE LAW

B V London Borough of Lewisham [2008] EWHC 738 (Admin): [https://www.familylawweek.co.uk/site.aspx?i=ed1173#:~:text=Judgments%20%3E%202008%20archive-.B%20V%20London%20Borough%20of%20Lewisham%20%5B2008%5D%20EWHC%20738%20\(Admin,was%20held%20to%20be%20unlawful.](https://www.familylawweek.co.uk/site.aspx?i=ed1173#:~:text=Judgments%20%3E%202008%20archive-.B%20V%20London%20Borough%20of%20Lewisham%20%5B2008%5D%20EWHC%20738%20(Admin,was%20held%20to%20be%20unlawful.)

Barrett v Kirklees Metropolitan Borough Council [2010] EWHC 467 (Admin): <https://www.familylawweek.co.uk/site.aspx?i=ed55458>

R (TT) v London Borough of Merton [2012] EWHC 2055 (Admin): <https://www.familylawweek.co.uk/site.aspx?i=ed99301>

## LINKS TO POLICIES OF THE CASE STUDY LOCAL AUTHORITIES

Brighton and Hove City Council Family and Friends Policy: <https://www.fosteringinbrightonandhove.org.uk/kinship-care>

Shropshire Family and Friends Care Policy [https://www.proceduresonline.com/shropshire/childcare/p\\_fam\\_frien\\_care\\_pol.html?#provision](https://www.proceduresonline.com/shropshire/childcare/p_fam_frien_care_pol.html?#provision)

Leeds City Council Kinship Care (Family and Friends Policy) – Currently being updated <https://democracy.leeds.gov.uk/documents/s128961/2%20Leeds%20Kinship%20Care%20Policy%20June%202014.pdf>



## ABOUT KINSHIP

Kinship is the leading kinship care charity in England and Wales. We're here for all kinship carers. The grandparents, siblings, aunts, uncles, other family members and friends who step up to raise children when their parents aren't able to. We want every kinship family to have the recognition, value and support they need and deserve.


We offer kinship carers financial, legal, practical and emotional support and understanding from the moment they need it, for as long as they need it. Our expert advice, information and guidance helps with complicated and stressful decisions that so many kinship families have to make. We're always there to support them through difficult times and celebrate the good.

Kinship carers are strong and determined. Together, they are powerful. We help them build communities of support and action by connecting families locally and across England and Wales.

We're at the heart of kinship networks, partnering with and influencing service providers, local and national government and other organisations. We give everything we have to fight for each family and their rights, changing society until every kinship family is recognised, valued and supported.

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