

STAYING TOGETHER POLICY

Protocols

Adoption, Special Guardianship & Residence order applications by foster carers

Under the Staying Together Policy, fully approved related and non-related foster-carers will make a commitment to applying for an Adoption Order, a Special Guardianship Order, or a Residence Order in respect of children they have fostered for a minimum period of a year. The purpose of this policy is to provide those children who might otherwise remain Looked After with permanence. The Policy recognises the importance of the strong and important relationship which carers will have established with the children in their care.

The Directorate will provide on-going financial support at the rate of the age related maintenance plus fee, which was payable at the point the legal order is made, less child benefit until the child reaches the age of 18. In other words the policy aims to ensure that foster carers have time to adjust to their new role with the child.

Current tax rules allow Adoption allowances, Residence Order and Special Guardianship Allowances to be exempt from income tax.

The Directorate has also committed to families in this policy being able to access the Adoption & Special Guardianship Support Team services.

The legal framework

The Special Guardianship Regulations 2005 (regulation 6), and The Adoption Support Regulations 2005 (regulation 8), respectively set out the conditions under which Special Guardianship or Adoption Allowances are payable. Financial support is payable to an adoptive parent or special guardian to support the placement, and when it is considered to be beneficial to the child.

When the adoptive parent or special guardian has previously fostered the child it is allowable, under the regulations to continue to pay the “element of remuneration”, that is the fee element of the fostering allowance.

Under both sets of regulations this payment is discretionary. Kent’s Staying Together Policy was introduced in May 2012 and follows the principles and criteria below:

The principles underpinning the payment of Staying Together Allowances

- Financial issues should not be the sole reason for a special guardianship arrangement failing to survive
- No child should be unfairly disadvantaged because of their status.

- People should be treated equally and fairly. Related carers who have been fostering a looked after child for at least one year, and receiving an element of remuneration, will have equal access to the policy.
- Support services should not be seen in isolation from mainstream services and it is important to ensure that families are assisted in accessing mainstream services. Adopters and Special Guardians/Residence Order holders should be signposted to access their entitlements to tax credits and social security benefits.
- Adoption/Special Guardianship/Residence Order financial support is payable to the Adopters/Special Guardians/RO to care for the child and meet his/her assessed needs, irrespective of where the Adopters/Special Guardians/RO are living i.e. including abroad.
- Carers should take advice regarding the impact of payments on taxation and benefits.
- In the event that a professional assessment, the source of which is agreed by the child's carers and relevant staff from the Directorate, should recommend that the child requires therapeutic services, the Directorate would expect that such assistance would initially be sought through community provision [e.g. local health services, CAMHS, etc] and if appropriate would support the family in accessing these services. However, if appropriate community services were not available, then KCC would consider funding some or all of these services, either directly or through the provision of further financial assistance.

Eligibility for the Policy – initial considerations

- The child must have been fostered by the applicant/s for a minimum of one year.
- The applicant/s must have received an element of remuneration for the child they have been fostering.
- **And** the child must be aged 8 years or above (applications concerning younger children will be considered on a case by case basis).
- **Or** the child must be part of a sibling group that needs to be kept together with a child aged 8 years or above
- The child wishes are to remain in the placement
- It has been agreed with the carers, the child's social worker, the Independent Reviewing Officer, and the fostering social worker that the placement meets the needs of the child.

Decision Making Process

(Refer to Special Guardianship Procedures and Adoption by Foster Carers for full information)

1. a) The foster carer/s may express initial interest or -
b) A professional involved in the case may consider it appropriate or -
c) Case is identified through monthly tracking meeting in District
2. Child's social worker and fostering social worker will meet to discuss a potential Special Guardianship application. In adoption cases the Adoption link worker must also be involved.
3. There will be discussion with the IRO.
4. The fostering social worker, child's social worker, and where relevant the adoption link worker will undertake a joint visit to the child's carers.
5. If agreed to proceed arrangements will be made to consult with the IRO and update the Care Plan.
6. If not agreed to proceed the carers will be able to ask the District Manager that the case should be reviewed. Intensive support should be offered to the carers by the fostering social worker.
7. An Identifying Needs and Services meeting will be held so that ongoing support can be agreed and further consideration can be given to the suitability of the proposed arrangement. The support plan should be discussed with other agencies involved, CAFIS; Adoption & Special Guardianship Support team, and 16 plus as relevant.
8. A linked assessment should be started by either the assessing adoption worker (using the BAAF PAR), or the fostering social worker (by updating the Form F for the special guardianship application)
9. The adoption placement meeting or special guardianship planning meeting will consider the implications of the plans for the fostering role, motivation, impact on the birth family, the foster family, and any siblings of the child
10. The Court Report should be completed by the child's social worker in liaison with the fostering and/or adoption worker
11. In adoption & Special Guardianship the case will be presented to the Adoption Panel and the Agency Decision Maker will consider the case.
12. Recommendations and Support Plan will be confirmed to the applicants by the Decision Maker.
13. Application to be made to court

Financial Support

In addition to the maintenance and fee they are receiving at the point the order is made, the Special Guardian or Adopter will receive the following financial assistance:

- **Legal advice:** This is payable up to the Local Authority's agreed limit for the initial consultation of £350. It is paid at legal aid rates.
- **Court fee:** The court fee of £160 will be paid by the local authority.
- **Legal fees:** These are paid at the Legal Aid rate, up to a maximum of £3000. Should additional funding be required this can only be authorised by the Director or Assistant Director.
- **Contact expenses** – The payment of these expenses by the Local Authority is based on an assessment of child's needs and must be recorded in the Adoption or Special Guardianship Support Plan. It will cover payment of travel costs and accommodation.

If supervision of face to face contact is needed, this needs to be based on a risk assessment by the Local Authority. There is a contractual requirement that funding is available from Districts to support face to face contact arrangements in post order Adoption and Special Guardianship cases, as per the contract with the independent contact support provider (CAFIS). Districts will need to budget for this when post order supervised direct contact is planned.

Exceptional payments

- **Building conversions** – are only paid to private home owners and only in proven exceptional cases e.g. larger sibling groups. The Special Guardians must supply evidence that all other routes have been explored e.g. housing transfer. The Local Authority will put a charge against the property, (see legal charges procedures) or request repayment from the Adopter's/Special Guardian's allowance, if they agree a loan.
- **Assistance with Higher Education** – young people of secondary school age who are made subject to an SGO under the Staying Together Policy will be considered for entitlement to receive an equivalent level of support with respect to Higher or Further education, as young people (aged 18-24 years) who are Former Relevant Children under the Children Act 1989. Consideration will be given on a case by case basis and agreed by the Assistant Director/Director of Specialist Children's Services. Kent County Council's Leaving Care Service must be informed of the proposal.
- **Disabled Children** – payments under the Staying Together Policy will continue until the young person is 18, (unless they continue with Higher or Further Education and agreement has been made to support the young person as in the previous paragraph). If the carer has been receiving an enhanced fostering payment due to the child's complex needs, the extra element will continue to be paid, post order, until the child is 18. Kent's Transition protocols should be followed if the young person is entitled to a transition plan.
- **Children and Young People in IFA placements** – when a child is in an IFA placement the determining factor regarding the level of payment will be whether the child's needs are best met permanently in that setting. IFA carers will be offered the equivalent to the payment that a KCC foster carer would be

receiving in respect of a child of the same age. This will include any enhancements payable due to complex needs.

Support

Support needs are to be assessed using the standard Adoption or Special Guardianship support form. Any future legal costs associated with any application to vary or discharge the order, future support needs for the child should be included on the form, and signatures obtained from the applicants.

When an adoption or special guardianship order is made under the Policy, the adoptive/special guardian's family will be able to access support through Kent's Adoption & Special Guardianship team. Support for contact issues is available through the Action for Children Project: CAFIS.

Post 16 support, where needed, will be available to young people who are made subject to special guardianship orders, through the 16 plus service. On reaching the age of 16 the young person will be able to access advice as a Qualifying Child, under the provisions of the Leaving Care Act. This will entitle the young person to advice from the 16plus duty system, and support in applying for university or further education bursaries.

The 16plus adviser will attend the annual review which falls closest to the young person's 15th birthday so that any necessary support can be planned.

Young people who were looked after prior to a Special Guardianship or Residence Order being granted should be eligible for the non-repayable maintenance award for Higher Education, if they are "estranged from their parents". The student loan system should be used to fund tuition fees.

In all Special Guardianship cases within the policy, a young person engaged in Higher Education will receive payment for vacation accommodation up to £100 per week.

Staying Together Policy Toolkit:

- 1. Protocols**
- 2. Adoption or Special Guardianship Support Plan**
- 3. Identifying Needs and Services meeting – Staying Together**
- 4. Agreement Letter**
- 5. Annual Review Letter**
- 6. Special Guardianship Orders – Procedures**
- 7. Frequently Asked Questions – information for foster carers**