



**Report of Head of Service for Children Looked After, Care Leavers and Corporate Parenting**

**Report to the Director of Children & Families**

**Date: April 2021**

**Subject: Review of Leeds Offer of support for Special Guardianships**



Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

**1. Main issues**

- 1.1 Work has been ongoing across West Yorkshire to review the five local authority's current policies, including financial support, for Special Guardianship arrangements. Agreement has been reached, through the governance arrangements of the One Adoption West Yorkshire (OAWY) Board, to unify a sub-regional offer with regards to some elements of support which are set out in the report below.
- 1.2 There are local support arrangements in place within each local authority area that are specific to each authority and therefore in addition to adopting a sub-regional approach where it is feasible to do so there are a number of specific Leeds only recommendations set out to enhance our 'offer' and entitlement to support available to prospective Special Guardianship Order (SGO) Carers.
- 1.3 There remain some anomalies and distinct differences within national policies for entitlements for SGO carers as opposed to Foster Carers and Kinship Carers that our recommendations below go some way to mitigate. Given these anomalies it is important for the local authority to set out and articulate our SGO offer and entitlement to support arrangements clearly rather than to consider these as stating any universal detriment or advantage to a comparison of fostering arrangements. SGO's are

different and distinct arrangements and the support the local authority and wider partners provide should be recognised as specific to these arrangements.

The Leeds offer of support for Special Guardians is based on the following welfare principles.

- Child focused, with children's welfare at the heart of decision making.
- A focus on children's welfare is where the most impact can be made: to encourage SGOs for younger children and remove the barriers to that.
- Achieving parity across the areas under One Adoption West Yorkshire.
- To remove the barriers (disincentives) to foster carers and kinship carers becoming special guardians. This is set in overall context of the Council's welfare imperative to prioritise permanence in a manner which is the least interventionist of the child's rights, legal identity and status.

## 2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

2.1 In addition to promoting and supporting delivery of the priorities set out in the Best Council Plan and Children and Young People's Plan the review and recommendation set out within this report are also underpinned by the council's core value to spend money wisely.

### Linked Best Council plan priorities:

- **tackling poverty, helping everyone benefit from the economy to their full potential** by enabling children growing up within special guardianship arrangements to be supported within the household in some circumstances until they reach 21.
- **making Leeds the best city for children and young people to grow up in** by ensuring that children growing up in special guardianship arrangements are not disadvantaged but are encouraged and supported within a family context.
- **keeping people safe from harm and promoting community respect and resilience** by enabling children living away from their birth parents have the support of a caring adult able to provide parenting responsibilities

### Linked Children and Young People's Plan

- **help children and parents to live in safe, supportive and loving families** by ensuring that children who can't fourth of reason for their parents are supported by a caring adult able to provide parenting responsibilities
- **ensure that the most vulnerable are supported** by providing adequate and effective support to special guardianship carers so that they can provide safe and loving homes for children and young people
- **support families to give children the best start in life** by enabling children to transition into special guardianship arrangements at the earliest opportunity.

## 3. Resource Implications

3.1 Whilst it's difficult to determine the exact costs related to demand led services such as those provided to support Special Guardianship arrangements, as these will be determined by take up, the assessment is that the overall financial implications of

both the sub-regional and Leeds only recommendations within this report will be at worst cost neutral. In considering any potential financial costs or savings to the authority it is acknowledged that whilst there may be little difference in respect of any finance support paid to SGO carers as from those provided to local authority and Kinship carers, the authority will achieve savings through the demand on social work, IRO and other resource costs associated with children in care. It is also recognised that by successfully providing support and care for children and young people as early as possible in their life the impact on costly services later in life such as mental health services, criminal justice services and other welfare support services are greatly reduced.

- 3.2 The recommendations in this report include a restatement of specific financial supports and access to range of services provided across the authority and in some cases from partners to set out a clear entitlement and clarity as to what SGO carers will receive. This is better described in terms of specific local authority Special Guardianship Support Arrangements rather than any advantage or detriment as recognising the specific nature of SGO arrangements.
- 3.3 A key principle in determining the commitment for, and extension of services and resources to, SGO arrangements is that but for these arrangements these children would likely to be subject to other court-ordered care arrangements requiring equal if not more costly services from local authority.

## **Recommendations**

- a) That Leeds confirms recommendations agreed within the one adoption West Yorkshire board for establishing a sub-regional policy.
- b) That the specific recommendations with regards to local arrangements specific to the Leeds offer for special guardianship orders be agreed
- c) That revised policies and procedures are put in place along with service training to implement the local authorities Special Guardianship Support Arrangements.

### **1. Purpose of this report**

- 1.1 This report sets out a number of recommendations to change current policy and procedures for support arrangement for Special Guardianship Orders in Leeds. Some of the recommendations within this report are consistent with the views reached through the sub-regional One Adoption West Yorkshire Board which has been working across the five local authorities to review current practice. The work of the West Yorkshire group has been concerned to ensure that children and carers are not disadvantaged based on the local authority in which they live in West Yorkshire.
- 1.2 The report also sets out a number of Leeds specific recommendations which include additional elements for our local support offer to Special Guardian arrangements based on our existing and developed support arrangements that other local authorities are still considering.
- 1.3 Finally the report highlights where national policy differs in respect of some of the protections and supports for foster carers and special guardian carers and sets out the extent to which the recommendations seek to mitigate these.
- 1.4 The purpose of the report is to seek lead member agreement to establish new policies and procedures based in the recommendations set out below.

## **2. Background information**

- 2.1 Leeds's Special Guardianship policy, and the relevant procedures setting out the support available to foster carers, kinship carers and connected persons seeking special guardianship order arrangements, was last revised in 2014. At the point of that review a number of criteria were set in place to outline and detail the circumstances in which special guardianship orders could be arranged to support children achieve greater permanence, stability and belonging.
- 2.2 The Leeds policies and procedures currently in place set out arrangements for providing continuing support for children who become young adults (18 through to 21) which are similar to those provisions of financial support to carers available should the young person have remained subject to a care order. This is an example of a different and distinct offer within Leeds that is not replicated in the West Yorkshire region at the current time.
- 2.3 Over the past 18 months work has been underway across the sub-region of the five local authorities in West Yorkshire in an effort to maximise consistency and prevent a scenario of disadvantage through postcode with regards to key elements of support available for special guardianship arrangements. This work has included consultation with special guardianship carers from across the region, commissioned finance policy expertise in the field and brought together relevant workers from each authority to contribute. This work has been overseen by the One Adoption West Yorkshire Board which includes senior officers from each local authority who are able to assess and commit resource.
- 2.4 Early within this process it was recognised that Leeds offer provided the best support in many respects with regards to financial support and access to ongoing support services. A core example of this is the provision in Leeds for children growing up in special guardianship orders to receive continuing support where they remain in the household beyond 18 and up until 21. This is consistent with our policies and arrangements for children subject to care orders reaching adulthood and remaining with their foster carers.

## **3. Main issues**

- 3.1 Our current policy was last reviewed in 2014 when, amongst other things, Leeds set out the criteria for foster carers (and kinship carers) who progressed to special guardianship orders where children were over 10 years old. In these circumstances it was agreed that special guardians who were previously foster carers or kinship carers would be able to access ongoing payments for maintenance, and in the case of previous local authority foster carers, the equivalent of the payment for skills allowances until the young person reached 21 where the young person remain in the family home. This was implemented to ensure there was no disincentive to progressing to a special guardianship arrangement based on entitlements that would otherwise be provided should a child remaining subject to a care order.
- 3.2 One of the unintended consequences of this policy is thought to have been that some children who could have moved to SGO arrangements prior to the age of 10 have not done so in order to ensure that the foster carer (including kinship carers) could access the full benefits of this scheme.
- 3.3 Additionally the current policy sets out a criteria for entitlement to ongoing payments for foster carers (including kinship carers) only where the carer has provided care as a foster carer for the named child/ren for a minimum of two years prior to the SGO. Where arrangements are for less than two years financial support will only be

available for two years after which there is an agreement to provide an annual review and means test to consider ongoing payments.

- 3.4 Though difficult to quantify one of the unintended consequences of this policy is likely to have been that children who could progress quickly to special guardianship orders did not do so as the foster carers/kinship carers would be advised, often by legal advisors, to wait for two years to pass in order to access the full entitlement. It's also important to note that in the overwhelming majority of circumstances where there has been an annual review of arrangements grounds to continue financial support have been maintained.

### **Recommendation.**

- 3.5 It is recommended that each of these age criteria be removed and that Leeds provide entitlement to ongoing maintenance (and in the case of local authority carers the payment for skills allowances) for child/ren that successfully transfer to special guardianship orders without having to wait for two years and where young people transfer to SGO prior to their 10<sup>th</sup> Birthday.
- 3.6 It is also recommended that entitlement for ongoing post Special Guardianship Order support payments for young people remaining with their special guardianship carers between the ages of 18 and 21 become a universal entitlement where the carers were the young person's previous foster carers.

### **Implications.**

- 3.7 The implications of these two recommendations are that more foster carers (including kinship carers) will have an increased entitlement to continuing maintenance (and in the case of local authority carers payment for skills payments) from the point they are awarded special guardianship of a name child. This is difficult to quantify in terms of costs as it is not known how many carers currently avoid progressing to special guardianship orders due to the pre-existing policy criteria.
- 3.8 With regards to post 18 Special Guardianship support payments there is also a direct impact in respect of the costs that can be recouped by the local authority for a housing benefit element. Currently national benefit entitlements view Special Guardianships less favourably in this respect than previous fostering arrangements. The result of this is that where as in the circumstances of a previously fostered young person remaining within the foster family household post 18 under 'staying put' arrangements, the local authority would be able to recoup weekly housing benefits towards the costs, this is not available in SGO arrangements.
- 3.9 In all circumstances child benefit will be deducted at source from allowances which provides some savings as SGO carers can access this from universally available benefits.
- 3.10 Further information is needed to assess the tax and benefit implications to carers for receiving post 18 SGO support allowance which unlike 'Staying Put' allowances for foster carers, is not regarded in the same way by the DWP/HMRC and may be assessed as taxable income to a household.

- 3.11 Should the above recommendations be confirmed arrangements would put in place with regards to ongoing support and monitoring of post 18 SGO support arrangements to ensure that payments continue only where young people remain part of the household. It is recommended that this monitoring be done through annual review by the carer payments team with explicit obligation on the previous SGO carer to notify us of any changes to circumstances.

### **Current Issues relating to payments.**

- 3.12 From a recent review of a sample of existing special guardianship plans there have been number of anomalies identified in relation to the stated financial support arrangements set out in plans and those recorded as ongoing within our information management systems. Once we have confirmed our review of current policies a full review of all SGO arrangement will be undertaken.
- 3.13 There are a small number of cases where special guardianship arrangements for children turning 18 and remaining in the household, and where the special guardianship arrangement was entered into prior to the establishment of the 2014 policy that gave entitlement to post 18 SGO support arrangements, that are being referred to our finance panel. In each of these cases they are being awarded equitable status for based on the principle of our current policy.
- 3.14 We currently have around 500 live special guardianship arrangements that are supported by financial payments to previous foster carers.
- 3.15 An additional complication has arisen through the national roll-out of Universal Credit. The impact of this national change to benefits has been that it is no longer possible to identify and subtract the element of funding that under the previous benefit scheme would have related to the child element of Child Tax Credit. This is relevant as our payments for maintenance for special guardianship orders are reduced by the element to which the special guardian becomes eligible through both child benefit and child tax credit. Whilst we have attempted to apply a formula to calculate/estimate how much of the received benefit into a household might equate to child tax credit given the method of universal credit payments this is not possible to do to any degree of accuracy. We have contacted the DFE for assistance that they have been unable to address this issue nationally.
- 3.16 A further additional impact that has become evident for SGO carers in respect of benefits relates to the implementation of a benefit cap which provides a maximum ceiling of benefits that any one household can receive. Unlike in fostering arrangements where looked after children do not form part of the benefit claim, children under SGO arrangements do. This can mean that the family have a higher entitlement to benefit, which is then capped.

### **Recommendation.**

- 3.17 It is recommended that payments made for special guardianship carers who were previously foster carers or kinship carers are reduced by the child benefit element

only (1<sup>st</sup> and 2<sup>nd</sup> child levels as applicable) and do not deduct any element the Child Tax Credit where universal credit is claimed.

- 3.18 It is recommended that our carer payments team undertake a full review of all existing special guardianship order arrangements to confirm existing payments meet the criteria to which they are being applied and that annual reviews by letter are conducted by the carer payments team and recorded on mosaic.

### **Access to additional support including financial support for celebrations and holidays.**

- 3.19 In addition to the financial support outlined above, consideration has also been given within the West Yorkshire working group as to payments currently made for annual celebration events such as birthdays and significant cultural events and contributions towards holidays. Whilst children subject care orders and living with foster carers (including kinship foster carers) will receive an annual entitlement from the local authority as part of its corporate parenting responsibilities to those children it is been agreed that these elements would end at the point of a special guardianship arrangement being made. This is based on the principle that continuing financial support towards the family caring for the child/ren under a special guardianship arrangement is considered to enable the child to integrate into the family on a permanent plan and without continuing children's services involvement and that the financial support arrangements, including those for post SGO support provide for the carers to provide for the child as part of their family.

### **Recommendation**

- 3.20 It is recommended that Leeds endorse this position to cease the payment of the additional four weeks birthday and festival allowances which has been confirmed by the West Yorkshire working group.

### **Implications**

- 3.21 Communication of this arrangement needs to be clear with respect of the new policy setting out the totality of all support, including financial support, as a specific offer an entitlement to special guardianship arrangements. Our intention is that children in SGO arrangements are not different or distinct from other children in the family.

### **Special guardianship order arrangements for connected persons who have not been approved as foster carers or kinship carers.**

- 3.22 Where a child has suffered or is likely to suffer from significant harm connected person to a child may apply for a SGO and this is supported by the local authority in order to prevent public proceedings being initiated. In these situations regular weekly payments will be considered to secure and maintain permanence where the child, equivalent to the child's fostering maintenance allowance. The carer will be financially assessed and a benefit check be carried out to determine the level of financial support given the assessment.

- 3.23 We are working with West Yorkshire local authorities to establish a single means test based on the OAWY model to apply a single West Yorkshire approach to means testing prospective special guardianship arrangements so that our local authorities have a clear basis upon which to provide financial support.

#### **Recommendation.**

- 3.24 It is recommended that Leeds adopt this method and approve this through the One Adoption West Yorkshire Board arrangements.

#### **Implications.**

- 3.25 Once Leeds has the revised means test process in place we will need to decide where responsibility for undertaking the initial means test and then ongoing annual reviews is located.
- 3.26 There are three potential options:-
- Our kinship team
  - Our carer payments team
  - Adult services financial assessment team
- 3.27 A decision as to the administration and application of means testing is yet to be made.

#### **Further matters for consideration**

- 3.28 Whilst our current policies express an intention to ensure that no foster carer (including kinship carers) would suffer any financial detriment or indeed any detriment to elements of support they might receive from wider services and partners it is acknowledged that some national policies dictate that special guardianship arrangements are viewed differently from foster care and indeed kinship care arrangements. Our intention in revising our existing policy is to ensure that where within the control of the local authority like-for-like continuing support, and specifically with regards to financial support, a policy intention is to ensure that special guardianship carers do not experience a reduction in support. As highlighted across this report however there are some specific national arrangements that could be perceived as disadvantaging special guardianship carers. A further specific example of this is with regards to the expectation from the Department of Works and Pensions that households with parents, and special guardianship carers, who are in receipt of benefits are viewed as required to be available for employment from the point of the child's third birthday. This position is specifically different for foster carers who remain exempt from a requirement to seek employment, and therefore any potential penalty or reduction in benefit payments.

#### **Recommendation**

- 3.29 It is recommended that on confirming our new policy clarity is given as to the offer and entitlements specific to special guardianship arrangements as clear and distinct as to foster caring and kinship caring support arrangements.

3.30 Is recommended that the five local authorities collaborating on an overarching West Yorkshire policy, subject to local variants in respect of agreed elements, continue to highlight and raise the impact of national policy on distinctions between previous foster carers (including kinship carers) who progress to special guardianship arrangements.

#### **4. Corporate considerations**

##### **4.1 Consultation and engagement**

4.1.1 Consultation and engagement with stakeholders related to special guardianship arrangements has been undertaken on a sub-regional level overseen by the One Adoption West Yorkshire board and also locally through ongoing conversation at our Leeds foster care liaison group and through direct work with special guardians.

4.1.2 The proposals set out in this report have been discussed within the local authorities Foster Care Liaison Group which is chaired by our lead member for children's services and includes representatives from the Leeds Foster Carers Association and members of the city's foster carers, SGO and Kinship Carers support group. A presentation was also delivered to our Kinship Carers support group and their feedback has been considered in setting out these proposals.

##### **4.2 Equality and diversity / cohesion and integration**

4.2.1 Supporting children move from care orders where primary parental responsibility sits with professional social workers and reviewing officers to more permanent arrangements within a family setting is a key aspiration children's services.

##### **4.3 Council policies and the Best Council Plan**

4.3.1 As set out in section 2 above the recommendations contained within this report align with a number of the councils plan to be the best local authority including the best local authority children and young people to grow up in. It is well recognised that children who grow up in local authority care often achieve less positive outcomes than those growing within family settings and without the need for social work intervention. Achieving permanency arrangements for these children also supports the council ambition to spend money wisely and effectively.

##### **Climate Emergency**

4.3.2 Whilst the impact on the climate emergency with regards to this policy may be perceived as negligible the cumulative effect of the reduced requirement to travel and meet a number of times over the course of one year for each child subject to care arrangements living in foster care which would end at the point of a special guardianship order will indeed have a small but beneficial impact on the environment.

##### **4.4 Resources, procurement and value for money**

4.4.1 As set out across this report the recommendations and considerations regarding resources to support an increase in the number of children who can be safely and appropriately be supported in special guardianship arrangements as opposed to care orders are considered to be at worse cost neutral. This assessment is based

on the principle that should these children remain on care orders then they would retain the same costs, and with regards to the costs for social workers and other professionals support additional costs.

- 4.4.2 For the children placed with foster carers who are in receipt of maintenance and professional fee payments currently the local authority is unable to recoup Child Benefit element towards the child's care. For Children in special guardianship arrangements the Child Benefit element is considered and reduces the local authority's payments to the special guardianship arrangement. Conversely where the local authority continues to make post 18 special guardianship support payments for a young person between 18 and 21 remaining in a family home for previously foster children the local authority is able to recoup the Housing Benefit/Universal Credit Housing element. Currently for 18 and 21-year-olds remaining with their special guardianship carers and where the proposals above recommend maintaining the same level of financial support as for previously foster children the local authority is therefore unable to recoup the Housing Benefit/Universal Credit Housing element as young adults previously subject to special guardianship arrangements are unable to claim as a dependent of the Special Guardians..
- 4.4.3 Work is ongoing across the partnership to seek assurance that children subject to special guardianship arrangements and who were previously subject to interim and full care orders are eligible to receive the same level of services from partners. This includes establishing a function within our therapeutic social work team to develop expertise to maximise claims to the adoption support fund to support therapeutic interventions for children subject to special guardianship arrangements.

#### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 The recommendations set out within this report collated will establish a new policy to be adopted by the local authority.

#### **4.6 Risk management**

- 4.6.1 There are no identified risk management considerations associated with this report.

### **5. Conclusions**

- 5.1 To conclude our existing policy setting out our offer and entitlements for special guardianship arrangements within Leeds was last reviewed in 2014. Our current review of that policy suggests that the criteria related to the age at which full ongoing support will be committed to a special guardianship order arrangement, and then further the age at which ongoing (post 18) support will become eligible, provide a significant disincentive to foster carers and kinship carers from realising special guardianship arrangements for children in our care.
- 5.2 Our principle is that children living apart from birth parents should be supported to grow up in permanent arrangements with consistent care provided by appropriate adults discharging parental responsibilities. As such special guardianship order arrangements provide a positive permanent option for children where reunification with birth parents is not possible.
- 5.3 By adopting a West Yorkshire policy which will include levels of payment, arrangements for consideration of child benefit entitlement (though not child tax

credit elements) and a consistent position on holiday and celebration entitlements, prospective special guardianship carers will have clarity on base level entitlements.

- 5.4 In addition to the West Yorkshire position we are seeking to enhance and support our young people subject to special guardianship arrangements by enabling them to remain with their special guardianship carers with funding support until the age of 21 where the agreement is that it is appropriate for them to do so.
- 5.5 The national implementation of Universal Credit has had a perhaps unintended consequence of distinguishing special guardianship carers who were formerly foster carers from their previous status as local authority foster/kinship carers. This potentially disadvantages special guardianship carers with regards to an application of the benefits cap, and expectation to be available to work when the child reaches three years old and the fact that a young person remaining with former special guardians at 18 to 21 have no entitlement to Housing Benefit/Universal Credit Housing element.

## **6. Recommendations**

- 6.1 That Leeds confirms recommendations agreed within the one adoption West Yorkshire board for establishing a sub-regional policy.
- 6.2 That the specific recommendations with regards to local arrangements specific to the Leeds offer for special guardianship orders be agreed
- 6.3 That revised policies and procedures are put in place along with service training to set establish the local authorities Special Guardianship Support Arrangements.

## **7. Background documents<sup>1</sup>**

- 7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.