



London Borough of Enfield

**Special Guardianship Orders,
Financial Assessment Policy
01 June 2021 to 31 March 2022**

Policy for assessing Special Guardianship Allowances

Scope	<p>This Policy sets out Enfield's Financial Assessment scheme for people with an approved Special Guardianship Order. (SGO)</p> <p>It documents the detail involved in the Financial Assessment in providing Financial Support for people responsible for a Guardian.</p>
Approved by	
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Review	<p>This Policy will be reviewed and updated to reflect changes in Government legislation and Guidance or changes to local Policy.</p> <p>This revised version of the 2021-21 Policy represents the changes agreed in respect of income and capital from 01 June 2021.</p>

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BACKGROUND

The Department of Education has issued Special Guardianship Guidance relating to the Special Guardianship (Amendment) Regulations 2016.

The Government's review of Adoption highlighted the need for an alternative legal status for children, that offered greater security than long-term fostering but without the legal severance from the birth family which arises from an Adoption Order. This resulted in a new legal status known as '**Special Guardianship**'.

The principals of the Order are -

It gives the Guardian clear responsibility for all aspects of the child's upbringing and welfare.

It is legally secure and preserves the link between the child and their birth family.

It is accompanied by access to a full range of support services, including, where appropriate, **financial support**.

The Legal Framework.

The Adoption & Children Act 2002 provides the legal framework for Special Guardianship under the Children's Act 1989. Applications may be made by an individual or jointly.

Who can apply to be a Special Guardian -

- Applicants must be over 18 years old and cannot be the parent of the child.
- They may already have a 'Residence Order' for the child.
- Someone with whom the child has lived for 3 out of 5 years.
- A local authority foster carer or relative with whom the child has lived for at least one year before the application is made.

The Court may also make a Special Guardianship Order (SGO) in Care proceedings, as a permanent placement for the child instead of a Care Order.

The intention is for the Guardian to have clear responsibility for day to day decisions in the child's upbringing. Unlike adoption, the Order retains the basic legal link with the parents.

Once an SGO is in place following a Court Order, the child is no longer the responsibility of the Local Authority.

2. Purpose of the Document

This Policy Statement acts as a point of reference, setting out the interpretation of guidance and updates provided by **The Department of Education**. The primary function of the Policy is to assist Councillors and Council Officers in delivering a consistent, transparent and fair service and to advise potential Special Guardians about the Policy in place that is used to determine the financial assessment for a Special Guardianship Payment.

The aim is to produce a consistent and fair framework for providing **financial support** following an assessment of their needs and individual financial circumstances.

This Policy is intended to be a 'live' document and will be reviewed and updated in order to reflect any changes in eligibility criteria recommended by the Department of Education or to take into account any changes in local Policy.

3.Objectives of the Policy

To ensure that the financial assessment is based on the person's financial circumstances and their ability to pay, using the **formula agreed by the Council**.

To make sure that the person has the correct information and support so that the assessment is fair and consistent.

To ensure that the person is aware of their individual State Benefit entitlement and the steps they can take to address any shortfall in income.

4. Support for Special Guardians

Local Authorities are required to make arrangements to provide Support Services to Special Guardians. This includes counselling advice, information, and financial

support. The authority will take into account similar services already being delivered in Enfield, such as Adoption Support Services

The Financial Support provided has been assessed by the Financial Assessment team since July 2019.

The Authority where the Special Guardian lives is responsible for carrying out an overall assessment and any support services provided, unless the child was looked after by Enfield before the SGO was made. In this case the Support remains for 3 years, even if the Special Guardian moves out of Enfield during this time.

After 3 years the Authority where the Special Guardian lives is responsible for both assessing and providing all levels of support, other than financial support.

If the child was **not** previously looked after by Enfield, the Authority where the Special Guardian lives is **always** responsible for the assessment and support.

4.1 Financial Support.

Regulation 6 (2016) states that financial support **may** be paid to a Guardian where

- It is necessary to ensure the child can be adequately looked after,
- Where the child needs special care due to illness, disability, emotional or behavioural problems, or the consequences of past abuse or neglect.
- Where the Authority considers it appropriate to pay legal costs associated with the Order. Enfield will offer a prospective Guardian up to one-hour's fees for legal advice on the effects of a Special Guardian Order.
- Where the Authority considers it appropriate to contribute towards accommodation or adaptations required to look after the child.

4.2 Former Foster Carers

Where the Special Guardian previously fostered the child, that foster carer will, subject to the completion of an initial means test, be entitled to continue to receive the maintenance allowance, as well as the training fee (aka Skills fee) so that they are not financially disadvantaged by the change in their legal status to the child they are caring for under a permanent arrangement. If the means test determines that deductions to the allowance are required, this will be confirmed with the foster carer in writing at the completion of the means test.

There should be NO reward element in financial payments other than as a transitional provision for foster carers who become Special Guardians.

5 The Financial Assessment-

The Authority must consider the amount of Foster Allowance which would have been payable had the child been fostered and this will be the **maximum weekly amount**.

The initial cost of accommodating the child, travel costs to its birth family and special requirements should be considered when undertaking an assessment. The only circumstances where means must be disregarded is in respect of Court costs associated with the Order.

The financial Assessment takes into account a person/couple's

- Income,
- Capital,
- Expenditure due to Housing related costs and
- Some other Weekly Outgoings.

5.1 Income

If the gross income of the Special Guardian and their partner exceeds £75,000, they will not qualify for any payment.

Where a Guardian receives a passported State Benefit, they will receive the full Financial Allowance. This includes –

- Income Support
- Employment and Support allowance (ESA IR),
- Pension Credit (PCG)
- Job Seekers Allowance (IB)
- Universal Credit where the SGO is **not** working. (Where the SGO is working the earned income will be used as part of the assessable income.)

Other assessable Income includes –

- Earnings
- The Care component of Disability Living Allowance (DLA)
- Attendance Allowance (AA)
- Daily Living component of Personal Independence Payments (PIP) • Bereavement Allowance
- State Pension.
- Maintenance Payments
- Income from Boarders/Rental Income
- Contribution based Benefits
- Income of the child, e.g. Interest on Capital or in a Property.
- Tax Credits

A 20% disregard is applied to the total income.

5.2 Capital

This includes –

- Interest on savings and investments
- stocks and shares,

- unit trusts,
- premium bonds,
- ISA's
- Any property other than the property the person lives in.

If the value of capital assets exceeds £50,000 the Guardian will not qualify for any payment. Where capital is less than £50,000 the first £3,000 will be disregarded. Any amount between £3,000 and £50,000 will have interest added at 0.5% per annum and this will be treated as income.

5.3 Housing Related expenditure

Housing Related Expenditure is deducted from the full allowance. This includes charges for -

- Rent where the person is legally liable to pay rent,
- Council Tax where the person is legally liable to pay Council Tax,
- Mortgage payments where the person is one of the mortgagees,
- Ground rent where the person is legally liable to pay ground rent.

Evidence may need to be provided if the information cannot be obtained from other sources. This includes Housing Benefit and Council Tax Support records.

5.4 Other Outgoings

This includes

- loan repayments,
- maintenance payments,
- childcare payments where the child is looked after by a registered childminder, up to a maximum of £175 per child.
- Court Order payments
- Private pension contributions

The final SGO Allowance will be reduced by 50% of the household's weekly disposable income.

The same financial assessment will apply to any other SGO children in the household.

6) Notification of the Financial Assessment.

The Special Guardian must be notified in writing of the outcome of their Financial assessment.

This must include the amount and frequency of the allowance. It must also include the start date and duration of the allowance, notably that it is subject to an annual

review and any change in circumstances affecting the Guardian's financial circumstances or the circumstances of the child.

The notification must also state that the payment will be made via transfer into the Guardians nominated bank account.

7) Reporting changes that effect an Assessment.

Special Guardians who receive financial assistance **must** inform the Council if they have a change which affects their assessment. This includes changes to Income.

The Guardian must provide the Authority with an **annual statement** confirming that-

- The child is still resident
- Their financial circumstances haven't changed.

Any financial support paid must stop if any of the following conditions apply –

- The child no longer lives with the Guardian,
- The child ceases full time education or training and starts working,
- The child claims State Benefit in its own right,
- The child turns 18, unless they continue in full time education or training.

8) Annual Reviews

The review of assessments for those receiving Support will be undertaken annually and updated in line with Government figures. This may be done at the start of each financial year or at the anniversary of the initial assessment or within 52 weeks if appropriate.

A Review form will be sent to the Special Guardian. If there is no response within 28 days, payment will be suspended. The Guardian will be asked to sign a Declaration confirming they will comply with this requirement when they apply for the initial financial assessment and payment is agreed.

The Income, capital, household composition and outgoings will be reviewed to ensure that the Special Guardian continues to remain eligible for a payment. Following the review, the Special Guardian will be notified of the outcome in writing.

They must also agree to spot checks being undertaken by the Council to confirm the child is still resident.

9) Appeals

Following a Financial Assessment or review, the Special Guardian will be provided with a breakdown of how the Councils contribution has been calculated. If they are

unhappy with the assessment, they can ask for a review of that decision. They will be asked to explain which aspects of the assessment they disagree with and provide supporting evidence.

If following a Review, they are still not satisfied, they can request that their case is referred to an Appeals Panel. This will be made up of Senior Council Officers including at least one who is independent of the Financial Assessment Service.