

Looking After Someone Else's Child?



An Information Guide

Most children are cared for by their birth parents. However, things may happen in families, such as illness, death or family crisis, which means that children are cared for by other adults known to them - either permanently or for a period of time.

Adoption is the most well known of the different forms of care, but there is a range of options for caring for children in other families already known to them.

These include:

- Special Guardianship
- Residence Order
- Foster Care / Kinship Care
- Private Fostering
- Care by Close Family

This guide is intended to provide some general advice on these options and the financial and other support that may be available. The range of support available may vary between authorities and entitlement to financial support in particular will be determined by individual circumstances. This is not intended to be a definitive guide to the various options available and further advice should be sought from for example, care professionals, and where appropriate the local Benefits Agency and HM Revenue and Customs.

Q: What Is Parental Responsibility?

Parental Responsibility is a legal term that means 'All the rights, duties, powers, responsibilities and authority which a parent of a child has in relation to the child and his property'.

This includes;

- Providing a home
- Having contact
- Protecting and looking after the child
- Discipline
- Deciding on and providing for the child's education
- Supporting a child's religion
- Consenting to medical treatment
- Naming the child or agreeing a name change
- Consenting to adoption and marriage
- Appointing a guardian for the child



When a child is born, the birth mother, and usually the birth father, automatically has legal parental responsibility for that child. But, if a child is looked after in a different family, the ability of the person looking after the child to make decisions about the child (i.e. to exercise parental responsibility) is set by a legal framework applying to the child's care.

Q: What Is Special Guardianship?

Special Guardianship is an alternative legal status to adoption. It establishes a **permanent lifelong relationship** between the child and the carer without cutting the legal ties with the birth family, as happens with adoption.

Under Special Guardianship, parental responsibility is shared between the person holding the Special Guardianship Order and the birth parents. However the Special Guardian is given **sole responsibility** for caring for the child and for making decisions about their upbringing.

The Council will not make welfare visits or carry out reviews for the child nor be involved in any decision-making.

How do I become a Special Guardian?

If you are eligible to be a Special Guardian, you must apply to the Court and give the Council 3 months' notice that you are applying.



The following people can apply:

- Any guardian of the child
- A Council foster carer that the child has lived with continuously for one year just before the application is made
- Anyone with a residence order for a child or who has the permission of all those in whose favour a residence order is in force
- Anyone who the child has lived with for three out of the last five years
- Anyone who has the permission of the local authority (looked after children only)
- Anyone who has the permission of all those with parental responsibility for the child
- Any person, including the child, who has the leave of the court to apply

The Council will then prepare a report for the Court about whether you are suitable to be a Special Guardian.

How Long Does Special Guardianship Last?

A Special Guardianship Order lasts until a child is 18 years of age.

Will I get any Help?

If the child was previously in the Council's care, the Council must assess and may provide a range of support services including:

- Counseling, advice and information
- Financial support
- Support groups
- Help in contact between a child under special guardianship and a birth parent/ brother/sister/guardian (or person with whom the child has a positive relationship)
- Therapy Services
- Training
- Mediation in matters concerning the special guardianship order.
- Short Breaks. This is particularly likely where the child has significant physical or learning difficulties

If the child was not previously in the Council's care, you can ask the Council to decide whether you could receive support services, but this is at their discretion. They will try to make sure that these children are treated the same as those who were looked after by the Council. If they decide not to complete an assessment you would be given the reason in writing and you would then have 28 days to appeal against the decision.



Will I get any Financial Help?

Financial support may only be considered for children who:

- Just before the Special Guardianship Order was made, were looked after by the Council.
- Were made subject to a Special Guardianship Order as part of a care plan in care proceedings.
- And in very exceptional circumstances at the discretion of the Council

You may be paid a regular allowance or a one off payment where one or more of the following circumstances exist:

- The child has a serious long-term condition needing ongoing additional payments.
- The child has emotional or behavioral difficulties needing additional resources
- The child is suffering serious consequences from past abuse or neglect

- To help with arrangements for a person to become the special guardian of a child, and to help these arrangements after the order has been made.
- To make sure that the Special Guardian or potential Special Guardian can look after the child.
- Where the Council considers that it is appropriate to contribute to the costs needed to accommodate and maintain the child
- Where the Council thinks it is appropriate to help towards to (or meet fully) any legal costs, including court fees, incurred by a Special Guardian

Where agreed payment of a regular allowance may be means tested in some authorities, and a financial assessment will be completed. This looks at all your income, balanced against your outgoings to decide how much you can be paid. Any agreed allowance will then be paid from the date of the Special Guardianship Order and may be reviewed on a yearly basis - or when there is a notified change in circumstances.

If agreed, the maximum allowance payable will be the same as the basic rate paid to Kinship Carers and in some authorities will be less the amount paid in child benefit (where Special Guardians are eligible to claim this). Rates may be adjusted annually in line with the annual increase in fostering allowances.

One off payments are not subject to means testing.

Special Guardianship allowances are not usually treated as income for benefit purposes and therefore should not affect your entitlement to State Benefits. However this may depend on the amount of the allowance being paid and on whether you were previously a foster carer for the child and were receiving a professional fee on top of an allowance for caring for the child. Advice should be obtained from your local Benefits Agency.

A disregard up to an annual qualifying amount is applied for income tax purposes as for adoption and fostering allowances. Further information should be obtained from your local Inland Revenue Office.

Q: What Is A Residence Order?

A Residence Order is when a person is given parental responsibility for a child and parental responsibility/decision making is then shared between that person and the birth parents. The Council will not make welfare visits or carry out reviews for the child unless required to do so under the terms of a supervision order that may be made at the same time as the residence order. The Council will not be involved in decision making for the child.

How Do I Get a Residence Order?

You must apply for leave of the court to make an application. If the court agrees

to an application the Council may then be asked to complete a report about all the people affected by the application.

How Long Does a Residence Order last?

A Residence Order ends when:

- The child is 16 years old (or 18 years if the child has disabilities)
- The Residence Order is in favour of a parent and the parents live together for a continuous period of more than six months.
- The Order is discharged on application to the Court



Will I Get Any Help?

You can ask your Council for support services, including:

- Social work or other agency resources/support
- Financial support
- Provision of equipment

Will I Get Any Financial Help?

Financial support is at the Councils discretion and may only be considered for children who:

- Were looked after by the Council just before the Residence Order
- Were made subject to a Residence Order as part of care proceedings
- And in very exceptional circumstances at the discretion of the Council.

Money may be paid (either as a regular allowance or as a one off payment) in the following circumstances:

- To help a person become the carer of a child and to support them in continuing to be a carer after an order has been made.
- To help the carer meet the child's assessed needs.
- Where the Council thinks it appropriate to help pay towards accommodating and maintaining the child.
- Where the Council thinks it appropriate to help with any legal costs, including court fees, incurred by the carer.

A regular Residence Order allowance may be means tested and the holder would be expected to make a claim for Child Benefit, and also for child tax credits/income support where appropriate. A financial assessment may be completed and the level of any financial support offered will take into account the individual circumstances

and needs of the child and the carers. The maximum allowance payable will equal the basic rate paid to kinship carers for the maintenance of the child and in some authorities will be less the amount paid in child benefit where residence order holders are eligible to claim this. Rates will be adjusted annually in line with the annual increase for fostering allowances.

A regular residence order allowance will be paid from the date of the Residence Order and may be reviewed on an annual basis or when there is a notified change in circumstances.

Any allowance paid by the Council will be subject to scrutiny by the Benefits Agency from the date of payment. Any amount above an annually agreed allowable payment for care of the child will be considered as income and this may result in a change to the amount of other benefits received. Advice should be obtained from your local Benefits Agency.

A Residence Order Allowance paid by the local authority is usually regarded as taxable income for income tax purposes. Advice should be obtained from your local Inland Revenue Office.

Q: What Is Foster Care?

Foster carers are people approved by the Council to look after children up to the age of 18 years in their care. Normally, to be approved as a foster

carer you must have an assessment (reviewed annually) by the Council including all the family, a range of official checks and a period of preparation training. Foster carers are approved for a particular type of fostering and for particular gender/age ranges/numbers of children and are expected to look after any child who fits within their approval status.

Foster carers have no parental responsibility for the child in their care as this is either shared between the local authority and the birth parents or just with the birth parents. Foster carers care for the child day to day, but responsibility for all decisions, (with the possible exception of preventive medical provision) stays with the local authority/ birth parents.

Children in foster care are 'looked after' children and will be visited and reviewed by social workers on a regular basis.

How Do I Become a Foster Carer?

You should apply to the Council who will complete an assessment of your suitability to be a foster carer.

How Long Could I be a Foster Carer?

You could foster for as long as you want to - as long as your approval is renewed at your annual review.

Will I Get Any Help?

You will get regular visits from the social worker for the child and from the social worker from the Fostering Team who is appointed to support you. There are

also foster carer support groups and regular training.

Any children placed with you will have detailed Care Plans and any support services needed to meet the children's needs will be included in that Plan.



Will I Get Any Financial Help?

You will receive a weekly payment based on the appropriate fostering rate for the child and a range of additional allowances e.g. birthdays, Christmas, holidays.

Foster Carer Payments are usually not counted as income for benefit purposes.

HM Revenue and Customs treat foster carers as self employed and the payments you receive as income. If you receive less than the annual qualifying amount, you will be exempted from income tax. If you receive over the qualifying amount, which is set annually, you will have to pay tax on the surplus

amount. Further information is available on www.hmrc.gov.uk

Q: What Is Kinship Care?

Kinship care is when a child is looked after by the Council and is placed with family members or friends who have been approved as **foster carers just for that child.**

How long would being a kinship carer last?

You would be a kinship carer for as long as kinship care remains the Care Plan for the child - subject to annual review of your approval.

Q: What Is Private Fostering?

A Private Foster Carer is anyone who looks after somebody else's child under the age of 16 years (or 18 years if the child has disabilities) for more than 28 days, when they themselves are not a close relative of the child and do not have parental responsibility for the child.

The birth parents retain full parental responsibility for the child and for the making of all decisions in respect of the child.

The Council will make regular welfare visits to the child.

How Do I Become a Private Foster Carer?

A private fostering arrangement is made directly between you and the birth parents - not by the local authority.

The Council will make sure that you are suitable and will assess you by making a number of enquiries. Although the Council **does not approve** private fostering placements, it does have the power to prohibit a person from privately fostering if the assessment shows that the arrangement is not suitable.

How Long would being a Private Foster Carer Last?

Until the parents decide to remove the child from your care.

Would I Get Any Help?

A social worker will visit the child regularly and complete an assessment of the child's needs. You will also receive information about the support services available in the area if the assessment decides the child needs them.



Will I Get Any Financial Help?

Financial support of a privately fostered child is the responsibility of the birth parents. You will be given information about your entitlement to child and other financial benefits.

Q: What About Care By Close Family?

A close relative is a grandparent, brother, sister, aunt or uncle (either full blood or through marriage, civil partnership or adoption) or a step parent.

Care by a close relative is a private arrangement made within the family with the birth parents having full parental responsibility, including responsibility for financial support.

Will I Get Any Help?

If you need any help you can access support services available in the area. If you are concerned about the child you could ask the Council to complete an assessment for support services (as any family with children living at home is entitled to do). This may include social work help or help from other agencies.

Will I Get any Financial Help?

The parents have financial responsibility for the care of the child.

You should take advice about child and other financial benefits you may be able to claim in respect of the child.

Comparative Table

	Special Guardianship	Residence Order
Exercise of Parental Responsibility	<ul style="list-style-type: none"> • Special Guardian exclusively <p>Birth parents limited to consent to adoption and where more than one consent is required</p>	<ul style="list-style-type: none"> • Residence Order holder • Birth Parents
Approval Basis	<ul style="list-style-type: none"> • Appointed by the court subject to a court report 	<ul style="list-style-type: none"> • Appointed by the court subject to a court report
Duration	<ul style="list-style-type: none"> • Permanent lifelong relationship 	<ul style="list-style-type: none"> • Until the Residence Order ceases
Placement Supervision	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None - unless supervision order made
Reviews	<ul style="list-style-type: none"> • Annual review of special guardianship allowance and support services 	<ul style="list-style-type: none"> • Regular review if supervision order made • Annual review of residence order allowance
Support Services	<ul style="list-style-type: none"> • Counselling, advice and information • Support groups • Contact support • Therapeutic services • Training • Mediation • Short breaks 	<ul style="list-style-type: none"> • Social work/multi agency resources • Provision of equipment
Financial support Payable in certain circumstances	<ul style="list-style-type: none"> • Special Guardianship Allowance • One off payments 	<ul style="list-style-type: none"> • Residence Order Allowance • One off payments
Basis of financial support	<ul style="list-style-type: none"> • May be means tested 	<ul style="list-style-type: none"> • May be means tested • Discretionary

This guide provides some general advice on these options and the financial and other support that may be available. The range of support available may vary between authorities and entitlement to financial support in particular will be determined by individual

Fostering / Kinship Care	Private Fostering	Close Relatives
<ul style="list-style-type: none"> Local Authorities Birth Parents 	<ul style="list-style-type: none"> Birth Parents 	<ul style="list-style-type: none"> Birth Parents
<ul style="list-style-type: none"> Approved by the local authority 	<ul style="list-style-type: none"> Assessed, but not approved, by local authority – may be prohibited if assessed as unsuitable 	<ul style="list-style-type: none"> None
<ul style="list-style-type: none"> General Fostering – as long as you want to foster Kinship Care - Whilst the placement remains the Care Plan for the child 	<ul style="list-style-type: none"> Subject to decision of birth parents 	<ul style="list-style-type: none"> Subject to decision of birth parents
<ul style="list-style-type: none"> Statutory visits to the child Supervisory visits to the carer 	<ul style="list-style-type: none"> Statutory visits to the child 	<ul style="list-style-type: none"> None
<ul style="list-style-type: none"> Statutory reviews of the child Annual review of carer’s approval 	<ul style="list-style-type: none"> Regular Child in Need reviews 	<ul style="list-style-type: none"> None
<ul style="list-style-type: none"> Statutory visits and services Provision of equipment 	<ul style="list-style-type: none"> Statutory visits As assessed 	<ul style="list-style-type: none"> None
<ul style="list-style-type: none"> Weekly payments Birthday, Christmas and holiday allowances 	<ul style="list-style-type: none"> No statutory entitlement 	<ul style="list-style-type: none"> No statutory entitlement
<ul style="list-style-type: none"> Automatic payment based on schedule of payments 	Section 17 payment Discretionary	Section 17 payment Discretionary

circumstances. This is not intended to be a definitive guide to the various options available and further advice should be sought from for example, care professionals, and where appropriate the local Benefits Agency and HM Revenue and Customs.

