

Wiltshire Council Children's Services
Special Guardianship Order Policy and Guidance

Contents:

1. Legal Framework and Statutory Requirements for Special Guardianship	Page 2
2. Introduction	Page 2
3. What is a Special Guardianship Order?	Page 2
4. What are the benefits of an SGO?	Page 3
5. Special Guardianship Order arrangements	Page 3
6. Legal Guidance for providing Support Services	Page 7
7. The Special Guardianship Support Plan	Page 8
8. Leaving Care Services	Page 8
9. Financial support	Page 9
10. Moving from or to another Local Authority	Page 10
11. Special Guardianship Records	Page 10

Appendices:

Appendix 1: Model Letter for Special Guardianship Application	Page 11
Appendix 2: Special Guardianship Court Report Structure	Page 12
Appendix 3: Model Support Plan	Page 17
Appendix 4: Financial Regulations	Page 27
Appendix 5: Information Pack for Financial Support Guidance for Social Workers	Page 28
Appendix 6: Conditions for contribution by Wiltshire Council towards legal costs of applicants for contested applications for Residence, Special Guardianship or Adoption Orders	Page 37
Appendix 7: Financial Assessment flowchart	Page 39

1. Legal Framework and Statutory Requirements for Special Guardianship

- Children Act 1989 sections 14 A-F and section 24(1)(A)
- Special Guardianship Guidance DfE 2005
- Special Guardianship Regulations 2005, updated 2016;
- The Children (Leaving Care Act) 2000 – re future support

2. Introduction

2.1 Special Guardianship is a way of providing a secure family life for a child while they are growing up. A Special Guardianship Order (SGO) provides legal security for children who cannot be cared for in the long term by their birth parents. It is an alternative to other options, broadly fitting between adoption, a Child Arrangements Order or long term fostering of a child. SGOs were originally developed as a result of research looking into a comparison of disruption rates between adoption and long term fostering, when age was taken into account.

2.2 Special Guardianship Orders have been introduced to provide, 'an alternative legal status for children that offers greater security than long term fostering but without the absolute legal severance from the birth family that stems from an adoption order.' (Special Guardianship Guidance, DFE 2005).

3. What is a Special Guardianship Order?

3.1 An SGO is a private law order appointing a person or persons to be a child's Special Guardian (SG). The Special Guardian exercises exclusive parental responsibility for the child with some limited exceptions (see below). Unlike adoption, under a SGO the birth parents remain the child's legal parents, although their ability to exercise their parental responsibility is limited.

3.2 Subject to any later order, the SG may exercise parental responsibility to the exclusion of all others with parental responsibility, apart from another SG. An exception to this is where the law provides that the consent of more than one person with parental responsibility is required (for example, the sterilisation of a child). The intention is that the SG will have clear responsibility for all the day to day decisions about caring for the child or young person and their upbringing. This provides a firm foundation for the child and Special Guardian to build a lifelong, legally secure relationship, while still preserving links with the birth family. The child will no longer be in the care of the local authority. The parents 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.

3.3 While a Special Guardianship order is in force, the written consent of every person who has parental responsibility for the child or the leave of the court must be given:

- To cause the child to be known by a different surname
- To remove the child from the United Kingdom for longer than three months.

3.4 Accompanying the arrangements for the SGO are additional responsibilities and regulations for local authorities in relation to the assessment, planning, provision and review of Special Guardianship support services, including financial assessment and support.

3.5 Where the local authority is providing financial support for a Special Guardianship arrangement the Special Guardian must inform the local authority if they change address, is no longer able to offer the child a home, the child dies or there is a change in financial circumstances. They must also provide an annual statement of their financial circumstances.

3.6 The SGO provisions of the Children Act 1989 and the Special Guardianship Regulations 2005 place a duty on every local authority to establish and maintain a range of support services

in their area for those affected by Special Guardianship. The authority may make arrangements for Special Guardianship support services to be provided by others on its behalf. Where appropriate, the authority will provide services that reflect those provided to adopted children, their adoptive parents and their birth families.

4. What are the benefits of a Special Guardianship Order?

4.1 Special Guardians have clear responsibility for all the day to day decisions about caring for the child or young person. It could be described as the Special Guardian being “in the driving seat” for any decisions to be made about the child or young person.

4.2 The situations where an SGO is likely to be necessary to secure the child’s living arrangement include the following:

- Children subject to a Care Order (section 31, Children Act 1989) or Interim Care Order (section 38, Children Act 1989) where an order granting parental responsibility to the family and friend carer is required to promote permanence
- Children where there is no adult with parental responsibility for them
- Situations where an order giving parental responsibility to a family and friend carer is necessary to establish the child’s living arrangements and safeguard and promote the welfare of the child
- Where the child or young person, often through independent legal advice, wishes to seek the permission of the court to discharge their Care Order in favour of a Special Guardianship Order to their family and friend carer

4.3 Decisions regarding the recommendation for Special Guardianship must be viewed in the light of the Welfare Checklist (section 1, Children Act 1989). When determining any question with respect to the upbringing of a child under the provisions of Special Guardianship, the child’s welfare shall be the paramount consideration. The option of Special Guardianship will be discussed at all statutory child care reviews with the same thoroughness as all other option for permanency.

4.4 In determining whether an SGO is in the child’s best interests, the following issues must always be considered:

- The views and wishes of the child or young person: whether they fully understand the nature of a Special Guardianship Order and why this may be the preferred permanency option for them
- Where appropriate, the views and wishes of the parent(s)
- The views and wishes of the carers and their suitability, including whether they fully understand their roles as Special Guardians. As the child will cease to be looked after as a result of the order being made, how they view taking responsibility for making decisions about the child’s upbringing without the involvement of the local authority
- The suitability of plans for contact between the child and their birth parents and others who are important to the child. It should be noted that in reporting to the court the local authority is required to recommend appropriate contact arrangements in all cases.

4.5 Any decision about recommending Special Guardianship must be discussed fully with the Team Manager supervising the social worker reporting to the court and their respective Head of Service. SGO Support Plans will be signed off by the Adoption Team Manager.

5. Special Guardianship Order arrangements

5.1 Who can apply?

5.1.1 Special Guardians must be aged 18 or over. A court may make a Special Guardianship Order in respect of the child on the application of:

- Any guardian of the child
- A local authority foster carer with whom the child has lived for one year immediately preceding the application
- Anyone who holds a Child Arrangements Order with respect to the child (determining that the child shall live with them), or who has the consent of all those in whose favour a Child Arrangements Order (previously, a Residence Order) is in force
- Anyone with whom the child has lived for three out of the last five years
- Where the child is in the care of a local authority, any person who has the consent of the local authority
- Anyone who has the consent of all those with parental responsibility for the child
- Any person, including the child, who has the leave of the court to apply

5.1.2 A referral for a Special Guardianship Order for a child who is looked after by the local authority **can only be made** following a statutory review at which special guardianship is recommended **or** at the request of the court during proceedings. Where the child is placed with a foster carer, the completion of the court report (Regulation 21) will be undertaken jointly between a Supervising Social Worker from the Fostering Service and the social worker for the child.

5.1.3 The prospective Special Guardian should write to the Team Manager for Looked After Children, usually giving 3 months' notice. A sample letter is included at Appendix 1. The letter should include a statement to notify of the intention to apply for an SGO. The applicant must give written permission for statutory checks to be undertaken and should sign and date the letter. This notification will be acknowledged in writing by the Team Manager.

5.2 Referral during care proceedings

5.2.1 If a report is requested by the court during care proceedings, the social worker for the child will contact the relevant Team Manager and provide them with basic details of the child and the prospective Special Guardian.

5.3 Special Guardianship Order advice and counselling

5.3.1 The social worker for the child is responsible for providing advice to the SG. The birth parent should also signpost towards proportionate independent support and advised how to access it by the Adoption Service. Any SGO advice or counselling that is provided must be recorded on the child's file.

5.3.2 Ideally, counselling should commence prior to any application being lodged with the court and the applicant should be advised to seek legal advice where appropriate. The purpose of counselling is to ensure that, as with adoption, the nature and implications of Special Guardianship are understood by the child, the SG and the birth parents and that their wishes and feelings are considered.

5.3.3 The prospective Special Guardian(s) should be made aware of the need to obtain the personal details of their family for inclusion in the Regulation 21 report for the court. They should be seen at home both jointly and separately. The child should be seen alone if old enough and in the company of the applicants so that a view can be obtained regarding the family relationships. Any other members of the household should be interviewed and appropriate advice or counselling provided. The child's views must be recorded and taken into account. Where a child has strong bonds with the birth parents it is crucial that this matter is given careful consideration and contact is addressed.

5.4 Contact with birth parents or others with Parental Responsibility

5.4.1 The Adoption Support Service should be consulted as early as possible regarding proposed contact arrangements. Any proposals regarding contact suggested by the Special Guardian should be discussed with the Adoption Support Service (and Fostering Service if the proposed SG is a foster carer) prior to the Adoption Service social worker writing the report. Through negotiation and agreement, a proportionate arrangement for contact will be secured (e.g. contact via a Contact Centre or supervision by the Adoption Support Team). The child's social worker must seek the birth parents' views and hopefully reach an agreement about the appropriate levels of contact and support prior to the order being agreed. In cases where this is contested, legal advice may need to be sought by the SG.

5.5 Financial support for legal costs

5.5.1 Regulation 6 of the Special Guardianship Regulations 2005 sets out the circumstances in which financial support is payable to a Special Guardian or prospective Special Guardian. An initial cap for a contested hearing will be determined at the time by reference to the nature of the case concerned.

5.5.2 Support for legal costs is only payable where the local authority considers that it is appropriate to contribute to costs, including court fees, for a Special Guardian or prospective Special Guardian, associated with:

- The making of an SGO or any application to vary or discharge such an order
- An application for an order under section 8 of the Act
- An order for financial provision to be made to or for the benefit of the child

5.5.3 Financial support for legal costs is payable so that the local authority may contribute to initial legal costs where appropriate and also support any reasonable future legal costs that are associated with the order or to continue to support the order where the local authority considers this to be appropriate. The local authority is not *expected* to meet the costs of an SGO application in the case of a non-looked after child.

5.5.4 All the provisions relating to an assessment for Special Guardianship support need to apply in respect of consideration of a contribution towards legal costs. However, the local authority must disregard the applicant's means when considering providing financial support in respect of legal costs and court fees in a case where an SGO is applied for in respect of a child who is looked after by the local authority and the authority support the making of the order or an application is made to vary or discharge an SGO in respect of such a child.

5.5.5 Where an application for an SGO is being considered by the carer of a child who is looked after by the local authority and the local authority supports that application, the local authority will usually invite prospective applicants to seek initial legal advice. This will be limited to a maximum of £150, charged at legal aid rates (exclusive of VAT). A letter will be given to the prospective Special Guardian for them to take to their solicitor.

5.5.6 Where the local authority supports the making of an SGO in ongoing care proceedings, the local authority will often provide the SG report and, within the proceedings, invite the court to make an SGO as part of the local authority's case, rather than requiring the applicants to file their own application. However, if the making of the SGO is opposed by one of the parties then the applicants may be encouraged to file a formal application and the local authority will fund the court fee and, if appropriate, their legal costs at legal aid rates, applying the cap and confirming this in writing.

5.6 Conditions for the funding of legal costs

5.6.1 The local authority will usually only consider it appropriate to contribute to costs:

- If the prospective Special Guardian is not eligible for legal aid
- If the application for the SGO is opposed; and
- If the solicitor instructed is on the Law Society's Children Panel. (The prospective Special Guardian is entitled to instruct any solicitor of their choosing, but the local authority will only meet the costs if that solicitor is on the Panel.)

5.6.2 The Council will fund legal costs at the current legal aid rates and the solicitor instructed must not require the prospective SG to top up those costs. Prior agreement of the local authority must be sought for the proposed instruction of experts or counsel within the proceedings. If approval is given to instruct counsel, the local authority would not, save in an exceptional case, expect to fund the costs of anyone to sit behind counsel at the hearing.

5.6.3 The local authority must be informed in the event that a previously contested application for an SGO becomes uncontested. In such circumstances, unless there are exceptional reasons for funding to continue (for example, there is another substantial issue which is outstanding or the applicant has a particular disability which necessitates receiving ongoing legal advice or representation), the local authority expects the applicant to be able to proceed without legal advice or representation.

5.7 Reports to Court

5.7.1 The prospective Special Guardian(s) must give three months written notice to the local authority that they intend to apply to the court for a Special Guardianship Order. Regardless of where they live, if the child is Looked After the prospective Special Guardian(s) should notify the local authority responsible for the child.

5.7.2 On receipt of notice of an application, or if the court makes a request, the local authority must assess and prepare a report to the court about the suitability of the applicants to be SGs. This requirement applies to both Looked After and other children. The information to be included in the report to the court is set out in regulation 21 of the Special Guardianship Regulation 2005. (See Appendix 2.)

5.7.3 In proceedings where there is a Care Order in force with respect to the child, the child will be a party to the proceedings and the court will appoint a CAFCASS Children's Guardian for the child. This person will be independent of the agency. The court may also make a child party to proceedings and appoint a Children's Guardian if it considers it is in the best interest of the child to do so.

5.8 Applications where the child is not looked after or known to the local authority

5.8.1 Where the child is not Looked After, the local authority has responsibility for reporting to the court and carefully assessing the options. As for a looked after child, every effort will be made to consider the reasons for making an application with the prospective applicants and the child. This should include whether it is advisable to make the application, and what the other options might be. The prospective applicants must be advised of the role of the local authority in reporting and making recommendations to the court, including their duty to consider and report on what other options the court may wish to consider.

5.8.2 The allocation of the case will need to take into account the circumstances of the case, whether there is a social worker already involved, and the expectation of the statutory guidance that the social worker should be suitably qualified and experienced (i.e. two years post

qualification). Where this cannot be achieved, social workers who do not have suitable experience will be supervised by someone who has.

5.8.3 Where the child is not known to the local authority and is not Looked After by another local authority, the Safeguarding Service will be responsible for the assessment of Special Guardians residing in Wiltshire.

5.8.4 Some children who are Privately Fostered may become the subject of Special Guardianship applications. Responsibility for the court report will be with the Private Fostering social worker based in the Placement Services.

5.8.5 If a child is not looked after by the local authority, there is no entitlement to an assessment for Special Guardianship Support Services, although a request for this assessment can be made.)

5.9 Applications where the child is looked after by the local authority

5.9.1 If the child is in the care of the local authority, the responsibility for preparing the court report rests with the case holding social worker. As a support plan will be required, the allocated social worker must make contact with the Adoption Support Team as soon as practicable so that the support plan can be discussed and agreed jointly.

6. Legal guidance for providing support services

6.1 Under the Children Act 1989, Special Guardianship Regulations 2005 and in accordance with Special Guardianship Guidance, DfE 2005, financial support and other services may be available for the Special Guardian, the child and the birth parents

6.2 Local authorities are required to make arrangements for the provision of Special Guardianship Support Services. These include counselling, advice, information and such other services (including financial support) as prescribed in the Regulations. The Regulations also provide for the assessment of needs for Special Guardianship Support Services, and the planning and the reviewing of those support services.

6.3 The assessment for Special Guardianship Support Services should be based on the Assessment Framework and include the following:

- The developmental needs of the child (social, emotional, psychological)
- The parenting capacity of the SG or prospective SG
- Family and environmental factors for the child
- How the child might experience life with the SG
- Any previous assessment of the child or SG that is relevant
- The needs of the SG or prospective SG and their family. (Where there are barriers to partnership working, for example learning difficulties, language, culture, disability or ill health, steps should be taken to support the SG or child to overcome these barriers wherever possible.)
- The impact of the Special Guardianship Order on the relationship between the child, parent and Special Guardian.

7. The Special Guardianship support plan

7.1 The Special Guardianship Support Plan, including arrangements for contact, is written by the Adoption Support Team in discussion with the child's social worker, the birth parents, Special Guardian and child if appropriate. Other agencies, such as Education and Health, may need to be consulted about the contents of the plan. Where the assessment indicates that a support plan is not required, the SG will be informed of this in writing.

7.2 The plan should set out:

- The services already in place and the services which need to be provided
- The objectives and criteria for success
- Timescales for provision
- Procedures for review
- A named person to monitor the provision of services in accordance with the Plan

7.3 As part of financial support, short term assistance may be provided with travel expenses to facilitate contact between the child and their relatives or others with whom the child is considered by the local authority to have a beneficial relationship. Cases will be assessed individually and agreement for payment must be supported by the relevant fieldwork Head of Service, recognising that in time SGO cases are likely to be closed to Safeguarding Teams. The expectation is that families and Special Guardians will make these arrangements between themselves; it is the exception to seek support from the local authority.

7.4 Following assessment, Special Guardianship support will be subject to the approval of the Head of Service where the case is being held. In exceptional circumstances, any proposal to authorise one-off financial support where the means test indicates that the Special Guardian does not require financial support must be approved by the Associate Director for Children's Services.

7.5 Within four weeks of the support plan assessment being concluded, the local authority will write to the Special Guardian(s) indicating whether it is proposing to provide Special Guardianship support services and, if so, the detail of what services it is intending to provide. The notice must contain:

- A statement as to the person's needs for Special Guardianship Support Services
- Information about the outcome of the assessment and the reasons for it
- Where it refers to financial support, the basis on which this was determined
- If financial support is to be paid, the amount and any conditions attached
- The services, if any, that the local authority proposes to provide
- The authority should signpost the Special Guardians to sources of independent advice and advocacy

7.6 The support plan should be shared with the family and child, if appropriate, and confirmed in writing. Each Special Guardian will be given 28 days to consider the local authority's proposals and make any representation to the authority. The plan should be submitted to the Adoption Team Manager for review on an annual basis and in order to maintain a central record of all Special Guardianship Order Support Plans for reviewing and monitoring purposes. A copy should also be placed on the child's file.

8. Leaving Care Support

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. In the context of Special Guardianship, to qualify for advice and assistance, section 24(1A) of the Children Act 1989 states that the child:

- Must have reached the age of 16, but not the age of 21
- Have an SGO in force if less than eighteen years old
- Have had an SGO in force when they reached that age if eighteen years old or above
- Have been looked after by a local authority immediately before the making of the SGO

8.2 This means that on reaching the age of 16 a young person who was Looked After until the Special Guardianship Order was granted becomes eligible for Leaving Care Services, as a Qualifying Child under the Leaving Care Act 2000 (Children Act 1989: Vol 3: Planning Transition to Adulthood for Care Leavers). This does not give the young person the same access to support as Relevant, Former Relevant or Eligible children. It does entitle them to assistance with education and training up to the age of 24, and to vacation accommodation for Higher Education or residential Further Education courses if necessary. If appropriate the social worker will signpost the Special Guardian to an appropriate Leaving Care Personal Assistant for advice.

8.3 For the purpose of providing advice and assistance, the relevant authority shall be the local authority which last had the care of the young person. Depending on the service required, it may be more appropriate for the young person to seek support local to where they live.

8.4 For care leavers, who were previously in the care of Wiltshire Council, financial support may be provided if they are eligible under the Leaving Care Act. However, consideration will be given to the young person's financial situation and the level of support available to them from their Special Guardians or close family members.

9. Financial Support

9.1 The current source of information in respect of financial support is Special Guardianship Guidance DfE 2005. The guidance (specifically regulations 6 and 13) outlines local authority requirements to provide financial assistance and those circumstances where local authorities 'may' or 'must' disregard means.

9.2 This guidance is clear in that it states 'Financial issues should not be the sole reason for a Special Guardianship arrangement failing to survive'. The central principle is that financial support should be payable in accordance with the Regulations to help secure a suitable Special Guardianship arrangement where such an arrangement cannot be readily made because of a financial obstacle. Whether a case is likely to merit financial support should be discussed at the earliest opportunity.

9.3 Under Regulation 13(2) of the Special Guardianship Regulations 2005 any other grant, benefit, allowance or resource which is available to the carer in respect of their needs as a result of becoming a Special Guardian must be taken into account. Financial resources include any tax credit or benefit. In determining the level of a Special Guardianship allowance the local authority must have regard to the amount of Fostering Allowance which would be payable if the child were fostered.

9.4 Under the Regulations, a former local authority Foster Carer who becomes a Special Guardian for the child in their care may continue to be paid the age related allowance element of the previous Fostering payments for up to 2 years (or longer in exceptional circumstances), minus any tax credit or benefit, to allow for an adjustment to their new financial circumstances.

9.5 The financial review of Special Guardianship allowances is undertaken annually by the appropriate managers in Placement Services. There is a requirement for all Special Guardians to complete and submit an annual statement of their financial circumstances, the financial needs and resources of the child, their address and whether the child is still living with them. The maximum allowance payable will be reviewed annually, taking into account inflation and any other significant factors deemed appropriate by the local authority. Any decision to disregard means is taken by the Associate Director for Children's Services.

9.6 The local authority has a cap on the amount that can be paid for a Special Guardianship allowance based on a combined family income. This is reviewed annually and will usually be based on the age related fostering allowance paid for a 15 year old.

10. Moving from or to another local authority

10.1 Wiltshire Council will cease to be responsible for providing Special Guardianship support services to the child and their Special Guardians (other than previously agreed financial support and the management of any agreed and ongoing contact arrangements) three years after the granting of the SGO, unless at this point the family are living in the Wiltshire Council area.

10.2 Where Wiltshire Council is contacted by another local authority which is considering placing a child with prospective Special Guardian(s) who live in Wiltshire, the local authority will offer support in considering the range of Special Guardianship support services that could be made available in the local area and the relevant costs associated. However, the placing authority remains responsible for making the arrangements and paying for them.

11. Special Guardianship records

11.1 All information regarding an application for an SGO will be kept on the child's record. The child's case file must be closed and archived at the point where the SGO is made unless there is an agreement to provide ongoing support set out in a support plan. The management and retention of the case record will be in accordance with Children's Services record management policy.

Placement Services (MT): May 2016

Appendices

Appendix 1: Model letter: Notification of intention to apply for a Special Guardianship Order

Dear Madam/Sir

I/We wish to notify you that I/we intend to apply for a Special Guardianship Order in respect of:

Child's name:

Date of birth:

The child has been in our care since:

Relationship to the child (e.g. grandparent, aunt, etc.):

Full name of first applicant:

Date of birth:

Full name of second applicant:

Date of birth:

Address:

Telephone:

E mail:

Signed:

Dated:

If the Special Guardianship Order is to be issued in joint names, signatures are required of both applicants

Upon completion, please return to:

Wiltshire Children's Services

MASH

County Hall

Bythesea Road

Trowbridge

Wiltshire

BA14 8JN

Appendix 2: Special Guardianship Court Report Structure

SCHEDULE MATTERS TO BE DEALT WITH IN REPORT FOR THE COURT

Regulation 21

The following matters are prescribed for the purposes of section 14A (8)(b) of the Act.

1

In respect of the child—

- (a) Name, sex, date and place of birth and address including local authority area;
- (b) A photograph and physical description;
- (c) Nationality (and immigration status where appropriate);
- (d) Racial origin and cultural and linguistic background;
- (e) Religious persuasion (including details of baptism, confirmation or equivalent ceremonies);
- (f) Details of any siblings including their dates of birth;
- (g) The extent of the child's contact with his relatives and any other person the local authority consider relevant;
 - (a) any harm which the child has suffered;
 - (b) any risk of harm to the child posed by the child's parents, relatives or any other person the local authority consider relevant;
- (h) whether the child is or has been looked after by a local authority or is or has been provided with accommodation by a voluntary organisation and details (including dates) of placements by the authority or organisation;
- (i) whether the prospective special guardian is a local authority foster parent of the child;
- (j) a description of the child's personality, his social development and his emotional and behavioural development and any related current needs or likely future needs;
- (k) details of the child's interests, likes and dislikes;
- (l) a health history and a description of the state of the child's health which shall include any treatment the child is receiving;
- (m) names, addresses and types of nurseries or schools attended with dates;
- (n) the child's educational attainments;
- (o) whether the child is subject to a statement of special educational needs under the [Children and Families Act 2014](#); and

(p) details of any order made by a court with respect to the child under the Act including—

- (i) the name of the court;
- (ii) the order made; and
- (iii) the date on which the order was made.

2

In respect of the child's family—

- (a) name, date and place of birth and address (and the date on which their last address was confirmed) including local authority area of each parent of the child and his siblings under the age of 18;
- (b) a photograph, if available, and physical description of each parent;
- (c) nationality (and immigration status where appropriate) of each parent;
- (d) racial origin and cultural and linguistic background of each parent;
- (e) whether the child's parents were married to each other at the time of the child's birth or have subsequently married and whether they are divorced or separated;
- (f) where the child's parents have been previously married or formed a civil partnership, the date of the marriage or civil partnership;
- (g) where the child's parents are not married, whether the father has parental responsibility and, if so, how it was acquired;
- (h) if the identity or whereabouts of the father are not known, the information about him that has been ascertained and from whom, and the steps that have been taken to establish paternity;
- (i) the past and present relationship of the child's parents;
- (j) where available, the following information in respect of each parent—
 - (i) health history, including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
 - (ii) religious persuasion;
 - (iii) educational history;
 - (iv) employment history;
 - (v) personality and interests;
- (k) in respect of the child's siblings under the age of 18—
 - (i) the person with whom the sibling is living;
 - (ii) whether the sibling is looked after by a local authority or provided with accommodation by a voluntary organisation; and

(iii) details of any court order made with respect to the sibling under the Act, including the name of the court, the order made and the date on which the order was made.

3

In respect of the wishes and feelings of the child and others—

- (a) an assessment of the child's wishes and feelings (considered in light of his age and understanding) regarding—
- (i) special guardianship;
 - (ii) his religious and cultural upbringing; and
 - (iii) contact with his relatives and any other person the local authority consider relevant,

and the date on which the child's wishes and feelings were last ascertained.

- (b) the wishes and feelings of each parent regarding—

- (i) special guardianship;
- (ii) the child's religious and cultural upbringing; and
- (iii) contact with the child,

and the date on which the wishes and feelings of each parent were last ascertained; and

- (c) the wishes and feelings of any of the child's relatives, or any other person the local authority consider relevant regarding the child and the dates on which those wishes and feelings were last ascertained.

4

In respect of the prospective special guardian or, where two or more persons are jointly prospective special guardians, each of them—

- (a) name, date and place of birth and address including local authority area;
- (b) a photograph and physical description;
- (c) nationality (and immigration status where appropriate);
- (d) racial origin and cultural and linguistic background;
- (e) if the prospective special guardian is—
 - (i) married, the date and place of marriage;
 - (ii) has formed a civil partnership, the date and place of registration of the civil partnership; or
 - (iii) has a partner, details of that relationship;

- (f) details of any previous marriage, civil partnership, or relationship;
- (g) where the prospective special guardians wish to apply jointly, the nature of their relationship and an assessment of the stability of that relationship;
- (h) if the prospective special guardian is a member of a couple and is applying alone for a special guardianship order, the reasons for this;
- (i) whether the prospective special guardian is a relative of the child;
- (j) an assessment of the nature of the prospective special guardian's current and past relationship with the child;
- (k) a health history of the prospective special guardian including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
- (l) a description of how the prospective special guardian relates to adults and children;
- (m) previous experience of caring for children;
- (n) an assessment of the nature of the prospective special guardian's parenting capacity, including:
 - (i) their understanding of, and ability to meet the child's current and likely future needs, particularly, any needs the child may have arising from harm that the child has suffered;
 - (ii) their understanding of, and ability to protect the child from any current or future risk of harm posed by the child's parents, relatives or any other person the local authority consider relevant, particularly in relation to contact between any such person and the child;
 - (iii) their ability and suitability to bring up the child until the child reaches the age of eighteen.
- (o) where there have been any past assessments as a prospective adopter, foster parent or special guardian, relevant details as appropriate;
- (p) details of income and expenditure;
- (q) information about the prospective special guardian's home and the neighbourhood in which he lives;
- (r) details of other members of the household and details of any children of the prospective special guardian even if not resident in the household;
- (s) details of the parents and any siblings of the prospective special guardian, with their ages or ages at death;
- (t) the following information—
 - (i) religious persuasion;
 - (ii) educational history;

- (iii) employment history; and
- (iv) personality and interests;
- (u) details of any previous family court proceedings in which the prospective special guardian has been involved (which have not been referred to elsewhere in this report);
- (v) a report of each of the interviews with the three persons nominated by the prospective special guardian to provide personal references for him;
- (w) whether the prospective special guardian is willing to follow any wishes of the child or his parents in respect of the child's religious and cultural upbringing;
- (x) the views of other members of the prospective special guardian's household and wider family in relation to the proposed special guardianship order;
- (y) an assessment of the child's current and future relationship with the family of the prospective special guardian;
- (z) reasons for applying for a special guardianship order and extent of understanding of the nature and effect of special guardianship and whether the prospective special guardian has discussed special guardianship with the child;
 - (aa) any hopes and expectations the prospective special guardian has for the child's future; and
 - (bb) the prospective special guardian's wishes and feelings in relation to contact between the child and his relatives or any other person the local authority considers relevant.

5

In respect of the local authority which completed the report—

- (a) name and address;
- (b) details of any past involvement of the local authority with the prospective special guardian, including any past preparation for that person to be a local authority foster parent or adoptive parent or special guardian;
- (c) where section 14A(7)(a) of the Act applies and the prospective special guardian lives in the area of another local authority, details of the local authority's enquiries of that other local authority about the prospective special guardian;
- (d) a summary of any special guardianship support services provided by the authority for the prospective special guardian, the child or the child's parent and the period for which those services are to be provided; and
- (e) where the local authority has decided not to provide special guardianship support services, the reasons why.

6

A summary prepared by the medical professional who provided the information referred to in paragraphs 1(l) and 4(k).

7

The implications of the making of a special guardianship order for—

- (a) the child;
- (b) the child's parent;
- (c) the prospective special guardian and his family; and
- (d) any other person the local authority considers relevant.

8

The relative merits of special guardianship and other orders which may be made under the Act or the [Adoption and Children Act 2002](#) with an assessment of whether the child's long term interests would be best met by a special guardianship order.

9

A recommendation as to whether or not the special guardianship order sought should be made in respect of the child and, if not, any alternative proposal in respect of the child.

10

A recommendation as to what arrangements there should be for contact between the child and his relatives or any person the local authority consider relevant.

Appendix 3: Model Support Plan

Assessment of Prospective Special Guardian's Needs for Support Services

Name of child:		
Date of birth:		
Family members in the household:		
Name	Date of birth	Relationship
Individual members of the family may have particular Special Guardianship support needs. Please give brief details, referring to each person individually, outlining the particular need and how this will be met:		
Family member	Identified support needs	

Informal family and community supports available to the family:	
Financial considerations:	
Has advice been given to the prospective Special Guardians regarding financial support post order?	
Has advice been given to the Special Guardian(s) regarding tax credits and benefits for which they may be eligible?	
Core Support Services: All Special Guardians will have the opportunity to access a range of basic support services. Please indicate whether you would be interested in being on the mailing list to receive information regarding these services:	
Contact number for ongoing advice, assistance or onward referrals as needed	
Group meetings with other Special Guardians	
Regular workshops/training e.g. managing difficult behaviour, sharing information, etc.	
Opportunity to keep in touch through a newsletter or regular social event	
Date form completed:	
Completed by:	
Comments if any by prospective Special Guardian(s):	
Signed:	Prospective Special Guardian(s)
Signed:	
Date:	

SPECIAL GUARDIANSHIP SUPPORT PLAN

To be completed prior to Special Guardianship Order being obtained

DATED:

CHILD					
Name:		Surname:		Date of birth:	
Ethnic origin:				Religion:	
Currently legal status:				Applications for other Orders:	
Date recommended by Looked After Children Review/Court:					
PROPOSED SPECIAL GUARDIANSHIP FAMILY					
Name:		Surname:		Date of birth:	
Ethnic origin:				Religion:	
Name:		Surname:		Date of birth:	
Ethnic origin:				Religion:	
CHILDREN IN FAMILY					
Name(s):				Date of birth:	

SUPPORT PLAN

1. HEALTH					
Support needs of child (include needs, strengths and difficulties of child)	Support needs of carers (include needs, strengths and difficulties of child)	Services to be provided	Person/Agency responsible	Frequency, duration and starting date	Aim and plan for review (include progress to be achieved, how will it be measured and date for review)

2. EDUCATION					
Support needs of child (include needs, strengths and difficulties of child)	Support needs of carers (include needs, strengths and difficulties of child)	Services to be provided	Person/Agency responsible	Frequency, duration and starting date	Aim and plan for review (include progress to be achieved, how will it be measured and date for review)

3. BEHAVIOURAL, SOCIAL AND EMOTIONAL DEVELOPMENT					
Support needs of child (include needs, strengths and difficulties of child)	Support needs of carers (include needs, strengths and difficulties of child)	Services to be provided	Person/Agency responsible	Frequency, duration and starting date	Aim and plan for review (include progress to be achieved, how will it be measured and date for review)

4. ATTACHMENT					
Support needs of child (include needs, strengths and difficulties of child)	Support needs of carers (include needs, strengths and difficulties of child)	Services to be provided	Person/Agency responsible	Frequency, duration and starting date	Aim and plan for review (include progress to be achieved, how will it be measured and date for review)

5. IDENTITY					
Support needs of child (include needs, strengths and difficulties of child)	Support needs of carers (include needs, strengths and difficulties of child)	Services to be provided	Person/Agency responsible	Frequency, duration and starting date	Aim and plan for review (include progress to be achieved, how will it be measured and date for review)

6. FINANCIAL SUPPORT

Special Guardians may be entitled to help with the initial costs of accommodating a child. Please state if this is needed and what the costs may be (authorisation for this will need to be sought from the appropriate Head of Service.)

Please tick

Yes **No**

Are you recommending any other financial support to the placement? If so, please specify:

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

(i) Time limited payment for a specific reason? If so, please specify:

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

(ii) Lump sum for a particular item? If so, please specify:

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

(iii) Ongoing financial support? Child's needs must fit into one of the categories for exceptional circumstances below, please give additional details:

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

Does the child currently attract any additional payment due to particular needs? (e.g. soiling, wear and tear due to behaviour)

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

Is the child part of a sibling group who need to remain together?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

Does the child have ongoing or long term emotional or behavioural difficulties due to past abuse or neglect?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

Is the child placed with a family member and without additional resources would the child remain on a Care Order?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

7. CONTACT POST PLACEMENT

Support arrangements for birth parents should take into consideration facilitating contact

Contact Arrangements	Type	Frequency	Venue	Support Arrangements
Birth mother				
Birth father				
Siblings				
Other (state who)				

Appendix 4: Financial Regulations

Regulation 7 of the Special Guardianship Regulations 2005 states:

1. Any element of remuneration (e.g. fees for foster carers) can only be paid if the decision to include it is taken before the SGO is made and the local authority consider it to be necessary in order to facilitate arrangements for a person to become a Special Guardian in a case where the SG has been a local authority foster parent in respect of the child and an element of remuneration was included in the payments made by the local authority to that person in relation to their fostering the child.
2. 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 the local authority consider its continuation to be necessary having regard to the exceptional needs of the child or any other exceptional circumstances

Regulation 15 of the Special Guardianship Regulations 2005 states:

1. Financial support must be means tested and taken into account by the local authority unless:
 - (a) The local authority is considering providing financial support in respect of legal costs, including court fees, in a case where an SGO is applied for in respect of a child who is looked after by the local authority and the local authority support the making of the order or an application is made to vary or discharge an SGO, when it **must** be disregarded; or
 - (b) The local authority is considering providing financial support in respect of:
 - i. Initial costs of accommodating a child who has been looked after by the local authority
 - ii. Recurring costs in respect of travel for the purpose of visits between the child and a related person; or
 - iii. The child needs special care which requires greater expenditure of resources by reason of illness, disability, emotional or behavioural difficulties or the continuing consequences of past abuse or neglect
 - iv. The remuneration element referred to in regulation 7

when it **may** be disregarded.

A local authority must also take into account any other grant, allowance or resource which is available to the carer as a result of becoming the child's Special Guardian, e.g. child benefit, child tax credit (Reg 13(2)) – i.e. it is not possible to pay benefits twice therefore they must be removed from any payments received from the LA i.e. foster carers allowance. Special Guardians must be helped to access benefits to which they are entitled.

No enhancements or additional payments including festive, holiday and birthday allowance will be payable.

Regulation 6 sets out the circumstances in which financial support may be paid to a Special Guardian or prospective Special Guardian (See section 9, above). These are:

- 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 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 a Child Assessment Order
 - (iii) An order for financial provision to be made to or for the benefit of the child

It is the responsibility of the case holder to undertake an assessment of the child's current and future needs and to ensure that this assessment provides evidence that the prerequisites set out in regulation 6 (b) apply. Therefore, and only in exceptional cases, current and future payments may be made where the child needs special care as a result of long term and serious illness, disability, or severe emotional and behavioural difficulties. It must be demonstrated that the actual costs of providing the special care are above those applicable to a child who does not suffer from the condition.

Appendix 5: Information Pack for Financial Support - Guidance for Social Workers

To be read in conjunction with Special Guardianship Order Policy and Guidance (above)

1	Introduction	2
2	General guidance on financial support for Special Guardians: <ul style="list-style-type: none"> • Eligibility • Circumstances in which financial support may be payable • Financial assessment • Level of financial support • Payments post-18 years 	3
3	Financial support for new placements where a child is looked after or as an alternative to a child becoming looked after: <ul style="list-style-type: none"> • Initial costs • Legal costs • Ongoing financial support (other than current foster carer) • Ongoing payments for foster carer/family network carer 	7

- Decision sheet for ongoing financial payment for relatives
- Decision sheet for ongoing financial payments for foster carers
- Proposal letter (to be sent out by Head of Service)

1. Introduction

1.1 In certain circumstances financial support can be provided to Special Guardians who care for children previously looked after by the local authority. Financial support from local authorities must complement and not duplicate financial support available through benefits and tax credit systems. Eligibility for financial support is determined as part of the Assessment for Special Guardianship Support Services in line with The Special Guardianship Regulations 2005.

1.2 A request for an assessment can be made at any time following a Special Guardianship order being made by the Special Guardian or prospective Special Guardian, or by a relevant child, who is looked after by the local authority or was looked after immediately before the making of a Special Guardianship Order, or by the parent of such a child.

2. General Guidance On Financial Support For Special Guardianship Placements

2.1 Financial support will only be given in certain circumstances and following an assessment for Special Guardianship support, including a financial assessment in line with agency procedures. The Department must be satisfied that the specific needs and circumstances of the child and Special Guardian(s) have been considered.

2.2 Eligibility

2.2.1 The following groups of people are entitled to request to an assessment of their needs for Special Guardianship support services including financial support (Regulation 11):

- A relevant child who is looked after by the local authority or was looked after by the local authority immediately before the making of a Special Guardianship Order
- A Special Guardian or prospective Special Guardian of such a child
- A parent of such a child

2.2.2 A person entitled to be assessed should then meet the following criteria (Regulation 5):

- They should live in Wiltshire
- Live outside Wiltshire but meet the eligibility criteria in relation to the local authority as stated above. In these circumstances any child of a Special Guardian remains the responsibility of the local authority where the child was last looked after for three years from the date of the order. When the three year period has expired the local authority where the Special Guardian lives is responsible for assessing and providing support services. The exception to this is where the local authority agreed for ongoing financial support prior to the order being made

2.3 Circumstances in which financial support is payable (Sec 7.1 in guidance above)

2.3.1 Financial support may be provided to Special Guardians where one or more of the following circumstances exist:

- Where it is necessary to ensure that the Special Guardian or prospective Special Guardian can look after the child
- 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
- Where the local authority considers that it is appropriate to contribute to any legal costs, including court fees, of a Special Guardian or prospective Special Guardian associated with

2.3.2 Regarding the making of a Special Guardianship Order or any application to vary or discharge such an order;

- Where the local authority consider 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.
- Where a Special Guardian or prospective Special Guardian previously fostered the child and they received an element of remuneration (fee) in the financial support paid to them as the child's foster parent, the local authority will in these circumstances continue to pay that element of remuneration for two years from the date of the Special Guardianship Order. These payments can continue for longer if the local authority considers this appropriate having regard to the exceptional needs of the child or any other exceptional circumstances.

2.3.3 Any payment made under these arrangements is in order to support the day to day care of the child and no additional payments will be made in respect of:

- Costs, including travel, associated with the child's contact with family members
- School expenses and travel costs to school where school is not nearby

2.3.4 The local authority has agreed that there will be a cap on the amount that can be paid for a Special Guardianship allowance based on a combined family income. This is reviewed annually.

2.4 Financial Assessment

2.4.1 Where the local authority are considering providing financial support a prospective Special Guardian's income and expenditure will usually be taken into account. However the local authority **must** disregard a financial assessment in a supported application in respect of legal costs including court fees.

2.4.2 The local authority **may** also disregard a financial assessment in the following cases:

- (a) Initial costs of accommodating a child who has been looked after by the local authority
- (b) Recurring costs in respect of travel for the purpose of visits between the child and a related person
- (c) 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
- (d) The two years foster carers receive payments following a Special Guardianship Order or where this has been extended due to exceptional circumstances

2.4.3 All Special Guardians will be expected to complete a financial assessment form and declaration.

2.5 Level of financial support

2.5.1 The amount of financial support provided in individual cases is a matter for the local authority to determine through the assessment process. Approval is required from the appropriate Head of Service. The term financial support is intended to apply to:

- (a) A single payment
- (b) A series of payments to meet a specific need
- (c) A periodic or regular payment, payable at intervals determined by the local authority

2.5.2 Financial support that is to be paid periodically and subject to annual review is not payable until the Special Guardian has agreed that they will inform the local authority immediately in writing if:

- They change their address
- The child dies
- Any of the changes mentioned in the Special Guardianship Regulations 2005, paragraph 9 (cessation of financial support) occur; or
- There is a change in financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable, including the claiming of tax credits.

2.5.3 Where a financial assessment has been completed the Special Guardian will be notified in writing of the decision and the package of financial support to be provided. Special Guardians can appeal against a proposed decision made regarding financial support. Any representation should be made to the appropriate Head of Service and must be lodged within twenty eight days on receipt of the written notice. If no representation is received then the local authority will formalise the financial support as stated in the notice.

2.5.4 Financial support ceases to be payable to a Special Guardian if:

- (a) The child ceases to have a home with them or dies;
- (b) The child ceases fulltime education or training and commences employment;
- (c) The child qualifies for Income Support or Jobseeker's Allowance in their own right;
- (d) The child reaches the age of eighteen years of age unless they continue in fulltime education or training, when it may continue until the end of the course or training being undertaken.

2.6 Children in full time education post eighteen

2.6.1 Financial support will be considered for a child of a Special Guardian who has reached eighteen years of age and is still in education and training (Regulation 2(2)). This will be on the basis that immediately before he or she reached the age of eighteen:

- (a) He or she was a child of a Special Guardian;
and
- (b) On-going financial support was payable in relation to them.

2.6.2 It is the responsibility of the Special Guardian to inform the department prior to the child's eighteenth birthday, if the young person is to remain in full time education. It is also a requirement that the Special Guardian notify the local authority once full time education has ceased in order to avoid any over payment.

3. Financial Support for a new Special Guardianship placement where a Child is Looked After or as an alternative to the child becoming Looked After

3.1 Initial costs of a Special Guardianship arrangement

In some circumstances the local authority may be able to assist financially in providing basic equipment to agency supported Special Guardians in order to set up a placement.

3.2 Legal costs

3.2.1 The local authority will fund the court filing fee for applications where the child concerned is Looked After or the SGO is sought as an alternative to the child becoming looked after and the local authority supports the application, unless the applicant is eligible for exemption from payment of the court fee. Further information is available via the HMCTS website.

3.2.2 Funding for legal costs for advice, and where contested, an SGO application, is usually only provided where the child is Looked After. Social workers need to be aware that where the potential applicants are carers in a *family arrangement*, the local authority would not *usually* fund unless, for example, the application is being made as an alternative to care proceedings. Where the LA does not support a proposed application the local authority would not agree to fund.

3.2.3 The local authority has the ability to pay for the potential Special Guardian to seek legal advice where this is required and the Head of Service will authorise this. Where Special Guardians are seeking to vary or discharge an order (including varying an accompanying Section 8 order) authorisation for payment rests with the Head of Service. There is a standard letter for this available from the legal department. Legal Costs of the Application may be paid as follows:

- Only where the child is Looked After, in care proceedings or the application being made as an alternative to care proceedings and the local authority supports the application
- Where the applicants are not eligible for legal aid
- The local authority will pay the filing fee (even if consent application) if the applicants are not eligible under the court policy for remission of fees
- The local authority will only pay legal costs of drafting an application or conduct of proceedings in court if the application is definitely opposed (unless some exceptional circumstance e.g. other application/s also being made which are opposed)
- The Solicitor used must be on Law Society Children Panel
- The local authority will pay at legal aid rates
- The local authority must have a cost estimate from the solicitor and the local authority will set a cap
- Counsel should only be instructed with the agreement of the local authority to fund and there will be no funding for a solicitor or a legal assistant to sit behind
- Applicant must not be required by the solicitors to top up the legal costs
- Prior authority of the local authority must be secured for any instruction and costs of any experts
- If a contested matter becomes uncontested, funding for legal costs will cease unless there are exceptional circumstances
- Solicitors must provide monthly invoices and full breakdown of their costs

3.3 Post-order financial support (other than current foster carer)

3.3.1 In exceptional circumstances, post-order financial assistance may be provided in circumstances where the local authority has been a party to proceedings or has supported the Special Guardianship Order application as an alternative to care and in cases where without financial support, having obtained all available benefits the applicant would be unable to meet the basic needs of the child. This must be agreed by the Head of Service using the decision sheet, below.

3.3.2 Such payments are subject to a means test however the local authority has discretion to disregard means “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.” (Regulations 13(5)(a)(iii) and 6(2)(b)). The Special Guardian will need to complete a financial assessment form which can be sent out for completion by the finance section on request of the social worker.

3.3.3 Where the local authority has disregarded means, the Special Guardian will receive the Special Guardian’s allowance which will be linked to the age related fostering allowance, less celebration allowances and minus any child benefit and child tax credits. The financial assistance provided is subject to annual review.

3.3.4 The Special Guardian will be required to notify the agency of any change in circumstances and the payments will be subject to an annual review. The review will also

check that the Special Guardianship Order remains in force and that the child continues to reside with the carer on the same basis as when the Order was made. These reviews are the responsibility of the Finance Section.

3.4 Foster Carer Special Guardianship Orders

3.4.1 Where local authority foster carers who are fostering a child then apply to become the child's Special Guardian, the carers will receive the equivalent of the age related fostering allowance, minus child benefits and tax credits and excluding any celebration allowances.

3.4.2 In order to qualify for payments the child's needs will need to match criteria in accord with the Support Plan (Appendix 3, above). Eligibility criteria are set out to assist the Head of Service in making the decision.

3.4.3 Carers will need to apply for child benefit and child tax credits and these amounts will be deducted from any payments made. Once a decision has been reached about ongoing payments the Supervising Social Worker is responsible for sending out a proposal letter setting out the payments prior to the social worker completing the assessment.

3.4.4 Once the SGO has been made the local authority needs to be alerted in order for a formal notification to be sent out to the Special Guardian about the payments.

4. Decision sheet for ongoing financial support for relatives where the local authority are supporting the Special Guardianship Order application

Name of child:		Date of birth:	
Name of potential Special Guardian(s):			
Address:			
As a general rule potential Special Guardian(s) will be means tested save that the local authority may decide to disregard means 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. (Regulation 6(2)(b)).			
YES		NO	
If yes, please explain the reasons why:			

Signed:	
Name:	
Date:	

If the means are disregarded the Special Guardianship Allowance will be paid minus Child Benefit and Child Tax Credit which the carer can claim from the Inland Revenue.

5. Decision sheet for ongoing payments for foster carers or Connected Persons carers

5.1 This document is to assist the Head of Service in deciding ongoing payments to Special Guardians who are current foster carers.

5.2 Ongoing payments do not have to be means tested they do however have to be subject to a financial assessment which may then be waived 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 his past abuse or neglect the carers will be subject to a financial assessment and their means may be disregarded (Regulation 13(5)(a)(iii) and 6(2)(b)).

Name of child:		Date of birth:	
Name of carer(s):			
Address:			
Does the child meet any of the following criteria?			
			<i>Please tick</i>

	YES	NO
Does the child currently attract an enhancement due to particular needs (e.g. soiling/wear and tear due to behaviour)?		
Is the child part of a sibling group who need to remain together)?		
Does the child have ongoing or long term emotional or behavioural difficulties due to past abuse or neglect?		
Is the child placed with a family member, and without the additional resources would the child remain on a Care Order?	<input type="checkbox"/>	<input type="checkbox"/>
Signed:		
Name:		
Date:		

5.3 If the child meets the criteria, the carer will continue to be paid at their current rate. However, a financial assessment will be required to be reviewed annually by the relevant Head of Service and a determination made whether or not to disregard means.

5.4 If the carer is getting an enhancement or a professional fee and the child meets the criteria the carer will continue to receive this fee until the child reaches independence so long as the child's needs warrant this payment. This will be subject to the same financial assessment and annual review as above.

6. Template letter to Confirm Allowance

(Special Guardian name and address) Ref: SGO

(Date)

Dear

I am writing to inform you that it has been agreed that (child's name) is eligible for ongoing financial support should you wish to apply for a Special Guardianship Order.

You are currently receiving an allowance of £** and a fee (if applicable) of £**

You will continue to receive this amount until the child is eighteen years of age or will cease prior to this if the child no longer has a home with you. It is your responsibility to notify the local authority of any changes in circumstances to prevent overpayments occurring.

You will also be able to make a claim for Child Benefit and a benefit pack can be requested by contacting the enquiry line on 0845 3021444, or online at www.inlandrevenue.gov.uk. You may also be eligible to claim Child Tax Credit and the telephone number to request further information about this is 0845 3003900. You will need to apply for Child Benefit and Child Tax Credit immediately the order is granted.

However, you should be aware that the amount of Child Benefit and Child Tax Credit for the child will be deducted from the allowance quoted above from the date of the order. You will also be required to complete an annual update of your circumstances.

If you have any queries regarding this proposal, please contact your social worker (add name and telephone number).

Yours sincerely,

Head of Service Placements, Care and EDS

Appendix 6: Conditions for contribution by Wiltshire Council towards legal costs of applicants upon contested applications for Residence, Special Guardianship or Adoption Orders

1. The local authority considers it appropriate to make a contribution to meet your legal costs, including fees payable to a court, in relation to your application to apply for (order) in respect of (name).
2. A contribution towards legal costs is not means tested where the local authority supports the making of the order or where you have been a local authority foster parent in relation to the child. In any other cases the local authority will take means into account in determining whether and the extent to which it will contribute to your legal costs.
3. The solicitor you instruct must be a member of the Law Society's Children Panel. Solicitors on the Children's Panel have special expertise and have been specifically approved to represent parties in proceedings relating to children. You are, of course, entitled to instruct any solicitor of your choice, but the local authority will only meet the costs of someone who is on the Panel.
4. The solicitor must assess your eligibility for legal aid and advise the local authority if you are not eligible for legal aid.
5. The solicitor must at the outset provide an estimate of the costs of acting for you, to include all disbursements.
6. If not eligible for legal aid, the fees payable by the local authority will be at the equivalent of legal aid rates with an initial ceiling of £150 (inclusive of disbursements but excluding VAT) and will be payable while the matter remains contested. Justification must be provided and prior agreement obtained from the Council to incur any additional costs over and above the ceiling.
7. You must not be required by your solicitor to top up the costs paid by the local authority.
8. Prior authority must also be obtained for the proposed instruction of any experts or for the instruction of a barrister to advise or to represent you at any stage in the

proceedings. If the instruction of a barrister to represent you at a hearing is agreed then the Council would not expect to fund the costs of anyone to sit behind counsel.

9. The local authority must be informed in the event the matter becomes uncontested when, unless there are exceptional reasons for funding to continue (for example, where there is another substantial issue which is outstanding and which requires the benefit of legal advice), the local authority would expect you to be able to proceed without legal representation.
10. The solicitors instructed should provide monthly invoices in respect of their fees to include a detailed breakdown of time spent

Appendix 7: Financial Assessment Flowchart

THE FINANCIAL ASSESSMENT PROCESS FOR SPECIAL GUARDIANS

