

EXECUTIVE COUNCIL

PUBLIC

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Portfolio Holder:	MLA Ian Hansen
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List of Documents:	Guidance on Special Guardianship Orders (Appendix 1) Children (Amendment) Ordinance 2017 (Appendix 2)

1. Recommendations

1.1 Honourable Members are recommended to approve:

- (a) Honourable Members are asked to approve the draft statutory guidance on the making of Special Guardianship Orders to complement the Children (Amendment) Ordinance 2017 (attached as Appendix 1).
- (b) Honourable Members are asked to note and approve the policy relating to decisions to be made by the Director of Health and Social Services in relation to approving non-standard allowances which are to be subjected to Executive Council's approval.

2. Additional Budgetary Implications

- 2.1 There are no additional budgetary implications at this stage. However, if an application for an SGO is received that is outside the non-standard allowances, this will be dealt with via an Executive Council report.

3. Executive Summary

- 3.1 This report requests that Executive Council considers and recommends approval of statutory guidance in relation to the making of Special Guardianship Orders under the Children (Amendment) Ordinance 2017 and to note that non-standard allowances may require additional funding to be approved by Executive Council where they are given to support the special guardian.

4. Background and Links to Islands Plan and Directorate Business Plan/s

- 4.1 Honourable Members considered the Family Law Review on 13th January 2016 under Executive Council Paper 12/16 and directed Government Legal Services to provide detailed policy and where appropriate draft legislation in a number of areas, including Special Guardianship Orders, specifically: *the introduction of special guardianship concept into our legislation.*
- 4.2 The ‘Special Guardianship’ arrangement provides the same characteristic of permanence as adoption, but without the legal severing of family ties. This will allow extended family and closely associated persons to take on the permanent long term care of a child, whilst still recognising the natural parent’s identity.
- 4.3 Legislation was drafted and passed relating to the other areas identified for review and these include the Children (Amendment) Ordinance 2017 which was passed and assented to and was commenced on 1st January 2018. Under this amendment Ordinance there is provision under section 18A for a system of special guardianship orders. Under Part 2 of the Ordinance the Director is required to make the statutory guidance on Special Guardianship Orders. This has been prepared for Honourable Members to approve.

5. Options and Reasons for Recommending Relevant Option

- 5.1 The Proposed option is that the Guidance for making special guardianship orders be approved, to assist in providing an alternative to adoption, fostering or residence orders and allow the Director to get approval from Executive Council for every decision where a non-standard allowance is concerned.
- 5.2 The second option will be to approve the Guidance but allow the Director to make the final decision regarding non-standard allowances without Executive Council’s approval.
- 5.3 *Do nothing* – Is not the recommended option as the newly commenced legislation requires implementation.

6. Resource Implications

6.1 Financial Implications

There are no additional financial implications at this stage. However, if an application for an SGO were to be received that is outside the non-standard allowances, this will be dealt with

via an Executive Council paper. (The standard allowance is in line with the basic fostering allowance).

6.2 Human Resource Implications

None

6.3 Other Resource Implications

6.3.1 Training will need to be provided within the Falkland Islands Government to inform relevant staff of the legislation in relation to special guardianship orders and the associated Guidance. This will be provided in-house with no financial implications.

7. Legal Implications

7.1 The guidance is required to be made under the Children (Amendment) Ordinance which was commenced on 1st January 2018 and needs the Guidance to be given full implementation.

8. Environmental & Sustainability Implications

8.1 None

9. Significant Risks

9.1 None

10. Consultation

10.1 Family Law Review – public consultation took place and a number of areas including this were identified as needing review.

10.2 The amendment legislation was published in the Gazette.

11. Communication

11.1 The Director of Health and Social Services will communicate with the Courts and Attorney General's Chambers regarding the guidance, and training will be organised for the Social Services Department.

11.2 There is a requirement under the amendment Ordinance to publish the Guidance.

GUIDANCE ON SPECIAL GUARDIANSHIP ORDERS

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1. INTRODUCTION

This Guidance explains what a Special Guardianship Order is, who can apply for the Order, the powers of the court in making the Order, and the effect of the Order.

This Guidance also covers the Social Services process for making reports to the court in support of an application for Special Guardianship Orders. Section 18A (8) of the Children (Amendment) Ordinance 2017 provides that the report prepared by the Crown in support of the special guardianship application must contain relevant and prescribed matters and this Guidance specifies those matters. This Guidance also specifies the process for making assessments where a request for support services is made to the Crown by a Special Guardian.

Special Guardianship Orders (SGOs) are provided for under Part 2 of the Children Ordinance 2014. Special Guardianship offers an option for children needing permanent care outside their birth family. It can offer greater security without absolute severance from the birth family as in adoption.

Special Guardianship addresses the needs of a specific group of children who need a sense of stability and security where there is no wish to make the absolute legal break from the birth family that is associated with adoption.

It also provides an alternative for achieving permanence in families where adoption, for cultural or religious reasons, is not an option.

A Special Guardianship Order offers greater stability and legal security to a placement as compared to a Child Arrangements Order.

A Special Guardianship Order confers the Special Guardians with Parental Responsibility for the child and, whilst this will be shared with the child's parents, the Special Guardian will have the ability to exercise this responsibility without seeking permission from the parents.

A Special Guardianship Order made in relation to a Looked After Child will replace the Care Order and the Crown will no longer have Parental Responsibility.

A Care Order, however, will not automatically revoke a Special Guardianship Order although the Special Guardian's exercise of Parental Responsibility will be restricted as the Crown will have primary responsibility for decision-making under the Care Order.

2. WHO MAY APPLY?

The court can only make a Special Guardianship Order in respect of a child [see section 18A (6) of the Children Ordinance 2014] –

- (1) where an application is made to the court by a person who is entitled to make such an application OR by a person who has obtained the leave of the court [see section 18A(3)]; or
- (2) in any family proceedings in which a question arises with respect to the welfare of the child [that is if the court considers that an SGO should be made even though there is no application for it OR if there is an application for it]

Applications for SGOs may be individual or joint. Joint applicants do not need to be married. Special Guardians must be 18 or over and must **not** be parents of the child [see section 18A (2) (a) and (b)]

2.1 Persons who are entitled to apply to the court for an SGO (*who do not need the leave of the court*)

The following persons may apply without having to obtain the leave of the court:

- (1) Any guardian of the child [section 18A(5)(a)];
- (2) Any individual in whose favour a residence order has been made [section 18A(5)(b)];
- (3) Any of the following individuals [section 18A(5)(c) as read with section 14(5)(b) and (c)] –
 - (a) any person with whom a child has lived with for a period of at least 3 years;
 - (b) a person who has consent from –
 - (i) any person with whom a residence order is in force with respect to the child (and if it is several persons, consent of each of those persons);
 - (ii) the Crown where that child is in the care of the Crown;
 - (iii) any person who has parental responsibility for a child (and if it is several persons, consent of each of those persons); and
- (4) A Government foster carer with whom the child has lived for one year immediately preceding the application [section 15A(5)(d)]; and
- (5) A relative with whom the child has lived for a period of at least one year immediately preceding the application.

2.2 Persons who require the leave of the court to apply for an SGO

Any other person (including the child but excluding a parent) may apply for a Special Guardianship Order if the person has obtained the leave of the court to make the application.

In an application for the leave of the court to apply for an SGO:

(a) in respect of an application made by a child, the court may only grant leave if it is satisfied that the child has sufficient understanding to make the proposed application for an SGO;

(b) in respect of an application from any other person, the court will have regard to –

(i) the nature of the proposed application for an SGO;

(ii) the applicant's connection with the child in respect of whom the application is made;

(iii) any risk there might be of the proposed application disrupting the child's life; and

(iv) where the child is being looked after by the Crown, the Crown's plans for the child's future and the wishes and feelings of the child's parents.

2.3 How to make an application for an SGO

A. WHERE A CHILD IS LOOKED AFTER BY THE CROWN:

(a) 3 months before making an application for a SGO, the applicant must give written notice to the Crown of his or her intention to make the application

(b) on receipt of the written notice the Crown must investigate the matter and prepare a report for the court

B. IN ANY OTHER CASE:

On receipt of the application for an SGO, the court may request the Crown to investigate the matter and prepare a report or waive the requirement for a report.

The report must cover the following [see section 18A) (8)]:

(a) the suitability of the applicant as a special guardian;

(b) any matters prescribed by the Governor; and

(c) any matter the Crown considers to be relevant.

2.4. Court process for making SGOs

As required under section 15(2) of the Children Ordinance the court may specify (by way of rules of court) steps and periods which must be taken to make applications for SGOs. The court may also give directions to ensure proceedings are brought without any delays.

(*these matters are prescribed under Section 4 of this Guidance)

3. INVESTIGATIONS AND ASSESSMENTS

3.1 Planning and notification to Social Services

Where the Crown has received notice from an applicant or a request for a report is made to the Crown by the court, it should send written information about the steps it proposes to take in preparing the report to the prospective Special Guardian and the parents of the child in question. This should include information about support for Special Guardianship and how to request an assessment of needs for support.

3.2 Assessments by Social Services

A. ASSESSMENTS GENERALLY

Once notice has been received by Social Services that an application for a Special Guardianship Order is to be made, arrangements should be made for the case to be allocated to a social worker. The social worker who is allocated the assessment should be a different social worker to the one allocated to the child (if the child is already known to Social Services).

The social worker undertaking the assessment should arrange a planning meeting as soon as practicable after the notice is received. The planning meeting should clarify the steps to be taken, and who will carry out which sections of the assessment.

The social worker who is carrying out the assessment of suitability of the applicants should compile the corresponding section of the court report and the child's social worker, if the child has one, must compile the sections of the report relating to the child and the birth parents.

Where the child does not have a separate social worker the assessing social worker should undertake all parts of the assessment but consideration should be given to allocating a second worker to ensure that the children's views are fully taken into account.

The recommendations must be reached jointly and where agreement cannot be reached a further planning meeting involving the social workers and Social Work Team Manager should be convened. This planning meeting should seek to clarify the remaining steps that are required to complete the assessment, identifying support needs where relevant and the production of the support plan.

Court timescales will need to be clarified. Key issues known to the child's social worker, where the child has one, must be shared with the assessing social worker. The assessing social worker must also have access to relevant files and records.

There are no specific requirements as to the level of qualification or experience required and it will be for the Social Work Team Manager to ensure that the allocated social workers are competent to write the report.

In all cases, there will need to be an assessment of the current and likely future needs of the child (including any harm the child has suffered and any risk of future harm posed by the child's parents, relatives or any other person the Crown considers relevant).

An assessment of the prospective Special Guardian's parenting capacity should include:

- (a) their understanding of, and ability to meet the child's current and likely future needs, particularly any needs the child may have arising from harm that the child has suffered;
- (b) their understanding of, and ability to protect the child from any current or future risk of harm posed by the child's parents, relatives or any other person the Crown considers relevant, particularly in relation to contact between any such person and the child;
- (c) their ability and suitability to bring up the child until the child reaches the age of eighteen;
- (d) the proposed contact arrangements and the support needs (See Section 9, Assessment for Support) of the child, parents and the prospective special guardian; and
- (e) their medical history, the references received and the Disclosure and Barring Service and other statutory checks undertaken for the assessment.

B. ASSESSMENTS FOR CHILDREN LOOKED AFTER BY THE CROWN

If the child is Looked After and the application has been agreed as part of the child's Permanence Plan, the assessments will usually have been undertaken and the outcomes agreed as part of the permanence planning for the child, in which case there will be no need to hold a planning meeting.

Special Guardianship as an outcome for a looked after child must be approved by the assessing social worker, child's social worker and Social Work Team Manager. In the event of any difference of opinions that cannot be resolved through the planning meeting process, the matter should be referred to the Director of Health and Social Services.

4. PREPARATION OF THE COURT REPORT

The social workers preparing the court report should be suitably qualified and experienced.

Once completed, the court report should be submitted by the author(s) to their line manager(s) for approval.

Requirements for the court report:

(1) In respect of the child;

- (a) Name, sex, date and place of birth and address;
- (b) A photograph and physical description;
- (c) Nationality (and immigration status where appropriate);
- (d) racial origin and cultural and linguistic background;
- (e) Religious persuasion (including details of baptism, confirmation or equivalent ceremonies);
- (f) Details of any siblings including their dates of birth;
- (g) The extent of the child's contact with his or her relatives and any other person the Crown consider relevant;
- (h) Whether the child is or has been looked after or is or has been provided with accommodation by a voluntary organisation and details (including dates) of placements by the authority or organisation;
- (i) Whether the prospective Special Guardian is a Crown foster parent of the child;
- (j) A description of the child's personality, his or her social development and emotional and behavioural development and any related current or likely future needs;
- (k) Details of the child's interests, likes and dislikes;
- (l) A health history and a description of the state of the child's health which shall include any treatment the child is receiving or has received;
- (m) Names, addresses and types of nurseries or schools attended with dates;
- (n) the child's educational attainments;
- (o) Whether the child is subject to a statement of special educational needs; and
- (p) Details of any order made by a court with respect to the child under the Ordinance including -
 - (i) the name of the court;
 - (ii) the order made; and
 - (iii) the date on which the order was made.

(2) In respect of the child's family:

- (a) Name, date and place of birth and address (and the date on which their last address was confirmed) of each parent of the child and his or her siblings under the age of 18;
- (b) A photograph, if available, and physical description of each parent;
- (c) Nationality (and immigration status where appropriate) of each parent;
- (d) Racial origin and cultural and linguistic background of each parent;
- (e) Whether the child's parents were married to each other at the time of the child's birth or have subsequently married and whether they are divorced or separated;
- (f) Where the child's parents have been previously married or formed a civil partnership, the date of the marriage or civil partnership;
- (g) Where the child's parents are not married, whether the father has Parental Responsibility and, if so, how it was acquired;
- (h) If the identity or whereabouts of the father are not known, the information about him that has been ascertained and from whom, and the steps that have been taken to establish paternity;
- (i) The past and present relationship of the child's parents;
- (j) Where available, the following information in respect of each parent -

- (i) health history, including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
 - (ii) religious persuasion;
 - (iii) educational history;
 - (iv) employment history;
 - (v) Personality and interests.
- (k) In respect of the child's siblings under the age of 18 -
- (i) the person with whom the sibling is living;
 - (ii) whether the sibling is looked after by the Crown or provided with accommodation by another; and
 - (iii) details of any court order made with respect to the sibling under the Ordinance, including the name of the court, the order made and the date on which the order was made.
- (3) In respect of the wishes and feelings of the child and others:
- (a) An assessment of the child's wishes and feelings (considered in light of his or her age and understanding) regarding-
 - (i) Special Guardianship;
 - (ii) His or her religious and cultural upbringing; and
 - (iii) Contact with his or her relatives and any other person the Crown considers relevant, and the date on which the child's wishes and feelings were last ascertained.
 - (b) The wishes and feelings of each parent regarding-
 - (i) Special Guardianship;
 - (ii) The child's religious and cultural upbringing; and
 - (iii) contact with the child, and the date on which the wishes and feelings of each parent were last ascertained; and
 - (c) The wishes and feelings of any of the child's relatives, or any other person the Crown considers relevant regarding the child and the dates on which those wishes and feelings were last ascertained.
- (4) In respect of the prospective Special Guardian or, where two or more persons are jointly prospective Special Guardians, each of them:
- (a) Name, date and place of birth and address;
 - (b) A photograph and physical description;
 - (c) Nationality (and immigration status where appropriate);
 - (d) Racial origin and cultural and linguistic background;
 - (e) If the prospective Special Guardian is-
 - (i) married, the date and place of marriage;
 - (ii) has formed a civil partnership, the date and place of registration of the civil partnership; or
 - (iii) has a partner, details of that relationship;
 - (f) Details of any previous marriage, civil partnership, or relationship;
 - (g) Where the prospective Special Guardians wish to apply jointly, the nature of their relationship and an assessment of the stability of that relationship;
 - (h) If the prospective Special Guardian is a member of a couple and is applying alone for a Special Guardianship Order, the reasons for this;
 - (i) Whether the prospective Special Guardian is a relative of the child;
 - (j) An assessment of the prospective Special Guardian's current and past relationship with the child;
 - (k) A health history of the prospective Special Guardian including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
 - (l) A description of how the prospective Special Guardian relates to adults and children;
 - (m) Previous experience of caring for children;

- (n) An assessment of the prospective Special Guardian's parenting capacity including:
 - (i) their understanding of, and ability to meet the child's current and likely future needs, particularly any needs the child may have arising from harm that the child has suffered;
 - (ii) their understanding of, and ability to protect the child from any current or future risk of harm posed by the child's parents, relatives or any other person the Crown consider relevant, particularly in relation to contact between any such person and the child;
 - (iii) their ability and suitability to bring up the child until the child reaches the age of eighteen;
- (o) Where there have been any past assessments as a prospective adopter, foster carer or Special Guardian, relevant details as appropriate;
- (p) Details of income and expenditure;
- (q) Information about the prospective Special Guardian's home and the neighbourhood in which he lives;
- (r) Details of other members of the household and details of any children of the prospective Special Guardian even if not resident in the household;
- (s) Details of the parents and any siblings of the prospective Special Guardian, with their ages or ages at death;
- (t) The following information -
 - (i) religious persuasion;
 - (ii) educational history;
 - (iii) employment history; and
 - (iv) personality and interests;
- (u) Details of any previous family court proceedings in which the prospective Special Guardian has been involved (which have not been referred to elsewhere in the report);
- (v) A report of each of the interviews with the three persons nominated by the prospective Special Guardian to provide personal references for him;
- (w) Whether the prospective Special Guardian is willing to follow any wishes of the child or his or her parents in respect of the child's religious and cultural upbringing;
- (x) The views of other members of the prospective Special Guardian's household and wider family in relation to the proposed Special Guardianship Order;
- (y) An assessment of the child's current and future relationship with the family of the prospective Special Guardian;
- (z) Reasons for applying for a Special Guardianship Order and extent of understanding of the nature and effect of Special Guardianship and whether the prospective Special Guardian has discussed Special Guardianship with the child;
- (aa) Any hopes and expectations the prospective Special Guardian has for the child's future; and
- (bb) The prospective Special Guardian's wishes and feelings in relation to contact between the child and his or her relatives or any other person the Crown considers relevant.

(5) In respect of the Crown:

- (a) Name and address;
- (b) Details of any past involvement of the Crown with the prospective Special Guardian, including any past preparation for that person to be a foster carer or adoptive parent or Special Guardian;
- (c) Where the prospective Special Guardian has lived outside the Falkland Islands, details of enquiries made by the Crown about the prospective Special Guardian;
- (d) A summary of any Special Guardianship support services provided by the Crown for the prospective Special Guardian, the child or the child's parent and the period for which those services are to be provided; and

- (e) Where the Crown has decided not to provide Special Guardianship support services, the reasons why.

- (6) A summary prepared by the medical professional who provided the information referred to in paragraphs (1)(l) and (4)(k).

- (7) The implications of the making of a Special Guardianship Order for -
 - (a) the child;
 - (b) the child's parent;
 - (c) the prospective Special Guardian and his or her family; and
 - (d) any other person the Crown considers relevant.

- (8) The relative merits of Special Guardianship and other orders which may be made under the Children Ordinance 2014 with an assessment of whether the child's long term interests would be best met by a Special Guardianship Order.

- (9) A recommendation as to whether or not the Special Guardianship Order sought should be made in respect of the child and, if not, any alternative proposal in respect of the child.

- (10) A recommendation as to what arrangements there should be for contact between the child and his or her relatives or any person the Crown considers relevant.

5. THE MAKING OF A SPECIAL GUARDIANSHIP ORDER

5.1 Court powers in making an SGO

In making the Special Guardianship Order the court may –

- (a) assess whether other orders need to be made alongside the SGO, e.g. a contact order;
- (b) consider whether or not to vary or discharge an existing contact order, residence order or a prohibited steps order;
- (c) give leave for the child to be known by a new surname; and
- (d) grant leave for the special guardian to be able to remove the child from the Falkland Islands generally or for a specific purpose (where the removal is more than 3 months see 5.2 below)

5.2 Effect of an SGO

An SGO confers on the Special Guardian parental responsibility for as long as it remains in force.

A. PARENTAL RESPONSIBILITY

The Special Guardian will have Parental Responsibility for the child and will have clear responsibility for the day-to-day decisions about caring for the child to the exclusion of anyone else who might have Parental Responsibility (apart from another Special Guardian).

The child's parents will continue to hold Parental Responsibility but their exercise of it will be limited. The parents will, however, retain the right to consent to the child's adoption or placement for adoption.

In addition there are certain steps in a child's life which require the consent of everyone with Parental Responsibility, for example:

- (a) the change of surname of the child; and
- (b) the removal of the child from the Falkland Islands for longer than three months.

B. OTHER RESPONSIBILITIES OF A SPECIAL GUARDIAN

If the child with respect to whom a Special Guardianship Order is in force dies, the Special Guardian must take reasonable steps to give notice of that fact to:

- (a) each parent of the child with Parental Responsibility;
- (b) each guardian of the child; and
- (c) the Crown.

6. DISCHARGE AND VARIATION OF SPECIAL GUARDIANSHIP ORDER

6.1 Who can make an application to discharge or vary a SGO?

A. APPLICATION WITHOUT LEAVE OF COURT

A Special Guardianship Order can be varied or discharged on the application of (*see section 18D*) :

- (a) the Special Guardian;
- (b) any parent or guardian of the child;
- (c) any individual named in a residence order or a contact order as a person with whom a child is to live;
- (d) any other individual who, before a SGO was made, had parental responsibility for the child;
- (e) the child; or
- (f) the Crown where a Care Order was in force before the Special Guardianship Order was made.

B. APPLICATIONS WHICH REQUIRE LEAVE OF COURT

Where it is reasonably required to secure the long term placement of the child, the court may make an order that the following must only make an application to vary or discharge a SGO with the leave of the court:

- (a) the child's parents or guardians;
- (b) any step-parent who has Parental Responsibility;
- (c) anyone who had Parental Responsibility immediately before the Special Guardianship Order was made but no longer does; or
- (d) the child (if the court is satisfied that the child has sufficient understanding).

Where the applicant is not the child and the leave of the court is required, the court may only grant leave if there has been a significant change in circumstances since the Special Guardianship Order was made.

C. POWERS TO VARY OR DISCHARGE BY COURT (NO APPLICATION)

The court may, during any family proceedings in which a question arises about the welfare of a child who is subject to a Special Guardianship Order, vary or discharge the Order in the absence of an application.

D. PROCESS FOR MAKING APPLICATIONS TO VARY OR DISCHARGE SGOs

As required under section 15(2) of the Children Ordinance, the court may specify (by way of rules of court) steps and periods which must be taken to bring applications to vary or discharge SGOs.

7. SPECIAL GUARDIANSHIP SUPPORT

The Crown must make provision to support Special Guardianship placements (*see section 18F*). The Crown must consider whether it is feasible and appropriate to provide such support services to a child in respect of whom an application for an SGO has been made and to the applicant of an SGO. These support services will only be made available where it is reasonably practical within the Falkland Islands

Special Guardianship support services are defined as:

- (a) financial support (see Section 12, Financial Support);
- (b) social work services to enable children, Special Guardians and parents to discuss matters relating to special guardianship;
- (c) assistance including mediation in relation to contact between the child and their parents, relatives or significant others;
- (d) support to access therapeutic services for the child;
- (e) assistance to ensure continuance of the relationship between the child and the Special Guardian, including support to access training to meet any special needs of the child, respite care and mediation; and
- (f) support to access counselling, advice and information.

Special Guardianship Support will be subject to the approval of the Director of Health and Social Services and any non-standard allowance is subject to the approval of Executive Council.

The services described above may include cash assistance to enable access to services.

Support services for Special Guardianship orders in the Falkland Islands will usually be delivered through access to mainstream services.

The Crown has the responsibility for providing support for at least the first three years after the making of a Special Guardianship Order or until the child reaches 18 years old.

The Crown may choose to extend this period of support and arrangements should be clearly set out within the support plan.

8. ENTITLEMENT TO ASSESSMENT FOR SPECIAL GUARDIANSHIP SUPPORT

An assessment for support can be requested at any time after a Special Guardianship order has been made.

The initial support plan should have been made as part of the application for the Special Guardianship Order.

Where the child is Looked After or was Looked After immediately prior to the making of the Special Guardianship Order, the following people **MUST** receive an assessment at their request:

- (a) the child;
- (b) the Special Guardian or prospective Special Guardian; and
- (c) a parent (but only in relation to their need for support with contact and/or discussion groups).

Where the child is not Looked After or was not Looked After immediately prior to the making of the Special Guardianship Order, the following people **MAY** be offered an assessment of their need for Special Guardianship support services:

- (a) the child;
- (b) the Special Guardian or prospective Special Guardian; and
- (c) a parent.

In all cases, whether the Special Guardianship child is looked after or not, the following people also **MAY** be offered an assessment of their need for Special Guardianship support services:

- (a) a child of the Special Guardian; and
- (b) any person with a significant on-going relationship with the child.

If the Crown decides not to assess in cases where it has discretion as above, it must notify the decision in writing, including reasons for the decision, to the person making the request.

9. ASSESSMENT FOR SUPPORT

The assessment should be based on the Assessment Framework under Working Together 2017 and include the following:

- (a) the developmental needs of the child;
- (b) the parenting capacity of the Special Guardian or prospective Special Guardian to meet the child's needs;
- (c) family and environmental factors that have shaped the life of the child; and the capacity of the Special Guardian or prospective Special Guardian to respond to those experiences;
- (d) comment on what life with the Special Guardian might be like for the child;
- (e) any previous assessment of the child or Special Guardian that is relevant;
- (f) the needs of the Special Guardian or prospective Special Guardian and their family; and
- (g) the impact of the Special Guardianship Order on the relationship between the child, parent and Special Guardian.

Special Guardianship Support including standard allowances will be subject to the approval of the Director of Health and Social Services. Non-standard allowances are subject to the approval of ExCo.

At the end of the assessment and once the necessary approval has been obtained, the social worker must inform the person requesting provision of its outcome in writing, including:

- (a) information about the outcome of the assessment and the reasons for it;
- (b) where it relates to financial support, the basis on which this is determined;
- (c) the services (if any) that the Crown proposes to provide to help meet the child's needs; and
- (d) if financial support is to be paid, the amount and any conditions attached.

10. THE SPECIAL GUARDIANSHIP SUPPORT PLAN

Where an assessment identifies the need for on-going support services, a Special Guardianship Support Plan must be completed.

Other agencies, such as Department of Education and Department of Health, may need to be consulted about the contents of the Plan.

The Plan should be written in such a way that everyone affected can understand and set out:

- (a) the services to be provided;
- (b) the objectives and criteria for success;
- (c) timescales for provision;
- (d) procedures for review; and
- (e) a person appointed to monitor the provision of services in accordance with the Plan.

Special Guardianship Support will be subject to the approval of the Director of Social Services and non-standard allowances (those that fall out with the basic fostering allowance) are subject to the approval of Executive Council.

Once the necessary approval has been obtained, the social worker must send the proposed plan to the person requesting support, and allow 28 days for that person to make representations about the proposed plan.

Where representations are received, they should be referred to the Social Work Team Manager to decide whether to amend or confirm the Plan. The allocated social worker must then write to the person concerned, enclosing a copy of the final Plan.

Where there is disagreement with the plan the Director of Health and Social services will make a decision on the final sign off of the plan.

All applicants should be made aware of the Crown complaints process and their ability to seek advocacy and advice.

11. REVIEW OF SPECIAL GUARDIANSHIP SUPPORT PLANS

Special Guardianship Support Plans must be reviewed taking into account the following:

- (a) where there is any change of circumstances affecting the support;
- (b) at whichever stage of implementation of the plan is considered most appropriate;
- (c) in any event at least annually.

The reviews may be a paper exercise where there is no change or a minor change in circumstances. However, if there is a substantial change of circumstances, (e.g. a serious change in the behaviour of the child) it would normally be necessary to conduct a new assessment of needs.

Any change to the Special Guardianship Support Plan will be subject to the approval of the Director of Health and Social Services. Non-standard allowances are subject to the approval of Executive Council.

If the Crown decides to vary or terminate the provision of support after the review, the Director of Health and Social Services should be informed and notice in writing must be given and the person concerned should be given 28 days to make representations.

12. FINANCIAL SUPPORT

So long as it is reasonably practical and the Crown has considered that it is appropriate and feasible, Special Guardians must be helped to access any benefits to which they are entitled; this will usually include family allowance and tax credits such as childcare credits.

The Crown must also take account of any other grant, benefit, allowance or resource available to the person in respect of the person's needs as a result of becoming a Special Guardian of a child. Financial support cannot duplicate any other payment available to the Special Guardian.

The Special Guardian's means will be considered when on-going financial support is being considered. They should therefore be asked to complete a Financial Assessment Form and provide 3 months' recent bank statements for all accounts held, which when completed should be passed to the Finance Officer responsible for carrying out means assessments.

Once the means assessment has been carried out, the Finance Officer should send written notification of the outcome to the relevant social worker, who must present this to the Social Work Team Manager for approval.

Once agreed the Finance Officer should then write to the Special Guardian, setting out the amount of financial support agreed by the Social Work Team Manager and information in relation to the following:

- (a) whether financial support is to be paid in regular instalments and if so, the frequency of payment;
- (b) the amount of financial support;
- (c) the period for which the financial support is to be paid;
- (d) when payment will commence;
- (e) conditions for continuing payment and the date by which conditions are to be met, i.e. returning Review Forms; and
- (f) arrangements and procedure for review and termination.

A copy of this letter should be retained by the Finance Officer.

Means may be disregarded in relation to:

- (a) the initial costs of accommodating a child who has been Looked After;
- (b) recurring travel costs in contact arrangements; and
- (c) any special case requiring greater expenditure due to illness, disability, emotional or behavioural difficulties or the consequences of the past abuse or neglect of a child previously looked after.

Where the Special Guardians were previously the child's foster carers, the Crown will maintain the fostering allowance for a transitional period of two years but with discretion to extend if necessary.

The only circumstance when the Crown MUST disregard means is when providing financial support in respect of legal costs, including fees payable to a court in respect of a child who is Looked After where Social Services support the making of the Special Guardianship Order.

Where Special Guardians are in receipt of financial support, the social worker responsible for monitoring the Special Guardianship Support Plan will write annually to them with a Financial Assessment Review Form to be completed, together with a request for information about any change in circumstances for the Special Guardian or the child.

The Assessment Form should be forwarded to the Finance Officer for consideration. If any change in financial support is considered appropriate, the recommended change should be forwarded to the Social Work Team Manager (Special Guardianship Support) for a decision. Where a change is approved, the Special Guardian should be notified in writing of the change, together with the reasons for the change.

Where Special Guardians do not return the Assessment Review Forms within the required time scale, the social worker monitoring the support plan should send a reminder letter, giving 28 days' notice of the suspension of payments if the information requested is not received.

13. URGENT CASES

Where a person has an urgent need of a service, the assessment process should not delay provision and in appropriate cases, arrangements can be made for support to be provided as a matter of urgency. The approval of the Social Work Team Manager will still be required. The Crown will need to review the provision as soon as possible after the support has been provided in accordance with the procedures set out above.