

Swindon Borough Council

Friends and Family Care Guide



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Introduction

“Family and friends carers play a unique role in enabling children and young people to remain with people they know and trust if they cannot, for whatever reason, live with their parents”

Department of Education 2010

Family and friends carers (also referred to as Connected Persons carers for the purposes of this guidance) are relatives, friends and other people with a prior relationship with somebody else's child, who are caring for him or her full time.

One of the common concerns expressed by family and friends carers is that they are not given clear information about the different legal options, the types of support available to them, details of any financial support available and the kind of social work involvement that will be necessary.

This is Swindon Borough Council's guide about family and friends care. Its primary aim is to give information about the various legal options open to family and friends' carers and how family and friends carers can be supported.

This booklet is not a comprehensive guide to every aspect of family and friends care and how the local authority works with family and friends carers. There may be times when it will be necessary to seek your own legal advice about the best option for your and the child's situation.

(Wherever the term parent is used, it includes those who may hold parental responsibility but who are not a birth parent.)



Summary of Legal Options for Family and Friends Care

Informal Kinship Care

- This is an arrangement made directly between the parent(s) and the informal kinship carer. An informal kinship carer can be a friend or relative or someone else with a prior relationship with the child.
- The child is not a looked after child under this arrangement, however may need to be assessed under private fostering arrangements.

Private Fostering

- This is a private arrangement whereby a child (under 16, or under 18 if disabled), is being cared for, for 28 days or more (or the intention is that the arrangement will last for 28 days or more), by anyone who is not a close relative and who does not have parental responsibility.
- A close relative means grandparent(s), brother(s), sister(s), uncle or aunt (by full blood, half blood or by marriage or civil partnership) or a step parent(s).
- The child is not looked after under this arrangement. However, private foster carers must give Children's Services at least 6 weeks' written notice of their intention to foster a child privately. If you are already caring for a child who is privately fostered, you must notify Children's Services within 48 hours of the date of receiving this booklet.

Family and Friends Foster Care

- If a child is no longer able to live with their birth family and becomes a looked after child with the Local Authority, Children's Services have a duty to give preference to a placement with a relative, friend or other person connected with the child, as long as this promotes the child's welfare.
- If the child is Looked After by the Local Authority they can be placed with connected persons such as relatives and friends. These relatives or friends must undertake to be assessed and approved as local authority foster carers and to meet the required standards and responsibilities of foster carers.
- To enable the child to be placed quickly while a full fostering assessment is undertaken, friend and family carers can be granted temporary approval for up to 16 weeks, following a brief assessment of their suitability.
- The child may be looked after voluntarily with the agreement of those holding Parental Responsibility, or may be looked after and subject to a care order.
- For more permanent arrangements for family and friends care the three following options can be considered

Child Arrangement Order

- A Child Arrangement Order is an order from the court to say who a child should live with.

- Relatives/Friends can apply for a Child Arrangement whether or not the child has been 'looked after'.
- The law enables relatives to apply for a Child Arrangement Order after having the child living with them for one year. For some older children, or those for whom adoption is not appropriate, a Child Arrangement Order may be the best option.

Special Guardianship Order

- Special Guardianship is applicable for a child of any age, unaccompanied minors where there are significant links with the birth family or where the birth family cannot be found.
- The eligibility criteria to be a Special Guardian are that the person is:
 - a guardian of the child
 - anyone currently holding a residence order
 - a relative with whom the child has lived for one year
 - a person with the consent of those who hold a residence order
 - a person with the consent of the local authority, where the child is in local authority care
 - a person with the consent of those with Parental Responsibility
 - a local authority foster carer with whom the child has lived for one year preceding
- The application Special Guardianship does not completely break the legal link with the child's parent(s). However, it does mean that the Special Guardian can take significant decisions about the child and their upbringing, without having to consult with the child's parent(s).

Adoption Order

- Relatives, friends and private foster carers can apply to adopt a child they have been caring for, when the child has lived with them for a total of 3 years out of 5 years. If you don't satisfy this requirement, it is possible to apply for an adoption order if the court gives leave for this.
- A friend or relative who is a local authority approved foster carer can apply for an adoption order after caring for a child for a year.
- Unless the child has been placed with you by an adoption agency, applicants must notify the local authority for the area where they live of their intention to apply for an Adoption Order. An Adoption application cannot be made until at least 3 months after the notification is received.

The Specific Details

Informal Kinship Care

This is an arrangement made directly between the birth parent(s) and the informal kinship carer. An informal kinship carer can be a friend or relative or someone else with a prior relationship with the child. The child is not a looked after child under this arrangement, however may be privately fostered (see private fostering section).

Who has Parental Responsibility?

Parental Responsibility remains with the birth parent(s). The informal kinship carer is allowed to do what is reasonable to safeguard and promote the child's welfare.

What is the assessment and approval process?

There is no 'approval' process. This is an arrangement made by the child's parent(s). It is the child's parent(s) who make the decision about where the child will live.

However, the local authority may need to assess the child under Section 17 of the Children Act 1989 to see if they meet the criteria as a 'child in need'. This assessment will assist the parent(s)/those who hold Parental Responsibility to make a decision about who is most suitable for the child to live with.

The assessment will also be used to consider if the child meets the criteria to receive any support/services as a child in need.

How long can the child / young person live in this arrangement?

The child / young person can stay for as long as the parent(s) are in agreement.

Will there be any supervision of the placement?

Not by Children's Services. It is the responsibility of the parent(s) to ensure that the child is being looked after properly.

Will the placement be reviewed?

No

What services/resources will be available to support the placement?

Depending on the outcome of the assessment, Children's Services have the discretion to provide support services under Section 17 of the Children Act 1989. The types of support / services that are available are:

- A social worker or other worker from Children's Services may visit the child and their informal kinship carers - although the carers will not have access to a separate social worker.
- The child may be offered access to an advocacy service.
- Support services for the family may be offered to the informal kinship carers and/or child, but this is discretionary.

- Local authorities have the power under Section 17 to give financial support towards accommodation costs where this is assessed to be the most appropriate way to safeguard and promote the child's welfare.
- There is no entitlement to leaving care support for the child once they reach age 16 years.
- Any support offered will cease on the young person's 18th birthday, unless the young person has already acquired entitlement to support as a care leaver from having previously been looked after, or criteria is met for support from adult services.

Will there be any financial support available?

Financial responsibility for the child remains with the parent(s).

Informal kinship carers can claim child benefit and other relevant benefits if these are not being paid to the parent. You are advised to speak to the DWP about this.

The young person's entitlement to education maintenance allowance is based on the income of the informal kinship carers.

The local authority has discretion to give financial assistance (which can be on the basis of regular payments), but there is no entitlement to financial support under section 17. Any financial support may impact on benefits being claimed and you are advised to inform the DWP.

The local authority works out the level of support to be provided to an informal kinship carer, based on the information provided to them by the social worker about the informal kinship carers circumstances.

The local authority aims to provide a response to a request for financial support within 10 working days of receiving the request.



Private Fostering

This is a private arrangement whereby a child (under 16 years old, or under 18 if disabled), is being cared for, for 28 days or more (or the intention is that the arrangement will last for 28 days or more), by anyone who is not a close relative and who does not have parental responsibility.

A close relative means grandparent(s), brother(s), sister(s), uncle or aunt (by full blood, half blood or by marriage or civil partnership) or a step parent(s).

The child is not a looked after child under the arrangement. However, private foster carers must give Children's Services at least 6 weeks' written notice of their intention to foster a child privately. If you are already caring for a child who is privately fostered, you must notify Children's Services within 48 hours of the date of receiving this booklet. Sometimes, an informal kinship carer will also be a private foster carer. An example would be a family friend or distant relative (like a cousin).

Who has Parental Responsibility?

Parental Responsibility remains with the parent(s).

What is the assessment and approval process?

- Children's Services have a legal duty to check whether or not the arrangement is suitable. A social worker will visit the private foster carer and the parent(s) to discuss the arrangement. The social worker will complete an assessment and carry out reference checks with the police, probation service, local council, GP and education authority.
- The assessment will involve the social worker visiting the private foster carer at home and discussing a range of issues including their background and upbringing, parenting experience, relationships, support networks, the suitability of the accommodation, their health, financial situation and their relationship with the family of the child being privately fostered.
- The social worker will write a report based on the information shared with them, and then Children's Services will make a decision about their suitability to be a private foster carer. If the placement is agreed, then a written agreement should be drawn up between the private foster carer and the parent(s) to make it clear who is responsible for what.

How long can the child/young person live in this arrangement?

For as long as the parent(s) and as long as Children's Services continue to agree that the carer is suitable to be a private foster carer.

Will there be any supervision of the placement?

Yes. Children's Services have a duty to visit children who are privately fostered at a minimum of every 6 weeks in the first year, and then every 12 weeks after that.

Will the placement be reviewed?

Yes. A review of the plan for the child has to take place at least annually, and in some cases 6 monthly.

What services/resources will be available to support the placement?

As part of the assessment report the private foster carer's needs should be identified and a plan of how these will be met drawn up. Where appropriate, private foster carers will be facilitated to access existing training available to other foster carers, private foster carers should also be facilitated to access community resources.

The private fostering social worker should provide information to private foster carers about the advice and support that is available from Children's Services and from other agencies. Where appropriate, and with the private foster carer's agreement, a referral will be made to other agencies. Where there is an identified need for support, which is not available from other agencies, consideration needs to be given as to whether this support should be provided by Children's Services under section 17 of the Children Act 1989.

Will there be any financial support available?

Any financial arrangement is made between the private foster carer and the parent(s) and will not involve Children's Services. These arrangements should be included in the written agreement so that everyone is clear about what has been agreed.

In exceptional circumstances, additional financial support may be available to support the child under Section 17 of the Children Act 1989. This is at the discretion of Children's Services. Private foster carers may be able to claim child benefit and where applicable other relevant benefits, if these are not being paid to the parent(s). You are advised to seek advice from the DWP about this.

If private foster carers are already claiming any benefits, including child benefit, they will need to inform the Department for Work and Pensions (DWP) that they are privately fostering a child. They should also let the DWP know about any money they are receiving for private fostering.



Connected Persons Foster Care

If a child is no longer able to live with their birth family, and becomes a looked after child with the Local Authority, Children's Services have a duty to give preference to a placement with a relative, friend or other person with a prior relationship with the child, as long as this promotes the child's welfare.

If the child is Looked After by the Local Authority they can be placed with connected persons such as relatives and friends. These relatives or friends must undertake to be assessed and approved as local authority foster carers and to meet the required standards and responsibilities of foster carers.

The child may be looked after voluntarily with the agreement of the parent(s) or may be looked after and subject to a care order/emergency protection order.

Who has Parental Responsibility?

If the child is looked after voluntarily, under Section 20 of the Children Act 1989, parental responsibility remains with the parent(s) before the child was looked after. If the child is subject to a care order or emergency protection order, Children's Services share parental responsibility with those who held it before the child was looked after.

What is the assessment and approval process?

To enable a looked after child to be placed quickly with their friend or family carer, while a full fostering assessment is undertaken, friend and family carers can be granted temporary approval of this role for up to 16 weeks; following an initial assessment of their suitability, under the Care Planning Regulations.

The brief assessment will consider a range of issues including the suitability of the home environment, the capacity of the potential carers to meet the child's needs and other matters such as checks on any previous criminal offences, Children's Services involvement of any adults in the household.

Friend and family members wishing to be considered for assessment as Local Authority Foster Carers must make a written application and consent to the seeking of information about themselves including a Criminal Records check, undertaking of a full medical and the undertaking of checks from other agencies, where they have resided. If a child is to remain looked after by the local authority, placements with friend and family may only continue beyond any temporary approval if they have been assessed and approved as foster carers under the Fostering Services Regulations (England) 2011.

An assessment of the friends/relatives capacity to care for the child will be completed by the Fostering Team. This is a rigorous process that involves a number of visits to them in their home, and the completion of a written assessment report. This goes into detail about things like their background and childhood, previous and current relationships/marriages, support networks, experience as a parent(s), their relationship with the child's family and other relevant issues. It also includes an assessment of the home environment, safe care practice and motivation and capacity to care for the specific child.

They will need to provide details of their income, medical history and names of people who are prepared to act as referees for them.

Once the assessment is complete, the fostering worker will make a recommendation to the Fostering Panel. Prospective foster carers will be invited to attend the Fostering

Panel if they would like to. The Fostering Panel makes a recommendation to the Decision Maker who has the final decision about whether or not someone is approved as a foster carer.

The assessment process should help applicants gain a better understanding of the requirements of fostering and the challenges of the commitment they wish to make.

How long can the child/young person live in this arrangement?

For as long as the local authority considers the placement meets the child's needs and is in line with the care plan.

Will there be any supervision of the placement?

Yes. As an approved Local Authority Foster Carer, you will be required to meet the National Minimum Standards for Fostering Services. This includes completion of induction standards and training programme. Your approval status as a foster carer will be reviewed at least annually and the Fostering Panel will continue the outcome of your first annual review and possibly others. If a foster carer fails to meet the required standards they can be returned to Fostering Panel for a recommendation that their approval status is terminated.

Family and Friends carers are supervised and supported in a similar way to all other foster carers and you will have a fostering supervising social worker who will visit you regularly. They will be available to offer you advice and support and you will be offered opportunities for training and development.

Children's Services have a duty to visit looked after children. The child's social worker will visit the child within the first week of the child being placed, then at least every 6 weeks in the first year. Visiting in subsequent years must be a minimum of 3 monthly. It is expected that visiting frequency in Northumberland is more frequent and will be established in the care plan

Will the placement be reviewed?

Yes. Children's Services have a duty to review a looked after child's care plan within 28 days of the child becoming looked after, then within the next 3 months and then every 6 months until the child is no longer looked after.

What services/resources will be available to support the placement?

Registered foster carers are supported by a fostering supervising social worker who will visit on a regular basis. Carers may be required to attend training courses and will be offered the opportunity to attend support groups.

The child will receive support for their health and education needs. The child's social worker will discuss with you what services/resources you or the child may need to ensure the child's needs are met in the placement.

An older looked after child may be eligible for leaving care support services.

Will there be any financial support available?

Yes. A weekly maintenance allowance is payable to meet the costs of caring for the child. Child benefit and child tax credit are not payable to foster carers.

Child Arrangement Order *(Previously known as a Residence Order)*

A Child Arrangement Order is an order from the court to say who a child should live with. Relatives / Friends can apply for a Child Arrangement Order whether or not the child has been 'looked after'. The law enables relatives to apply for a Child Arrangement Order after having the child living with them for one year.

For some older children, or those for whom adoption is not appropriate, a Child Arrangement Order may be the best option.

Who has Parental Responsibility?

This is shared between the parent(s) and those to whom the Child Arrangement Order was given. However, the person with the Child Arrangement Order can make decisions to safeguard and protect the child and meet their day-to-day needs, without needing the permission of the child's parent(s).

What is the assessment and approval process?

Applications for a Child Arrangement Order are made through the court. There will be an assessment of the applicant's suitability and how well they could meet the child's needs. The wishes and feelings of the child and their parent(s) will be taken into account. If Children's Services have had previous involvement with the child or the child is looked after, they will be asked to carry out the assessment. If not, a CAFCASS (the Children and Family Court Advisory and Support Service) officer will undertake the assessment.

How long can the child/young person live in this arrangement? A Child Arrangement Order lasts until the child is 16 however the court can order it to continue until the age of 18 where this is consistent with the child's welfare.

Will there be any supervision of the placement?

No.

Will the placement be reviewed?

No. However, if a child arrangement order allowance is agreed by Children's Services, this will be reviewed on an annual basis.

What services/resources will be available to support the placement?

There is no automatic entitlement to support but the local authority has the discretion to provide services/support for the child/family under Section 17 of the Children Act 1989, if the child meets the criteria as a child in need. This will be discussed during the assessment.

Will there be any financial support available?

There is no entitlement to financial support, but the local authority has the discretion to pay a child arrangement order allowance. This will be discussed during the assessment, and any financial support will be means tested. If you are receiving benefits, any financial support may affect your benefits, and you are advised to inform the DWP.

Child benefit will be payable and other applicable benefits, if they are not being paid to the child's parent(s)

Special Guardianship Order

The Adoption and Children Act 2002 amended the Children Act 1989 introducing Special Guardianship Orders.

Special Guardianship is applicable for a child of any age, unaccompanied minors where there are significant links with the birth family, or where the birth family cannot be found.

The eligibility criteria to be a 'Special Guardian' are that the person is:

- a guardian of the child
- anyone currently holding a residence order
- a relative with whom the child has lived for one year
- a person with the consent of those who hold a residence order
- a person with the consent of the local authority, where child is in local authority care
- a person with the consent of those with parental responsibility
- a local authority foster carer with whom the child has lived for one year preceding the application

Special Guardianship does not completely break the legal link with the child's parent(s). However, it does mean that the Special Guardian can take significant decisions about the child and their upbringing.

Who has Parental Responsibility?

Parental responsibility is shared between those who held parental responsibility before the Special Guardianship Order was made and those to whom the Special Guardianship Order is given. Special Guardians can exercise parental responsibility to the exclusion of all others who share it. This means they can make most major decisions about the child's upbringing. They will need to get the consent of those they share parental responsibility with for some medical situations, and cannot change the child's surname or remove the child from the UK for more than 3 months without the consent of others with parental responsibility or leave of the Court.

What is the assessment and approval process?

If someone is intending to apply to a court for a Special Guardianship Order they must give the local authority 3 months written notice.

They will be given information and advice by the Permanency Team

Once an application is made to the court for a Special Guardianship Order, the local authority will be asked to make an assessment and prepare a report.

The report will include details about the child and their family, details about the carer and their family, their background and childhood experiences, their experience as a parent(s), and relationship with the child's family.

Checks will also be made with the Police, Probation, Disclosure and Barring Service, employers, GP, health and education.

They will need to give details of their financial situation, and the names of people who are willing to be referees. Once the social worker has completed their assessment, they will make a recommendation to the court about the appropriateness of the Special

Guardianship Order. The final decision about whether or not a Special Guardianship Order is granted lies with the court.

It is strongly advised to seek independent legal advice if you are considering this option.

How long can the child/young person live in this arrangement?

Until the child is 18, unless the order is varied or discharged by the court before the child is 18.

Will there be any supervision of the placement?

No.

Will the placement be reviewed?

No. However, there will be an annual review of the special guardianship allowance if one has been agreed.

What services/resources will be available to support the placement?

An assessment of support needs must legally be made during the preparation of the report for court, for all children who are looked after prior to the making of a Special Guardianship Order. A Special Guardianship Support Plan will be drawn up. It is discretionary whether or not the local authority carries out an assessment where the child was not looked after prior to the Special Guardianship Order being made. It is important that children who were not previously looked after children are not unfairly disadvantaged and there are other circumstances under which an assessment of support services can be made. These will be discussed during the assessment. At the age of 16, a young person who was looked after prior to the making of a Special Guardianship Order becomes eligible for the provisions of the Leaving Care Act, as a 'Qualifying Person'.

This entitles them to on-going advice and assistance, up to the age of 24 in some cases

Will there be any financial support available?

This will be discussed with you during the assessment. A means tested special guardianship allowance is payable in certain circumstances for children who were looked after prior to the Special Guardianship Order being made. The child will need to meet the criteria in the Special Guardianship Regulations. As above, there are also circumstances where means tested allowances are payable and the child has not previously been a looked after child. These will be discussed during the assessment. Any financial support agreed will be subject to annual review. You may be able to claim child benefit and other applicable benefits, if these are not being paid to those who share Parental Responsibility with you. If you receive benefits, receiving a special guardianship allowance may affect your benefits, and you are advised to speak to the DWP about this.

Adoption Order

Relatives, friends and private foster carers can apply to adopt a child they have been caring for, when the child has lived with them for a total of 3 out of 5 years. However if this is not the case, it is possible to apply for an adoption order if the court gives leave for this.

A friend or relative who is a local authority approved foster carer can apply for an adoption order after caring for a child for a year.

Unless the child has been placed by an adoption agency, applicants must notify the local authority for the area where they live of their intention to apply for an Adoption Order.

An Adoption application cannot be made until at least 3 months after the notification is received.

Who has Parental Responsibility?

Parental responsibility is transferred to the adopters when the adoption order is made. Parental responsibility is not shared with anyone else.

What is the assessment and approval process?

When friends, relatives or private foster carers apply to a court to adopt a child they have been caring for, the court asks the local authority to prepare a report for the court about the applicants' suitability to adopt the child, and whether adoption is in the best interests of the child.

This will involve visits from an adoption/permanency social worker, and discussion about various aspects of their relationships, family life, support network and relationship with the child's family.

They will need to give details of their financial situation, and the names of people who are willing to be referees.

If the child you are caring for is a looked after child (this means the carer will have to be an approved foster carer) and they want to adopt the child, the process is different to adopting a non-looked after child or a child who has not been placed by an adoption agency. The fostering social worker will advise about what steps are needed.

How long can the child / young person live in this arrangement?

It is a permanent lifelong relationship.

Will there be any supervision of the placement?

There is no duty to supervise the placement. However, the court hearing the adoption application would expect the carer to allow the local authority to have sufficient opportunities to observe the child at home, in order for the local authority to be able to complete the required report for the court hearing.

Will the placement be reviewed?

No.

What services/resources will be available to support the placement?

Other than counselling, advice and information, there is no automatic entitlement to post adoption support when a child who has not been a 'looked after child' or a child who has not been placed by an adoption agency is adopted.

A request can be made that the local authority assesses for support services, but it is at the discretion of the local authority whether or not services are provided.

Will there be any financial support available?

There is no automatic entitlement to financial support, but adopters can request to be assessed for financial support.

It is advisable to seek advice about what state benefits may be available, and advise the DWP about any financial support received if you are in receipt of benefits.

