

# Special Guardianship

Policy and Practice Guidance

October 2023 – 2025

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Date of approval TBC

Review in October 2024

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## 1. Introduction

The purpose of this policy is to explain what special guardianship orders are, what they offer to children and adults caring for children, the support provided by the local authority in supporting these arrangements. This policy will also describe the financial support available and access to support for young people when they turn 18.

## 2. Definitions and decision making

Special Guardianship Orders came into force on 30 December 2005 by an amendment to the Children Act 1989 Section 14A-F. The Act is supported by the Special Guardianship Regulations 2005 (Amended in 2016 and further updated 2017) and statutory guidance.

A Special Guardianship Order is an order which appoints a person (or persons) to be a child's special guardian. Special guardianship provides legal permanence for children for whom adoption is not appropriate. Special guardians have parental responsibility and the power to take decisions on the upbringing and care of the child to the exclusion of all others (except a joint Special Guardian). There are exceptions to this, such as the child's parents retaining the right to consent or not to the child's adoption or placement for adoption.

Examples of where Special Guardianship Orders are appropriate are:

- Some children, especially older children who want the sense of security but without an absolute break from their birth family.
- Those who have religious or cultural difficulties with adoption.
- Unaccompanied asylum seekers.
- Foster carers where there is a meaningful relationship with the parents.

If the child was formerly in the care of the Local Authority, they cease to be so upon the making of a Special Guardianship Order. The order is intended to promote a permanent relationship between the child and the Special Guardian which is legally secure and aims to preserve the link between the child and their birth family. Local Authorities have a statutory duty to make provision for a range of services to support people affected by Special Guardianship, (this includes the child, Special Guardian, parents, and potentially wider family members).

The effects of the making of the Special Guardianship Order are:

- The Special Guardian will have parental responsibility for the child and holds an overriding decision-making power of all others (except another Special Guardian) until the child is 18 years old. This overriding power is granted with certain exceptions that are controlled by the Court making which are set out below.
- The child may be known by a new surname with the leave of the Court and or written consent of everyone with parental responsibility.
- The child may be taken out of the country for longer than 3 months with the leave of the Court and/or written consent of everyone with Parental Responsibility.

Unlike adoption, special guardianship retains a basic legal link between the child and their parents. They remain legally the child's parents, but their ability to exercise their parental responsibility is limited. The child's parents retain the right to consent or not to the child's adoption or placement for adoption, and the special guardian must take reasonable steps to inform the parents if the child dies.

On the 29 February 2016 **Special Guardianship (Amendment) Regulations 2016** came into force. In brief these regulations require that Special Guardianship assessments/court reports include a thorough consideration of:

- a. Any harm which the child has suffered and any risk of future harm to the child posed by their parents, relatives or any other person considered relevant, for example a partner of the parent.
- b. The child's current needs and their likely future needs.
- c. The nature of the child's relationship with the prospective special guardian both at the time of the assessment and in the past.
- d. The parenting capacity of the proposed Special Guardians and their ability to understand and meet the needs of the child until the age of 18 yrs.

In this policy, the word need (or needs) refers to assessed needs in line with the Council's duties under section 17 of the Children Act 1989. This places a general duty on councils to "safeguard and promote the welfare of children within their area who are in need". Children who need additional support from the Council to meet their potential are considered to be *in need*.

The Special Guardian has an overriding decision-making power to that of those with parental responsibility. But for exceptional circumstances a Child Arrangement Order can only be made with leave of the Court. This is designed to give Special Guardians a higher level of protection from litigation than holders of a Child Arrangement Orders. However, a parent with parental responsibility may make an application for contact or another Section 8 Order without obtaining the leave of the Court. The Court has the power to limit such applications by [Section 91\(14\) of The Children Act 1989](#).

The Court may vary or discharge an SGO on the application of the Special Guardian without leave being sought. In most other cases the potential applicant must obtain permission of the Court to make such an application. The Court may not grant leave unless it is satisfied that there has been a significant change in circumstances since the making of the SPECIAL GUARDIANSHIP ORDER. The approach the Court will take is of a similar nature to an application to the discharge of a placement order. Only if there has been a significant change of circumstances will the Court move on to consider its discretion and the welfare checklist.

The following persons can make an application to the Court for a discharge or variation:

- The Special Guardian.
- The Local Authority in whose name a Care Order was in force with respect to the child before the Special Guardianship Order was made.
- Anyone with a Child Arrangements Order in respect of the child before the Special Guardianship Order was made, with the leave of the Court.
- The child's parents or guardians any stepparent who has Parental Responsibility.
- Anyone who had Parental Responsibility immediately before the Special Guardianship Order was made.
- The child, (if the Court is satisfied that the child has sufficient understanding).

### 3. Initial Contact with the Council

An enquiry about Special Guardianship can come from a variety of sources, including birth parents, foster carers, the child, the child's family members, other local authorities or the Court.

The Council's [Permanence Policy and Care Planning Procedure](#) explains that, while it is in the best interests of most children to live with their parents or primary attachment figure(s) throughout their childhood and into adulthood, where this is not possible, appropriate opportunities for children to live with friends and family will be the primary consideration at the earliest point in care planning.

The Friends and Family Fostering Service will carry out assessments on friends and family who wish to care for children who would otherwise be looked after by the Local Authority. This will initially be a viability assessment, and if there is a positive outcome, a full assessment will be carried out. The full assessment will conclude with the social worker's assessment on whether the applicant is viable as a foster carer, special guardian or is unsuitable to care for the child(ren).

Those eligible to make an application are individuals or couples (who do not need to be married) who are over 18 years of age AND at least ONE of the following:

- Any guardian of the child.
- A Local Authority foster carer with whom the child has lived continuously for one year immediately preceding the application.
- Anyone with a Child Arrangement Order. If the child is subject of a shared Child Arrangement Order, anyone with the consent of all those who share the Child Arrangement Order.
- Anyone with whom the child has lived for three out of the last five years.
- If the child is in the care of the local authority, anyone 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.

People who cannot apply for a special guardianship order should be advised there may be alternative Orders and arrangements to allow them to care for the child/ren by the child's social worker.

Neither the parents of a child or a Local Authority can make an application for Special Guardianship.

In any family proceedings, (including adoption), the Court can order a Local Authority to prepare a report to the Court, and the Court upon receipt of that Report may make a Special Guardianship Order without an application having been made by anyone if the welfare of the child requires it.

Any person who is eligible to make an application for a Special Guardianship Order should give the Local Authority 3 month's written notice of their intention to apply. The only exceptions to this are:

1. Where an application for Special Guardianship for the child has already been made by someone else; or
2. An application for adoption of the child has been made.

If an application is made with the leave of the Court, no notice to the Local Authority has to be given and the Court may direct when the Report should be filed.

## 4. Report to the Court

On receipt of the written Notice, or the Court order, the Local Authority must investigate and prepare a report about the suitability of the applicants to be Special Guardians. The information to be supplied in the report is prescribed [by a Schedule attached to the Special Guardianship Regulations](#). Once

notice is given to the Council the assessment should be completed within three months without the need for the Court application having been made by the date of the notice.

A Special Guardianship Order assessment can be asked for by a written request. A Special Guardianship Order assessment can also be requested via court order.

The report will be completed by an assessing social worker. If the child has a social worker, then the author will be that worker. If the child does not have a social worker, then the Team Manager will discuss with the relevant Head of Service to agree which team the case will be allocated to.

The assessment will include:

- i. Accommodation
- ii. Household members
- iii. Family History
- iv. Experience of caring for children
- v. Personality, interests, and current lifestyle
- vi. Relationship with child
- vii. Health - including impact on ability to meet the Child's needs.
- viii. Parenting capacity and ability to meet the child's needs.
- ix. Relationship with the child's parents and capacity to safeguard the child.
- x. Attitudes and Capacity to promote contact.
- xi. Impact on applicant's family life
- xii. Views of household and wider family including other adults living in the household
- xiii. Financial details
- xiv. Previous Family Court Involvement
- xv. Applicant's wishes and feelings regarding contact
- xvi. Religious and cultural upbringing
- xvii. Future expectations
- xviii. Support services
- xix. Implications of making a Special Guardianship Order
- xx. Recommendation regarding contact arrangements

The assessment will also require the following checks and supporting documentation to be completed:

- i. DBS on all adult household members
- ii. Medical
- iii. Ex-partner references
- iv. Own children reference
- v. 3 references
- vi. Employment reference
- vii. Financial assessment
- viii. Education references

The assessment will be approved by the Team Manager and support plan will be approved by the Head of Service.

## 5. Special Guardianship Support Services

Local authorities are required to make a range of support services available in their area to meet the needs of people affected by Special Guardianship. These needs are defined as counselling, advice and information and other such services as may be prescribed and defined by the authority. These include:

- Financial support (See section 5.) – paid subject to assessed need and means tested. (Regulation 3(1)(a)). Finance will only be provided to those who it is believed require assistance above any benefits and tax credits they are entitled to. If the finance of the Special Guardian(s) is means tested, child benefits and child tax credits will be considered and deducted.
- Services to enable groups of children for whom a Special Guardianship Order is in force or pending, Special Guardians or prospective Special Guardians, and parents of the child to discuss matters relating to Special Guardianship (Reg 3(1) (b)).
- Assistance including referrals for mediation support, in relation to contact between the child and their parents or relatives or any other relevant person that the Local Authority considers to be beneficial to the welfare of the child (reg 3(1)(c)).
- Assistance in accessing Therapeutic services for the child (Reg 3(1) (d)).
- Assistance to support the maintenance of the relationship between the child and the Special Guardian or prospective Special Guardian, including training to help the Special Guardian to meet any special needs of the child; respite care, mediation in relation to matters relating to special guardianship orders (reg 3(1) (e)).
- Counselling, advice, and information (section 14F(1)(a) of the Children Act 1989).

Once a special guardianship order has been granted, the children and guardians can access support from the Friends and Family and special guardianship order team.. This work can consist of parenting support, behavioural management, life story work, Adoption Support Fund application work and signposting to other relevant services. The SGO team have a support group for carers and guardians where SGO carers where peer support and training is available. A child and young person's support group is also established to provide a fun and safe environment for children and young people. A referral for support from the team can be completed by a professional or a guardian to the Friends and Family Team.

Special Guardianship Support services should be considered holistically, considering universal services already available in the community. The Friends and Family Team can consider making a referral to the Adoption Support Fund for additional therapeutic services if this is outlined as required within the special guardianship support plan and the child was previously in care.

## 6. Entitlement to an Assessment for Support Services

If a child was “looked after by the Local Authority” immediately prior to the making of a special guardianship order, the Council will carry out an assessment for Special Guardianship Support if requested by any of the following people:

- i. the child.
- ii. the Special Guardian.
- iii. a parent.



If the child concerned has not been looked after by Knowsley Council”, then the Council may carry out an assessment of the need for special guardianship support services of.

- i. the child.
- ii. the Special Guardian.
- iii. a parent.
- iv. a child of the Special Guardian.
- v. any person that the Local Authority considers has a significant and ongoing relationship with the child.

If a decision is made that the child’s needs do not create the duty to financially assess the person requesting the assessment should be notified in writing of the decision and the reasons for it. They should be allowed 28 days to make representations in relation to that decision. An appeals process will be offered as outlined in **Section 7**.

If the Local Authority uses its discretion to financially assess, then the information gathered would ordinarily be the same process as for the persons entitled to financial assessment.

If the child was looked after by the Local Authority before the special guardianship order, the Friends and Family Team can consider the identified need for services and, where appropriate, make a referral to the Adoption Support Fund for additional therapeutic services. The child’s needs shall be set out in the support plan and updated should additional needs arises.

The Friends and Family Team will support children and families, or signpost them to support, to claim any benefits and tax credits available. Financial support paid under the Regulations cannot duplicate any other payment available and the Local Authority must take into account any other grant, child benefit or allowance or resource which is available to the person in respect of his needs as a result of becoming a Special Guardian.

## 7. Assessment and Support Plan

The assessment for support should be based on the Assessment Framework, and should consider as far as possible:

- i. The developmental needs of the child.
- ii. The parenting capacity of the Special Guardian or prospective Special Guardian.
- iii. The family and environmental factors which have influenced the past life of the child and will influence their future life.
- iv. What the life of the child will be like with the Special Guardian.
- v. The needs of the Special Guardian or prospective Special Guardian and their family.
- vi. The impact of the order on any pre-existing relationships.
- vii. Multi agency contributions to support needs.
- viii. Any strengths of the child and Special Guardian as well as any difficulties.
- ix. The child's history and experiences to establish specific vulnerabilities which may result from adverse experiences.
- x. Any previous assessments in respect of the child or Special Guardian.
- xi. The views of the child and Special Guardian.
- xii. Use of evidence-based assessment tools.

Under each section of the assessment report, the following will be clearly recorded:

- i. Support needs of child and special guardians
- ii. Services to be provided.
- iii. Person/agency responsible
- iv. Frequency, duration, and starting date
- v. Planned outcome and plans for review.

If appropriate, the Council will interview the person whose needs are being assessed. However, if the person whose needs are being assessed is a child, the Council may interview the Special Guardian, prospective Special Guardian, or other adults where the Council feels it is appropriate.

If needs identified relate to services provided by health or education services, and it appears there may be resource implications for those services, the assessing social worker should liaise with the relevant agencies during the assessment.

It is important that the assessment process does not unnecessarily delay provision where a person has an urgent need for a service. In such cases, referrals should be made to the relevant services.

If the enquiry is simply for information, advice, or counselling services it may not be necessary to carry out a full assessment to provide the support. Similarly, where a request relates to one particular service then the assessment could be limited to assessing the need for that service.

When the assessment has been completed and it identifies a need for services, the assessing social worker should contact the Team Manager to discuss the ongoing support needs. The support plan must be agreed by a Head of Service before any Notice of the outcome is given. The Council will produce a written report of the assessment once it has been completed. The written report will be shared with the Special Guardian or prospective Special Guardian.

The person receiving the assessment should be given notice of the outcome of the assessment, alongside a support plan which includes the following information:

- i. The assessment of the person's needs for special guardianships support services.
- ii. If financial support is to be provided, the basis on which financial support is determined.
- iii. Whether the Council proposes to provide special guardianship support services.
- iv. The services (if any) that the Council proposes to provide.
- v. If financial support is to be provided, the proposed amount that would be payable, and any conditions attached to the payment.

Once the person who has been assessed receives the notice of assessment, they then have 28 days to make representations unless they agree, or the court agrees otherwise. The person who has been assessed must be advised of sources of independent advocacy and advice.

If the Special Guardian or prospective Special Guardian responds within the timescale and is unhappy with the content, then representations should be made in the form of a complaint under the Complaints Procedure – see section 7.

After considering any representations, a final decision will be made about what support services to provide, if any, and Notice of that decision must be given, including the reasons for it.

## 8. Support Plan

A Support Plan must be prepared if Special Guardianship support is to be provided on more than one occasion, and where services are not limited to the provision of advice and information.

If support is required that is not provided by the Council, and there will be an implication for other services (such as the health or education), the Social Worker will consult with the organisations affected before preparing the plan.

The support plan should note where universal services will be required. If an application to the Adoption Support Fund is required for therapeutic services, an application should be made without delay once the Special Guardianship Order has been made.

The plan should set out:

- The services to be provided.
- The objectives and criteria for evaluating success.
- Timescales for provision.
- Procedures for review.
- The name of Designated Manager (Special Guardianship) nominated to monitor the provision in accordance with the plan.
- The support plan will be shared with the Special Guardian.

The support plan will cover the following:

- Health
- Education
- Emotional and behaviour development
- Family and social relationships
- Family time
- Financial arrangements

## 9. Out of area

If a Special Guardian lives outside of Knowsley, the council in their local area is responsible for any assessments of need and they are responsible for providing any support services. However, there is an exception to this rule if the child was in care in Knowsley immediately before the SGO was made.

In order to make sure there is continuity for a child who has been in care and then becomes part of a special guardianship, the Council last responsible for their care is required to carry out the assessment and provide support services for three years after the special guardianship order is made. This applies wherever the family live during that period. If the family moves within this period, or if there are any other significant changes to their circumstances, the Council may reassess and alter the support plan accordingly (including any family time arrangements). In the case of ongoing financial support agreed before the special guardianship order was made, however, this will remain the responsibility of the local authority who agreed it for as long as the family continues to qualify.

If the Council uses its discretion to provide services to someone who is in another local authority area. In these cases, the assessment process set out in section 4 will be followed.

The Special Guardianship worker will carry out all the assessments in relation to the child, suitability of the potential Special Guardians, support services and preparing the Court report and presenting to Court, unless it is identified that the child is in need.

Where it is identified that a child is in need a referral will be made to the MASH duty team to carry out the assessment in relation to the child (see [Knowsley Safeguarding Children Partnership Procedures, Multi Agency Safeguarding Hub \(MASH\) Procedure](#))

## 10. Reviews

The Council will review the Special Guardianship support plan:

- If it becomes aware of any change to the person's circumstances, which may affect the provision of Special Guardianship support services, if the change of circumstances is relatively minor, the review may be limited to an exchange of correspondence.
- At a stage in the implementation of the plan that the Council feels it is appropriate.
- Annually, regardless of any change in circumstances. Payments may be suspended if information is not shared for an assessment to take place.

The method of review will vary depending on the circumstances of the case. If there are no significant changes, the review may be a paper-based review. If there are more significant changes in circumstance, it may be appropriate to conduct a new assessment of need; in which case a social worker will be allocated to complete the assessment.

If the decision is taken to vary or terminate support as a result of the review, the Council must give notice in writing, and the person concerned should be given 28 days to make representations. Representations should be made in the form of a complaint under the Complaints Procedure – see section 7.

## 11. Financial Support

The purpose of financial support to special guardians is to contribute to the costs of accommodation and maintenance of the child who is subject of a special guardianship order, or to meet special needs or exceptional requirements.

Special Guardianship Order payments will not generally be paid unless the child is looked after by the Local Authority, or was looked after by the Local Authority, immediately before the Special Guardianship order was made or in exceptional circumstances where the child's welfare requires financial support.

All requests for financial support for Special Guardianship Orders must meet the criteria (see Section 4.1, Assessment for Special Guardianship Support Services) and be agreed via a recommendation made by the Head of Service.

One-off or single payments shall be considered for: Legal costs and expenses (e.g. Court Costs) Payments for legal costs will not be considered where the Local Authority opposes the application for a Special Guardianship Order.

## 12. Payment of financial support

Financial support that is to be paid periodically will not be paid until the Special Guardian or prospective Special Guardian agrees to the following conditions (Reg10 – Special Guardianship regulations):

- a. The Local Authority are informed immediately if:
  - They change address; or
  - The child dies; or
  - The child ceases to reside with them; or
  - The child ceases full time education or training and commences employment or qualifies for a placement on a government training scheme; or
  - There is a change in the financial circumstance or the financial needs or resources of the child which may affect the amount of financial support that is payable.

Where the information is given verbally it must be confirmed in writing within 7 days.

- b. That the Special Guardian will complete and supply the Local Authority with an annual statement as to matters concerning:
  - Their financial circumstances.
  - The financial needs and resources of the child.
  - Their address and confirmation the child continues to reside with them.

Failure to comply with the conditions and expectations required may result in the suspension or termination in the payment of financial support. The decision will be made by the Head of Service.

## 13. Review

Financial support will be reviewed annually, or where there has been a significant change of circumstances.

## 14. Cessation of financial support

Financial support ceases to be payable if:

- i. The child ceases to reside with the Special Guardian; or
- ii. The child reaches 18 years unless in continuous full-time education or training; when it may continue until the end of the course / training being undertaken; or
- iii. The child ceases full-time education or training and commences employment or qualifies for benefits in their own right.
- iv. The funds are not being used to meet the child's needs.
- v. False information is received by the Local Authority.

## Financial Support

The financial element of this policy is specifically relevant to children who are looked after immediately prior to the making of a special guardianship order. The policy is based on the principle that where a special guardianship order is agreed as being in the child's best interest, there should be no significant financial disincentive for the foster carer to become the legal guardian. This offer has been developed as it is necessary to ensure that the Special Guardian can look after the child/ren who are the subjects of the special guardianship order without concern as to being able to afford to support any child on a long term permanent basis.

The policy sets out the criteria for eligibility and the circumstances which may justify financial support. This will be assessed, as required, and is not an automatic payment. Such support may be in addition to other services which may be available. The policy should be read in conjunction with the regulations in respect of Special Guardianship. [Special guardianship guidance: Statutory guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/614222/special-guardianship-guidance-statutory-guidance.pdf)

The following criteria must be met to be eligible for financial support:

The child must have been looked after by KMBC immediately prior to the special guardianship order being made.

### **Payment of Financial Support**

The payment of the financial support is subject to an assessment and is governed by the Regulations in respect of Special Guardianship Orders. KMBC shall normally only make payments for:

- A. Children who are looked after - to enable a child who is being looked after by KMBC to be securely placed, and to enable the child to leave the care of the KMBC, and where financial support is assessed as appropriate to achieve this.

State benefits and tax credits are still available to the holders of such orders in the same way as they are for any parent. Any financial support paid by KMBC must not duplicate any benefit payments, and any such payments will be taken into account in the assessment. This includes child benefit.

There may be circumstances that warrant a single or series of payments over a short period to support a placement, and agreement to such a payment can be made by the Service Manager when it exceeds £1000 this decision needs to be made by the Head of Service. The support plan would need to include this payment and the reason for its provision. This excludes the purchase of property and extensions.

The support plan needs to detail the basis upon which financial support is determined, whether the financial support will be paid in the form of a regular allowance or one-off payment, how much the support will be and what period it covers, and the mechanism for review.

The financial support payable by KMBC will not include any element of remuneration (fee) for the

care of the child unless:

- A. The applicant is or has been a KMBC foster carer.
- B. An element of remuneration was included in the payments made by KMBC to that person in relation to fostering the child.

Different arrangements and criteria apply to present foster carers who obtain a Special Guardianship Order for a child in their care. This section of the guidance is therefore split between applicants who are not presently foster carers of the child and those that are.

#### **Applicants who are not presently the foster carer of the child.**

The approval of the allowance is determined by the needs of the child and then if the needs merit regular financial support, the financial circumstances, including benefits, of the applicants.

The child's circumstances where an allowance may be paid are:

- A. The child needs special care as a result of illness, disability, emotional or behavioral difficulties or the consequences of abuse or neglect.
- B. Where it is necessary to make special arrangements to facilitate the arrangement by reason of age, ethnic origin or the desirability of being placed with siblings.
- C. Where KMBC considers it necessary to ensure that the carer can meet the child's needs.

For Special Guardianship Order applications, it is recommended the assessment of financial eligibility commences when a child is identified as a possible match for the applicants, or prior to placement where possible.

The financial circumstances of the applicant are assessed using KMBC's assessment. Supporting documentation will be required from the applicant to evidence financial circumstances. If the applicant is in receipt of universal credit /pension credits / state benefits, a financial assessment is not required, although documentary proof of the benefits is still required.

The allowance, if approved, is payable at the rate of KMBC's fostering maintenance payment for a child of the same age, minus any benefits payment received in relation to that child i.e., child benefit. These will be taken into account and payments will be adjusted to the income of the applicant as determined by the assessment. For those carers in receipt of Income Support, child benefit will be from the allowance paid.

Approval for the payment of one of these allowances is made by the Head of Service following a recommendation from the assessment / support plan. The Head of Service will consider reports which evidence the child's care history and family circumstances, the child's needs and the financial circumstances of the applicant.

There will be an annual review of the allowance which will determine whether the child is still living with the carers and an assessment to determine whether there is any change to circumstances. The rate payable will also be reviewed and in particular amended, if there has been a change to KMBC's fostering maintenance level, change in financial circumstances, or the child has moved into a different age bracket. The payment of the allowance will cease if:

- A. The child ceases to have a home with the holder of the Order.
- B. The child ceases full-time education or training and commences employment.
- C. The child qualifies for Income Support or Jobseeker's Allowance in their own right.
- D. The child attains the age of 18 years, unless they continue in full-time education or training, when it may continue until the end of the course year.

### **Applicants who are presently the child's Foster Carer**

Foster Carers include KMBC foster carers, both mainstream and connected persons, and carers from Independent Fostering Agencies.

Where a Special Guardianship Order is deemed to be in the best interests of the child and the Foster Carers, KMBC is committed to assisting and resolving any practical and financial barriers that may create a disincentive for foster carers to take on a Special Guardianship Order.

The allowance can only be considered when all of the following criteria are met:

- A. The child is placed with the foster carers.
- B. It has been agreed that it is in the best interests of the child to remain with that carer.

The allowance payable is equivalent to the weekly age-related fostering maintenance allowance and remuneration previously received (excluding Christmas gift and allowance payments, birthday gift payments and holiday allowance payments) by the foster carer minus any benefits received for the child i.e. child benefit and child tax credits if applicable.

The same principle will apply to Independent Foster Carers up to a maximum amount equivalent to the age related and remuneration payment that could be paid to a KMBC carer.

To enable the foster carer to decide whether to apply for a Special Guardianship Order, the assessment of the child's circumstances to determine whether the above will be met should be undertaken as soon as it has been agreed that there should be a permanency plan for the child to live away from their parents, or at the time the foster carer requests to be considered as the permanent carer for the child/ren.

Because every foster carer and their situations are different, individual arrangements may need to be put in place to meet specific circumstances. The child's social worker or supervising social worker assisting with the setting up of the Special Guardianship Order and arranging the Special Guardianship Order Support Plan will ensure specific needs are addressed.

Where the child has been living with the foster carer and KMBC are supporting the making of a Special Guardianship Order, they will match the foster carers' current financial support until the child reaches the age of 18 years. The Special Guardianship Order payment that the foster carer is allocated (based on the awarded current skill level fostering payment.) will continue, in line with KMBC rates (minus child benefit and child tax credit as well as Christmas gift and allowance payments, birthday gift payments and holiday allowance payments).

There will be an annual review undertaken which will determine whether the child is still living with the applicant. The rate payable will also be reviewed and amended if there has been a change to



KMBC's fostering payments, or the child has moved into a different age bracket.

The payment of the allowances for the orders will cease if:

- A. The child ceases to have a home with the holder of the order.
- B. The child ceases full-time education or training and commences employment.
- C. The child qualifies for Income Support or Jobseeker's Allowance in his own right, or
- D. The child attains the age of 18 years unless they continue in full-time education or training, when it may continue until the end of the course year.

It is the responsibility of the holder of the Order to notify KMBC 3 months before the child's 18th birthday that they intend to remain in education, so that a request can be considered. Any request would be considered that funding would cease at the end of the particular training programme to prevent any disruption to the young person.

Without such a notification, the payments will cease when the young person becomes 18 years of age and cannot recommence.

#### **Conditions of financial support paid periodically in respect of Special Guardianship Orders**

Financial support that is to be paid periodically is not payable until the Special Guardian agrees to the following conditions:

- A. That he/she will inform KMBC immediately if:
  - i. He/she changes their address.
  - ii. The child dies.
  - iii. Any of the changes mentioned in Section 34 relating to the cessation of financial support, occur; or
  - iv. There is a change in his/her financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable to him/her and.
  - v. Where the information is given orally, he/she will confirm it in writing within seven days.
  
- B. That he/she will complete and supply KMBC with an annual statement as to the following matters:
  - i. His/her financial circumstances.
  - ii. The financial needs and resources of the child.
  - iii. His/her address and whether the child still has a home with him/her.

KMBC should be prepared to provide advice and assistance on completing the forms on request where necessary. Where any condition imposed is not complied with, KMBC may suspend or terminate payment of financial support and seek to recover all or part of the financial support they have paid. However, where the condition not complied with is a failure to provide an annual statement, KMBC may not take any steps to suspend, terminate or seek to recover financial support until they have sent to the person who entered into the agreement a written reminder of the need to provide an annual statement; and 28 days have expired since the date on which the notice was

given.

## 15. Support for Care Experienced People

Under Section 24 Children Act there are a number of categories of persons qualifying for advice and assistance. Workers should seek legal advice if the child has ever been in the care of the local authority.

A child or young person who has reached the age of 16 but not the age of 21, who is the subject of a special guardianship order (or a special guardianship order was in force until he reached the age of 18), AND who was looked after by the Local Authority immediately before the making of the special guardianship order, qualifies for advice and assistance.

If the above applies the Local Authority must consider whether the following conditions are satisfied:

- a. That the person needs help of a kind which the Local Authority can give under Section 24A or Section 24B Children Act; and
- b. The Special Guardian does not have the necessary facilities for advising or befriending him.

If the conditions are satisfied, then the Local Authority has a duty to advise and befriend them, otherwise there is discretion to do so.

Where the Local Authority has a duty or power to advise and befriend a person, they may also give them assistance in kind and in exceptional circumstances could include accommodation or cash. This assistance may be unconditional or subject to conditions as to repayment in whole or in part. Before giving any assistance or imposing any conditions, the Local Authority shall have regard to the means of the child and special guardian. No person shall be liable to make any repayment of assistance when he is in receipt of Income Support or income-based allowance.

In prescribed conditions a Special Guardianship Order allowance may continue to be paid beyond the age of 18 years. (Reg2(2)) [Special guardianship guidance: Statutory guidance \(publishing.service.gov.uk\)](#)

If the child was looked after by the Local Authority immediately before the subject of a Special Guardianship Order, then the authority which last looked after looked after the child is responsible for providing the young person with any leaving care advice or assistance if appropriate and applicable. However, depending on the service required it may be more appropriate for the young person to be sign-posted to support local to where they are now resident, e.g., health care. (Reg22).

For young people who have qualifying status Knowsley MBC provides the following support:

Provision of advice and guidance on the request of young people

Subject to pathway planning, an offer of up to 20 weeks' vacation expenses if the young person goes to university and does not remain in the home of the special guardian during their studies or returns home for holidays.

Annual communication to be sent out to the young person to remind them of the offer from the Local Authority as a result of their qualifying status.

Should the young person present to the care experienced team and requests support at any point after their 16<sup>th</sup> birthday, the team can complete a needs assessment and develop a pathway plan as to the specific identified needs as a means of helping the young person. This can be time limited and based on the needs of the young person at any given time. This may or may not include financial

support and any support provided would be in line with the offer of any other young person open to service.

## 16. Complaints where there is an issue about financial support

### Complaints Process

#### Stage 1 – Review

A different Financial Assessor from the one that made the initial decision or financial assessment will be appointed to consider the review.

The Financial Assessor will:

- Acknowledge receipt of the service user's appeal request and advise the service user on the review process and to provide any necessary evidence to support their appeal.
- The appointed officer will review the service user's case and any additional evidence, including, where relevant, any new income and expenditure information provided and will take account of any change in financial circumstances (e.g., reduction/increase to income);
- The Stage 1 review decision **must** be made within one calendar month once all information/evidence has been submitted by the special guardian.
- Letter sent confirming outcome of the review and of their right to appeal the decision. =

Any awards made during the review process will only be backdated to the date of the request for a review unless there are exceptional circumstances.

#### Stage 2 – Appeal

If an appeal is submitted the Head of Service Children Looked After and Regulated Services will review the original assessment, additional supporting information and the decision made at Stage 1 with two possible outcomes:

- Stage 1 Review decision overturned.
- Stage 1 Review decision upheld.

The Head of Service will advise the person in writing of the outcome of their second stage appeal and their right to make a complaint within 14 days.

Any awards made during the appeal process will only be backdated to the date of the request for a review unless there are exceptional circumstances.

#### Stage 3 – Complaint

If the service user is not satisfied with the outcome of the initial Stage 1 Review or any subsequent Stage 2 Appeal, they may lodge a complaint under the Corporate Complaints Procedure.

This procedure requires that the council is committed to dealing with all complaints fairly and impartially and to provide a high-quality service to those who make them.

There are a number of ways to submit a complaint to the council:

- Complete the online form at: [Knowsley Council Website](#);
- Pass their written complaint to a member of staff in any of our One Stop Shops.
- Ring 0151 443 3231 to speak to someone about their complaint regarding Children's Social Care.
- Write to:  
**Customer Liaison Team**  
**Municipal Buildings**  
**Archway Road**  
**Huyton**  
**Liverpool**  
**L36 9YU**

The complaint will then be considered in accordance with the terms set out in the Corporate Complaints Procedure.

### [Statutory Complaints Process](#)

For more information about the statutory complaints process for children's social care, please see [Have Your Say; Complaints, Comments, Compliments and Questions](#).

## 17. Process Diagram

