

Considering Permanency Options.

A Guide for Foster Carers.

Leeds City Council

Logo

date

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Introduction

Leeds City Council is committed to supporting the best outcomes for children, who are looked after by the department.

Children who are looked after are likely to have suffered from adverse early circumstances and this can have a profound effect on the way that they manage their relationships within their family, peer group, school and in their wider lives. A stable home life can help these children make progress in all aspects of their lives.

Research shows that the most stable and beneficial placements for looked after children are with long term carers. Where children know that their carers are committed to bringing them up to adulthood they are able to put down roots and concentrate on other aspects of their lives. This generally results in better educational, health and social outcomes for children.

It is important, therefore, that carers are aware of the different routes to permanency and are able, alongside other professionals working with the child, to find the best permanency option to meet the child's individual needs.

The Permanency options available are:

Residence Orders:

A Residence Order is an order made by the court that decides who a child should live with. Parental Responsibility is granted to those with a Residence Order and they are able to make day to day decisions in the best interests of the child.

This is a good order to think about where the children have regular contact with the birth parents and carers feel they are able to negotiate with and include them in important decisions.

Special Guardianship Orders:

A Special Guardianship Order is an order made by court that grants Parental Responsibility to the Special Guardian(s). The birth parents legal link to the child remains but their ability to exercise their parental responsibility is limited.

Special Guardians can make all of the day to day decisions regarding the child.

This order provides stability for the child and is appropriate where the child's relationship with birth parents is either limited or unsettled.

Special Guardianship Orders demonstrate your commitment to the child until adulthood, whilst acknowledging the continuing role of the parent, even if this is in a limited way.

Adoption:

Adoption is a legal and binding court order, which is non challengeable and which *permanently transfers all parental rights and responsibilities* from the birth parents to the adoptive parents.

This is a huge step to take and should be considered as particularly suitable for younger children or where an older child has a strong sense of belonging to your family and wants to be adopted by you.

Ongoing contact with members of the birth family may be negotiated and is often in the form of annual letterbox contact, with or without photographs, or sometimes it is direct face to face contact.

These options are available to all children irrespective of their ethnic origin, gender, age or disability.

Comparing different routes to permanency:

	Residence Orders	Special Guardianship Orders	Adoption Orders
Legal link to birth parents severed.	X	X	√
Parental Responsibility granted.	√	√	√
Birth parents can challenge court order.	√	X Only able to do so with the leave of the court and have to demonstrate significant change in circumstances.	X
Court can consider other associated orders	√	√	√
Access to support pre 18 yrs	With agency agreement	With agency agreement	With agency agreement
- Finance,	√	√	√
- Pathway Planning	x	Depends on assessment	√ Via another agency
- Educational support	x	Advice given	√
- Parent/Carers group	x	√	√
- Birth relative's group	x	√ To be developed	√ Via other agency
- Young person's group	x	√ To be developed	√
- Advice Line/support	x	√	√
- Training	x	√	√
- Newsletter	x	x	√
- Respite	x	x	√
- Specialist social worker	x	√	√
- Therapeutic support	Via own GP	Via own GP	Some in house & with CAMHS/Adoption Clinic
Access to support post 18 yrs	No Departmental responsibility	For Young People on SGOs & their carers	For young adopted people & their parents
- Finance,	x	Depends on assessm/t	Depends on assessment
- Pathway Planning	x	√	√ Via another agency
- Parents/Carers groups	x	√	√
- Birth relatives group	x	√	√ Via other agency
- Young persons group	x	x	√ Via other agency
- Advice Line/support	x	√	√
- Training	x	x	√
- Newsletter	x	x	√
- Specialist social worker	x	√	√

- Therapeutic Support	Via own GP	Via own GP	Via own GP
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Please note that carers who achieve permanency via Family Placement will have an entitlement to all the above services. Future plans include a post 18 years support service.

Considering A Residence Order.

Introduction

A Residence Order is an order made by the court that decides who a child or young person should live with. If a person applies for and is granted a Residence Order they are granted Parental Responsibility in respect of the child(ren) and this is shared with the birth parents.

Why apply for a Residence Order?

Applying for a Residence Order will mean that responsibility for the child is transferred from the social worker to the carer, giving them the freedom to make day to day decisions in respect of the child(ren).

All the additional duties involved in fostering a child are removed e.g. attending review meetings, form filling, regular social work visits, annual health needs assessments to name a few.

Who can apply for a Residence Order?

Foster Carers can apply for a Residence Order. The Local Authority can apply to discharge a Care Order and invite the court to make a Residence Order in favour of the foster carers. The Social Service Department cannot apply for a Residence Order but it can support and encourage other people to do so

where it is agreed that it is better for the child to be on a Residence Order than a Care order.

Support Available

Financial Support

Financial support will be paid to carers taking out a Residence Order where this is supported by the Department and agreed at a Looked After Children Review.

There are 3 types of financial support that Social Services can provide:

1. Assistance with legal costs when someone is applying to court for a Residence Order.
2. Specific and/or time limited assistance in order to get a placement up and running.
3. Ongoing financial support to carers on a set payment basis.

1.Assistance with legal costs when someone is applying to court for a Residence order.

Where a carer wishes to apply for a Residence Order they will need to identify a solicitor who can make an application on their behalf.

Some carers may be entitled to legal aid and so will not need to pay legal costs.

Where carers are not entitled to legal aid the Social Services Department will assist with legal costs if:

- the child in question is subject to a care order or the application for a Residence Order is part of the care plan agreed at a review.

- Where the child is placed with a relative as an alternative to care proceedings and the child is not subject to a care order Social Services may assist with legal costs where the carer has been refused legal aid to fund their application and where the relative's application is supported by the Social Services Department.

2. Specific and/or time limited assistance in order to get a placement up and running.

The type of assistance will depend on the circumstances of the carer. These payments will be for initial costs of caring for the child.

3. Ongoing financial support to carers on a set payment basis.

Where carers are applying for a Residence Order as an alternative to remaining on or being placed on a care order Social Services can agree to continuing payments until the child reaches 16 years, or 18 years if still in education. This means that a carer will continue to receive their weekly allowances, minus Child Benefit and Child Tax Credits. They will continue to receive additional payments for birthdays, Christmas and summer holidays (4 weeks in total). Ongoing payments to carers will be reviewed annually to check that their circumstances remain the same.

For carers, who had previously received enhancements for extra costs, such as nursery fees, there is no automatic continuation for these to continue post order.

Fee paid carers will continue to receive payments at the rate paid prior to a Residence Order being obtained, minus the Child Benefit and Child Tax Credit.

Payments Post 16

A Residence Order lasts until a child is 16 years, or 18 years if the child is in education. Payments to carers will cease at this point unless there are exceptional circumstances where the department has agreed to continue payments.

Impact of Residence Order on other benefits.

Carers receiving Residence Order payments can apply for Pension Credit and Working Tax Credit. As already stated carers can also apply for Child Tax Credit but this will be deducted from their allowance as is the case with Child Benefit. Where a carer is looking after a child with additional needs because of a disability or chronic health condition they will be entitled to claim Disability Living Allowance and/or Mobility Allowance in the same way as any other parent. These benefits will not affect the allowance paid by the Social Service Department unless DLA is already being paid as part of the allowance, in which case, it will be deducted.

Non Financial Assistance and Support.

Social Services acknowledge that it is a big step for a carer to take out a Residence Order and that continued help and support may be needed.

The social worker in partnership with the carers and the child will identify whether there is any need for continued social work support. If so, a Child and Family Support Plan may be agreed; an example of this may be where a carer will need ongoing help with contact arrangements.

Next Steps

If you are interested in applying for a RO you should talk to the social worker responsible for the child(ren) concerned.

A discussion will need to take place at the next Looked After Children Review and if this is accepted as a recommendation from the review, the child's care plan will be altered to reflect this change.

The social worker will inform you of the next stage in the process.

Considering a Special Guardianship Order

Introduction

A Special Guardianship Order (SGO) appoints one or more people to become a child's Special Guardian (SG). As a SG you would be granted Parental Responsibility for the child. The birth parents legal link to the child remains but their parental responsibility is very limited.

You would be responsible for all aspects of caring for the child and be able to make almost all of the major decisions about their upbringing e.g. where the child lives or goes to school, and authorising medical treatment.

There are exceptions to the decisions you can make; for instance you cannot change the child's surname or take them out of the country for longer than 3 months, without the leave of the court or the consent of the parents. The birth parents also retain the right to have a say in whether the child is adopted.

Why apply for an SGO?

As with Residence Orders, research shows that the most stable and beneficial placements for looked after children are with long term carers. Where children know that their carers are committed to bringing them up to adulthood they are able to put down roots and concentrate on other aspects of their lives. This generally results in better educational, health and social outcomes for children.

As a foster carer or family network carer it would mean that the responsibility for the child is transferred from the social worker to you. This will give you more freedom to raise the child without having additional duties such as attending regular social service review meetings, attending annual health needs assessments, form filling and having regular social work visits.

Who can apply for an SGO?

Anyone who has had a significant role in the child's life can apply for an SGO. The Social Service Department cannot apply for an SGO but it can support and encourage other people to do so, where the plan to apply has been agreed at a Looked After Children's Review. If a child is subject to a Care Order, the Local Authority can apply to discharge the care order and invite the court to make a Special Guardianship Order. The department will also support applications where the plan has been agreed during proceedings as an alternative to a Care Order.

Support available:

Financial support

1. Ongoing financial support

This will be paid to carers taking out a SGO where their application is supported by the department and agreed upon at a Looked After Children Review. The child will also need to meet one of the criteria set out below:

- Have a disability and meet the criteria for the family Placement Scheme
- Is currently placed on the Fee Paid Permanency/ Task scheme

- Is currently attracting an enhancement due to particular needs (eg. soiling/ wear and tear due to behaviour)
- Is part of a sibling group who need to remain together
- Has ongoing/ long term emotional or behavioural difficulties from the consequences of past abuse or neglect
- Is placed with a family member and without additional resources the child would remain on a Care Order

Ongoing allowances are normally means tested. However, the Local Authority has the discretion to waive the means test. The Children's Services Delivery Manager makes the decision re eligibility for ongoing allowances and waiving the means test.

Once ongoing financial support has been agreed you will continue to receive the same amount after a SGO has been made as you were receiving before the order, minus Child Benefit and any Child Tax Credits you may be receiving. You will also continue to receive additional payments for birthdays, Christmas and summer holidays (4 weeks in total). Ongoing payments to carers will be reviewed annually to check that their circumstances remain the same. Fee paid carers will continue to receive payments at the rate paid prior to the SGO being obtained, minus Child Benefit and Child Tax Credit.

All payments will continue until the child is 18 or before this if the child stops living with you.

2. Payments after the age of 16

In some circumstances, it is possible for payments to continue post 18 years, where the young person is in full time education or training.

3. Help toward legal costs

The Local authority will pay the court fees for carers applying to become Special Guardians where they are unable to claim legal aid to fund their application.

4. Initial costs of accommodating a child with a Special Guardian

In some circumstances the Local Authority may be able to assist financially in providing basic equipment to agency supported applications.

5. Single payments/series of payments to meet specific needs

It may be possible to receive some payments to meet a specific need for the child where this has been assessed and agreed upon; for example nursery fees

Non financial assistance and support

In certain circumstances, it may be possible to access Pathway Planning Services for a young person on an SGO, once they reach 16 years. This is usually where the child was looked after immediately before the making of a SGO.

During an SGO assessment your support needs will also be addressed. A support plan can be agreed upon before the order is made so that you can get the help you need post order. For example you may need to have someone help you to make or supervise contact with other people who are important to the child.

You can discuss your particular support needs with the Social Worker for the child so you can establish whether the department can meet them post order. All support plans are reviewed.

Impact of SGO on other benefits

Special Guardians who receive ongoing financial support will still be entitled to apply for Pension Credit and Working Tax Credit, which will not be deducted from any amount you receive.

Where a carer is looking after a child with additional needs because of a disability or chronic health condition they will be entitled to claim Disability Living Allowance and/or Mobility Allowance in the same way as any parent. These benefits will not affect the allowance paid by the Social Service Department unless DLA is already being paid as part of the allowance, in which case, it will be deducted.

Next steps

If having read this you are interested in applying for a Special Guardianship Order you should:

- Talk to the social worker responsible for the child or children concerned.
- Talk to the child or children to find out how they feel.
- Discuss this with the Social Worker and other relevant people at the next Looked After Children's Review and agree a plan to apply for the order.

The Social Worker will then advise you of the next steps.

Considering Adoption

What is Adoption

Adoption is a permanent, lifelong commitment which is endorsed by a legal order. When a child is first placed with you for adoption, you will share parental responsibility with the birth parents and the Local Authority. Once the Adoption Order is

made, all parental rights are transferred to you and last until a child is 18 years old.

The adoption support needs of the child and adoptive parent(s) will have been discussed and written down for your comments and agreement prior to the adoption panel which recommends the match. Child care reviews will continue to take place in the same way as when the child was in foster care until the adoption order.

When the adoption order is made in court, all the rights, responsibilities and duties of a child's birth parents are transferred legally on a permanent basis. The order is irrevocable.

Why apply for an Adoption Order?

Children who are available for adoption have already been assessed as needing this permanent legal order, usually via a Looked After Child review. An adoption panel has made the recommendation that the child should be placed for adoption and this has been agreed by the agency decision maker. Children for whom adoption is considered the best permanency option, need a family which can accept and embrace their early history and biological origins, as well as be fully included into the adoptive family.

Any child who is available for adoption will have suffered significant losses eg their birth parents, possibly siblings, grandparents and extended family members too. For many children, being in foster care has been the first time they have experienced any stability or predictability in their lives. Children adopted by their foster carers will not experience the loss of yet another family or significant people. They will be able to grow up in the knowledge that they are both emotionally and legally part of the family. They will have a shared knowledge and history with other foster family members, as well as first hand

information about their birth parent(s) and the reasons why they came into care.

Who Can Adopt

Children who need adoptive families come from a wide range of backgrounds and circumstances. They need parents who can reflect a similar variety of backgrounds and circumstances.

Potential adopters may be married, divorced, re-married, single, living with a partner, childless or have children already, either birth children, fostered or adopted. Adopters will be considered regardless of their race, religion, gender, disability or sexuality.

Support

Financial support

When foster carers are approved to adopt a foster child, their legal status changes and the child is placed under the Adoption Agencies Regulations, which means that financial arrangements must change.

Financial support may be paid to carers who wish to adopt where this is supported by the Department, where the child is eligible for adoption allowances and where a financial assessment of the carers is completed and meet the financial eligibility criteria. This needs to be established well before the adoption panel which considers the match between the child and the family.

Matters to be considered in relation to the need for financial support:-

(i) Age of Child

It would not be expected to agree financial support for children under 5 years old, unless the degree of emotional, behavioural difficulties or disabilities has warranted payment of enhanced fostering payments, AND are likely to be a feature of the child's life for the foreseeable future.

(ii) Siblings

In respect of allowances a sibling group is considered to be two or more children and consideration should be given to allow siblings to join an existing adoptive family.

(iii) Cultural Needs

Where the ethnicity, cultural or religious background of a child may affect the opportunity of prospective adoption.

(iv) Established Relationship

Where the child has established a strong and important relationship with the foster family.

(v) Special Needs

Specific physical, emotional and / or behavioural difficulties must be identified and those likely to be of a serious long-term nature.

Consideration should be given to the following:

- (a) Whether demand on time and attention of the primary carer is such as to incur extra costs over and above normal childcare costs (eg a qualified baby-sitter).
- (b) Whether the care of the child will affect the earning capacity of the adoptive family than would normally be the case in a family (eg an adoptive parent cannot return to, or take up, employment or is severely restricted in the hours he or she can work). This may have implications for a family who wish to continue to foster and who would find it difficult to fulfil fostering commitments because of the needs of their adopted child.
- (c) Whether the child displays highly destructive behaviour (eg wear and tear on belongings over and above normal child care costs).
- (d) Whether there is a probability of a degenerative physical condition.
- (e) Whether there are indications that there is a substantially increased risk of serious mental health problems developing at a future date.
- (f) Whether the child has need now, or in the future, of specialist equipment or adaptations to the home, that are not available through public services.

There are 3 types of financial support that Social Services can provide in these circumstances:

1. Assistance with legal costs when applying to court for an Adoption Order
2. Specific and/or time limited assistance in order to enable carers to adopt in certain circumstances.
3. Ongoing adoption allowances.

1. Assistance with legal costs for an Adoption Order

When prospective adopters are applying for an Adoption Order, the Local Authority will reimburse the cost of the court fees.

2. Specific and/or time limited assistance

There are several situations where temporary financial assistance from the Local Authority may be helpful.

All foster carers who adopt will receive financial support for a period of two years following the making of the Adoption Order, in order to ease the transition to receiving no payments. However, **the exception to this is where the child is under two years**, with no identified special needs and is deemed to be easy to place; in this situation maintenance payments will continue only until the Adoption Order is made. The amount paid will be equivalent to fostering allowances minus Child Benefit and Child Tax Credit.

It may be possible for the Local Authority to support a child's adoption by funding a "one off" payment such as an additional room/adaptation/extension to a house or a larger vehicle etc. This will depend on the child's circumstances and needs and whether foster carers meet the financial eligibility criteria, determined by a means test. This request for financial help to enable a family to adopt must be made during the assessment and preparation of the family for adoption, rather than at later stages.

3. Ongoing Adoption Allowances

After two years following an Adoption Order, maintenance payments for children who are over 2 years of age, will either cease or continue, depending on eligibility. At the end of the

two years, foster carers who have adopted will be assessed in the same way as all other adopters.

If a child attracts adoption allowances because of his or her particular needs and the family income assessment is such that adoption allowances can be paid, these will continue subject to a yearly financial assessment whilst ever the child continues in full time education or training. In some instances, these can continue beyond the age of 18 years.

For carers who would be prevented from adopting because they would lose their fostering allowances/fees and the family income means that they would not be eligible for adoption allowances, there are some circumstances whereby ongoing payments can be made. If the child meets any of the following criteria:

- If the child has a disability and meets the criteria for the Family Placement Scheme
- If the child is currently placed on the Fee Paid Permanency/Task scheme
- if the child currently attracts an enhancement for particular needs (eg. soiling/ excessive wear and tear)
- If the child is part of a sibling group who need to remain together
- If the child has ongoing/ long term emotional or behavioural difficulties from the consequences of past abuse or neglect
- If the child is placed with a family member and without additional resources the child would remain on a Care Order

If the child meets one of the above the carer will continue to be paid at their current rate (inc. holiday and birthday allowances). These will not be means tested. The allowance will be paid minus Child Benefit, Child Tax Credit and DLA (where this is included in the allowance) as the carer can claim all of these from the benefits agency.

Ongoing allowances are normally means tested. However, the Local Authority has the discretion to waive the means test. The Children's Services Delivery Manager makes the decision re eligibility for ongoing allowances and waiving the means test.

If the carer is getting an enhancement or a professional fee and the child meets the above criteria the carer will continue to receive this fee until the child reaches independence. This will not be means tested.

Foster carers who adopt and who are in receipt of ongoing financial support will still be entitled to apply for Pension Credit and Working Tax Credit. Where a carer is looking after a child with additional needs because of a disability or chronic health condition they will still be entitled to claim Disability Living Allowance and/or Mobility Allowance in the same way as any parent. This will not affect their ongoing payments.

Other Adoption Support Services

Adoption support services can be crucial to the success of an adoptive placement and a child and family's need for these services should be considered at an early stage. It is important that prospective adopters give their written views regarding adoption support plans on the adoption placement report, which is considered at Adoption Matching panel.

Any foster carer who adopts a child from Leeds can request an assessment of their adoption support needs at any time (if they have moved outside the authority and adopted more than 3 years previously, the authority where the adopter lives needs to provide this, rather than the placing authority). For instance, a foster carer who adopts may need assistance with contact arrangements with a child's birth family or may wish for training on specific issues, guidance on telling a child difficult information about their birth history or support with challenging behaviour.

The Adoption Section can include your name on a data base and send out twice yearly newsletters to keep you up to date with developments in Adoption Support services.

Next Steps

If having read this you are interested in an adoption assessment in respect of your foster child you should:

- Talk to your Fostering Officer
- Talk to the Social Worker responsible for the child or children concerned.
- Talk to the child or children to find out how they feel.
- Discuss this with the Social Worker and other relevant people at the next Looked After Children's Review and agree a plan.

The Social Worker/Fostering Officer will then advise you of the next steps.

Please remember that everyone has different individual financial and family circumstances. This booklet is a guide to the services and finances which are available. However, please discuss your circumstances with your link worker, who will be able to access a specialist welfare rights officer, who can advise on your individual situation.

Complaints:

If you are unhappy about plans being proposed for a child in your care, please contact the child's social worker or their team manager, in the first instance. Alternatively, you could do this by contacting your fostering link worker.

If this does not resolve the problem, you can make a formal complaint to:

Social Services Complaints Manager - Tel: 0113 2478627
Mini com: 0113 2475963

Or write to :

Social Services Complaints Manager,
2nd Floor,
Merrion House,
110 Merrion Centre
Leeds LS2 8QB

There is a complaints leaflet and form available from our One Stop Centres and you can also complain via the internet, at www.leeds.gov.uk/complaints

Further Information:

For further information on adoption you may contact:

- Adoption UK – 46 The Green, South Bar Street, Banbury, Oxfordshire OX16 9AB Tel: 01295 752240 (administration 9.00 am – 5.00 pm) or 0870 7700450 (helpline 11.00 am – 4.00 pm) or E-mail: www.adoptionuk.org.uk
- British Association of Adoption & Fostering (BAAF) 4 Pavillion Business Park, Royds Hall Road, Leeds LS12 6AJ Tel: 0113 2891101 or

E-mail:leeds@baaf.org.uk