

Permanence Finance Policy

1. There are a number of routes to achieve permanence, including through the granting of an Adoption Order, a Special Guardianship Order or a Child Arrangement Order through the courts.
 - 1.1 The Adoption and Children Act 2002 introduced Special Guardianship and Special Guardianship Orders. Child Arrangement Orders were introduced on 2nd April 2014 replacing Residence and Contact Orders.
 - 1.2 Adoption, Special Guardianship or Child Arrangement Orders are permanent care options that can be provided to a child who cannot reside in parental care. They provide a legally secure foundation for building a permanent relationship between the child and their carer, while preserving the legal link between the child and their birth family.
 - 1.3 Parental responsibility is shared with parents and anyone else who has parental responsibility for the child. Special Guardians or Person named in the Child Arrangement Order share parental responsibility for the child. The child's parents will continue to hold parental responsibility but is limited by the special guardian's right to exercise parental responsibility to the exclusion of any other holder of parental responsibility.
2. **Outcome for Children**
 - 2.1 Permanence affords a child stability and security in the knowledge that they are in the care of someone who has put themselves forward via a legal order to care for them throughout their childhood. This allows them to flourish in families without being a "child in care" and without ongoing local authority overview or intervention.
 - 2.2 Whilst we recognise the benefits to children we also know that caring long-term for a child can be hard work and at times challenging. Shropshire want to support those offering this permanent care to children and where such a permanency arrangement is made for a child or young person exiting the care system we will consider what practical, emotional and financial support a carer and child will benefit from.
 - 2.3 The LA will assess the support any prospective carer needs as part of any assessment, a child's care plan or report to court and we will develop a plan that the LA and the carer agree will support them to provide the consistent good quality care the child needs. Support can include counselling, advice and information, as well as financial support.

3. Financial Support

- 3.1 Applications for financial support will be considered on a case by case basis and they will consider both payments over a period of time and one off single payments if these are deemed appropriate.
- 3.2 In order to employ consistency and transparency the guidance below sets out the terms of financial support.
- 3.3 In considering what financial support is appropriate prior to the making of the order for a child who has been looked after, the LA will financially assess the family, so that financial constraints should not be an issue in terms of the order being granted.
- 3.4 The Special Guardianship Regulations 2005 set out the circumstances in which financial support is payable and the considerations that a local authority must have regard to when deciding on the amount of that financial support. These Regulations have been further clarified by way of case law, in particular the case of R (TT) v London Borough of Merton [2012].
- 3.5 Financial support will only be paid in the following circumstances to a carer with a Child Arrangement Order in respect of a child according to Schedule 1, paragraph 15, of the Children Act 1989.

4. Payable Financial Support

When Support is payable

- 4.1 Broadly, financial support is payable in the following circumstances:
 - (a) Where the LA consider it necessary to ensure that the carer or prospective carer can look after the child;
 - (b) Where the LA consider that the child needs special care which requires a greater expenditure of resources that would otherwise be the case because of illness, disability, emotional or behavioural difficulties or the consequences of his past abuse or neglect;
 - (c) Where the LA consider that it is appropriate to contribute to any legal costs associated with the making of an Order that secures the permanent placement of the child;
 - (d) Where the LA consider it appropriate to make a contribution to expenditure necessary for the purpose of maintaining and accommodating the child.
- 4.2 Payment under (b) is intended where the child's condition is serious and long-term. For example, where a child needs a special diet or where items such as shoes, clothing or bedding need to be replaced at a higher rate than would normally be the case with a child of similar age who was unaffected by the particular condition.

- 4.3 Payment under (c), contribution towards any legal costs, including court fees, is associated with:
- (i) The making of an order or any application to vary or discharge such an order;
 - (ii) An application for a Contact Order, Prohibited Steps Order, Child Arrangement Order or specific issue order;
 - (iii) An order for financial provision to be made to or for the benefit of the child.
- 4.4 If the child or young person's carer has previously received foster care payments as a Friends, Family or Connected person, payment at that level will continue. All foster care skills fees and allowances will cease.
- 4.5 The starting level of on-going financial support is related to the amount of allowance that would have been payable if the child were fostered by a family member or connected person and any additional needs (exceptional) of the child. The LA's means test then applies.
- 4.5 Financial support cannot duplicate any other payment available to the 'order carer'. In determining the amount of financial support the LA must take account of any other grant, benefit, allowance or resource which is available to the person in respect of his needs as a result of becoming an order carer. It is important to ensure that order carers are helped with information and to access benefits to which they are entitled.
- 4.6 The agreed allowance is payable from the date that the order is made for a period of two years and is then reviewable every year thereafter.

Conditions of Payment of Financial Support

- 4.7 Where financial support is to be paid on an on-going basis, it is not payable until the order carer or potential carer agrees in writing to a detailed set of conditions as laid out in the legislation¹. These include the requirement for the order carer to contact the LA with any changes in their circumstances that would affect the amount payable.
- 4.8 In awarding any financial support the LA will advise the carers that they set up and make a minimum of a £5 per week contribution to the Child's Trust Fund or Junior ISA. This is to ensure that the child's future is provided for, particularly their achieving independence at the age of 18 and any potential studies.

¹ Regulation 10(2) of The Special Guardianship Regulations 2005 and Regulation 12(2) of The Adoption Support Services Regulations 2005

- 4.9 Financial support with additional conditions is subject to the approval of the Head of Service and that in any special case where this is appropriate, these conditions will be written into the carer declaration.
- 4.10 On occasion an overpayment will occur, for instance if the order carer does not update the LA on any relevant changes to circumstances or an error in the electronic payment system occurs. In these circumstances the following will apply:
- (a) Where the overpayment is largely as a result of the identification of mis-reported information by the family², the reduction of on-going payments to the newly assessed rate is effective immediately, with exceptional circumstances considered if it is determined that the family are not in receipt of all benefits for which they are eligible;
 - (b) The LA's policy is to seek full recovery of the outstanding debt from the order carers;
 - (c) Recovery of overpayment is achieved in normal circumstances in equal instalments over the period of the following 3 months by reducing future payments;
 - (d) Where recovery is not possible, either due to the value of the overpayment compared to the value of the on-going monthly order payments, and/or due to the time remaining until cessation of payments, and/or due to new benefit claim considerations, an individual agreement should be reached between the LA and the carers. This would be subject to the approval of the Head of Service. This agreement should seek to recover the debt in the shortest timescale possible and as necessary in reference to the LA's standard debt collection procedures;
 - (e) Any debt write-off would be highly exceptional and subject to authorisation in accordance with the LA's debt write-off policy as set out in Cabinet and Officer Delegations and the Financial Regulations.

Review of the Support Package including any financial Payable

- 4.11 The LA will annually review regular financial support paid as part of a support package.
- 4.12 This review will include the following by the LA or by a nominated person on behalf of the LA:
- (a) A visit, letter or telephone contact to the order carer to complete the review on how the financial contribution is achieving good care and outcomes for the child or young person;
 - (b) And a revised financial statement from the order carer to confirm if there is

² Either mis-information given in the initial or annual assessment identified at a later date as incorrect or identification of a failure to report subsequent changes to that assessment information in a timely manner, in accordance with the signed declaration by the Carer

- any relevant change in circumstances or a breach in the conditions of payment.
- (c) A visit to see the subject child and carer in the home environment and liaison with relevant key professional involved in the child's life to ensure the care provided is promoting the child's welfare and protecting them from risk of harm.

4.13 If the LA proposes, as a result of the review, to reduce or terminate the financial support, the LA will give the person notice of the decision. There is 4 weeks allowed for making representations, before final decision is made. Financial payment may be suspended pending that final decision.

Cessation of Financial Support

- 4.14 Finance support ceases to be payable to the carer if:
- (a) The child ceases to have a home with him/her;
 - (b) The child ceases full-time education or training **and** commences employment;
 - (c) The child qualifies for benefits such as income support or jobseeker's allowance in his/her own right; or
 - (d) The child attains the age of 18 unless he/she continues in full-time education or training, when it may continue until the end of the course or training he/she is then undertaking.
- 4.15 In respect of payments beyond the child's 18th birthday, these are only payable on an assessed case by case basis as follows:
- (a) Where the 18 year old remains in full-time education. The length of the continuation is subject to approval by the Head of Service and will cease in any event by the 30th June after the child's 18th birthday at the latest;
 - (b) In the case of a child with an agreed special educational need who continues in a course of full time education, payment will cease by the 30th June after the child's 19th birthday at the latest. In both situations, if that birthday falls on the 30th of June, then payment ceases on that birthday;
 - (c) If the course end date falls after the 30th June, then a short term extension for continued payment may be awarded in exceptional circumstances, subject to this being discussed and approved in advance by the Head of Service;
 - (d) If the child is able to claim benefits in their own right, then no financial support will be payable beyond the child's 18th birthday;
 - (e) Carers are required to contact the LA at the review before the child's 18th birthday and with at least 6 months' notice should they wish to apply for a continuation of payment beyond the child's 18th birthday, so that appropriate time is allowed for decision making for the LA and planning for the family;
 - (f) At the date of the 18th birthday, assuming that a request for continuing financial support has been made and approved, a revised financial assessment is undertaken. The payment receivable by the carer as the outcome of this revised assessment will be equal to:
 - (i) In the case of a young person with agreed special educational needs, the revised assessment value, or
 - (ii) In the case of a young person with no agreed special educational needs,

the lower of the revised assessment value or the current rate of income support.

Basic Allowance Payable

4.16 Allowances payable in Shropshire to Order Carers are based on the child allowance payable to foster carers. The amount is determined following application of a means test and the deduction of child benefit receivable (in respect of the child under assessment).

4.17 Each year the new annual rate will apply to an individual carer household from the first Monday of the new tax year.

The Means Test – What it is and when it applies

4.18 The means test used by Shropshire complies with regulatory requirements.

4.19 Initial Financial Assessments will be carried out in all cases by the social worker where the LA considers that financial support may be required or a request for assessment is received, even if, due to the scale of the benefits the household is receiving, it is likely that the outcome will be that 100% of any allowances due will be payable.

4.20 All *review* financial assessments will be subject to either a visit from a Shropshire Officer if the carer lives within county or a reasonable distance out of county, or a telephone assessment if the carer lives a significant distance out of county. This is to ensure that maximum benefits are being achieved for the family and that the financial assessment process is robust and equitable across all assessed families.

4.21 Carer households are required to claim all benefits for which they are eligible. Where it is identified, as a result of the assessment or from the carers' own knowledge, that the carer is not currently claiming a benefit for which they are eligible, Shropshire requires that the carer apply for all those benefits immediately. The carers' financial assessment will be revisited monthly until this is resolved. In normal circumstances the assessed allowance (excluding benefits not currently being claimed) will be paid for a period of no more than 3 months. After this time, the income in the assessment will be adjusted using income support (or equivalent) rates, thereby assuming the household is in receipt of these benefits.

4.22 In exceptional cases, at the discretion of the Service Manager, where claim delays are outside the control of the carer the higher payment may continue for up to a further 3 months. However, once the benefit situation is resolved, the surplus paid will be recovered by Shropshire Council. The surplus/overpayment will normally be deducted equally from the weekly allowance over the next three months. If the revised allowance is not sufficient

to cover the debt in that three month period, the Head of Service may agree to a longer payment period if repayment over three months would cause financial hardship.

- 4.23 An 'annual financial rate review' of all assessments will be undertaken, with effect from the first payment period following the beginning of the new tax year, to amend payments to reflect any changes to national benefit rates and changes to the basic child allowances set by Shropshire Council. A full financial assessment will also be undertaken *two years after the first* assessment and annually thereafter to reassess carer circumstances, which will be normally be timed in line with the original order award date and the annual review of the overall support plan.
- 4.24 If the household being assessed contains more than one assessable child, all the assessable children are reviewed together in one financial assessment. If a subsequent assessable child is added to the household at a later date, a new assessment for the whole household will need to be carried out unless the children are in the home on different types of placements.
- 4.25 An example 'Financial Assessment statement' is available which shows the key parameters that will be taken into account and how the final order allowance will be calculated.
- 4.26 If a carer is dissatisfied with outcome of their financial assessment, they are able to request a 'Review of Decision' through the Head of Service, within 4 weeks of receiving the assessment decision.

5. Additional Needs

- 5.1 In accordance with the legislation the costs of supporting the child in respect of additional needs must be considered. The regulations³ require that the LA consults with the relevant Health and/or Education Authorities during the course of assessment if needs are identified that relate to services provided by bodies other than Social Services.
- 5.2 In normal circumstances, for the majority of cases, the basic child allowance will be representative of the costs of caring for a child who was previously been looked after or at risk of being looked after. However, there will be exceptional situations in which an additional need is assessed. In these circumstances, the following approval levels are operated:

³ Regulation 12 of The Special Guardianship Regulations 2005 and Regulation 14 of The Adoption Support Services Regulations 2005

Additional Needs		
Where the LA consider that the child needs special care which requires a greater expenditure of resources than would otherwise be the case because of his illness, disability, emotional or behavioural difficulties or the consequences of his past abuse or neglect, an additional allowance may be assessed as follows:		
Approver	Approval Limit	Description of potential type of Needs
Team Manager	Up to 10% of the basic child allowance and no more than the additional cost incurred (In the case of transport a mileage rate of no more than 45p per mile should be considered)	For example, to cover exceptional transport needs in excess of that covered by the basic needs allowance. These needs must be in respect of enabling regular contact with family. Reference must be given to the latest LA guidance on the use of the basic child foster allowance and consideration given to the individual circumstances of the whole case. Some children have higher needs than others in one aspect of costs and conversely may have lower needs for other cost aspects.
Service Manager	Up to 20% of the basic child allowance and no more than the additional cost incurred	For example, where there is a lot of extra wear and tear on clothing, bedding or furniture (which may be temporary or permanent) as a result of the child's past neglect or abuse. The child is highly likely to be receiving medical or professional treatment as a result of these behaviours.
Head of Service	Up to 35% of the basic allowance and no more than the additional cost incurred	For example, where the child has a severe disability or a chronic illness, which incurs significant additional costs that are in excess of disability benefits.
Adoption Agency Decision Maker (with recommendation by the DCS)	Up to 60% of the basic allowance and no more than the additional cost incurred may be payable in exceptional circumstances. In the case of a large sibling group this would only be applicable in exceptional circumstances in respect of the 3 rd child and subsequent siblings.	In exceptional circumstances, for example, if a large sibling group is to be placed or where a child has a severe disability or a chronic illness, which incurs significant additional costs that are in excess of disability benefits, and only where the carers would receive no allowance under basic assessment (due to the means test result) and only where an adoptive placement for that child / those children would be unlikely without some regular financial support. This element would not be subject to means test.

5.3 The final decision in any case would be subject to delegated approval and the normal decision making process. The provision of any additional need allowance cannot duplicate any other payment available to the carer, for

example through benefits or access to universal health services, and the decision making should evidence value for money.

6. Assessment for Support and Financial Assistance for children who are not Looked After Children

6.1 Where any person makes an application for an order to achieve permanency to assume full time care of a child in relation to a child who is not a “looked after child” it will be the responsibility of that person to request a support and or financial assessment.

6.2 The LA is not required to, but may use its discretion to offer an assessment where the child is not looked after. It is important that children who are not (or were not) looked after are not unfairly disadvantaged. In many cases the only reason that a child is not looked after is that a family member stepped in quickly to take on the responsibility for the child when a parent could no longer do so. A decision to offer a financial assessment in such circumstances is at the discretion of the Service Manager.

7. Shropshire’s Payments to Former Foster Carers

7.1 The regulations⁴ state that financial support may include an element of remuneration for former foster carers, where the LA consider it necessary to facilitate arrangements for a LA foster carer to become a carer under one of the orders, where an element of remuneration was included in their fostering payments. This element of remuneration under an order ceases to be payable after the expiry of the period of two years from the making of the order unless the LA considers its continuation to be necessary having regard to the exceptional needs of the child or any other exceptional circumstances.

7.2 Where it is in the best interests of the child for an order to be made in favour of former foster carers, a remuneration element, based on a proportion of the fee the carer attracted at the date the order was made, may be payable⁵. The proportions recommended, from the date the order is made, are:

- (i) 75% in the first year
- (ii) 25% in the second year

7.3 In exceptional circumstances, at the discretion of the Head of Service, remuneration at no more than 100% of the fee the carer attracted at the date the order is made, for up to two years, is payable.

⁴ Regulation 7 of The Special Guardianship Regulations 2005 and Regulation 9 of The Adoption Support Services Regulations 2005

⁵ All foster fee payments are eligible including training/skills fees and CHES fee.

- 7.4 In exceptional circumstances⁶, payment of an element of remuneration beyond the initial years may be made at the discretion of the **Director of Service**. Approval is limited to paying no more than the amount the carer was receiving on the date the order was made. Each case should be reviewed on its merit taking family circumstances into account. Where skills related payments were previously received, there would be an expectation of maintaining standards of care for this element of the remuneration to continue. This amount would not be subject to annual inflation but would be subject to annual review.
- 7.5 It should not become normal practice for the carer to continue to receive an exceptional circumstances remuneration element beyond the two years. The very nature of the change in care status asserts that the child has been taken into that family and the additional maintenance needs costs associated with that child will be funded through the means tested allowance element.
- 7.6 A clear distinction is maintained between any 'exceptional circumstances continued remuneration' and the additional child maintenance needs which are covered by the means testable 'Additional Needs Allowance' element which may include significant input by the carer where the child has complex additional needs.

8. Legal Costs

A contribution to legal costs, including fees payable to a court, may be payable under certain circumstances. Regulation requires that any support awarded is not subject to any means test and is not taken into account as part of the financial assessment.

- 8.1 Where the LA are supporting the SGO or Child Arrangement application as part of any final care proceedings the LA will fund the costs of **the** application to court. The LA will also consider making a discretionary contribution to the applicants legal costs where the LA believe it is necessary to support and promote this permanency outcome for the child.
- 8.2 A contribution to legal costs may be payable in exceptional cases under the following terms:
- (i) Circumstances where support may be considered are limited to those required of the LA under regulation (4.1(c) and 4.3);
 - (ii) Such support can only be considered where the following criteria apply:
 - a. The LA supports the legal application, and
 - b. The LA agrees that legal representation on behalf of the applicants

⁶ 'Exceptional circumstances' might include keeping a sibling group together, but that is not guaranteed.

is necessary or the court subsequently decides that the child must be placed with that carer, and

- c. It can be reasonably demonstrated that severe hardship, in meeting the legal costs of an application to become the child's carer, will impact on the welfare of the child.

8.3 Support may be considered, at the discretion of the Head of Service, of up to £5,000. Any final decision should be informed by advice from the allocated LA solicitor.

9. Ad hoc Financial Support

9.1 In exceptional cases, additional infrequent financial support may be required, for example above average costs in relation to maintaining contact with relatives⁷. The exceptional payments may be made as follows:

- (i) The ad hoc nature of such as arrangement is defined as no more than twice per annum and that where occurrence is more regular than this, that this will form part of the 'additional needs' determination to be fed into the financial assessment under means testing;
- (ii) Any ad-hoc amount awarded is non-means testable, as it is likely to be provided as a service. However, it should be reasonably demonstrable that hardship would result if an additional allowance were not granted;
- (iii) Total expenditure from claims exceeding £100 per annum would need approval by the **Service Manager**;
- (iv) Support for exceptional mileage would be subject to the latest rate payable to Shropshire Officers for non-essential mileage.

9.2 Where additional allowances are already regular and on-going, each of these ad hoc allowances will be reviewed on its individual merits as part of the annual review. In exceptional cases, at the discretion of the Head of Service, current arrangements may be allowed to continue in part or whole. This decision would be made in light of the impact on the regular allowance payable from this review.

10. Transitional Arrangements for those currently receiving an allowance

10.1 This policy and practice is implemented with immediate effect for new cases from 1st April 2015.

10.2 For current cases, the revised financial assessment including the means test will be phased in for on-going cases as part of their annual review. Financial assessment review dates may be brought forwards to enable all cases to be

⁷ Relative or "related persons" means a relative of the child or any other person with whom the child has a relationship which appears to the LA to be beneficial to the welfare of the child having regard to the factors specified in 1(3) of the Children Act.

reviewed together during the transitional assessment phase.

10.3 In some cases the proposed revised procedure will result in an increased payment, which would be actioned immediately. In other cases a reduction in payment to the carer(s) would be required. Where this is the case:

- (i) Each case is determined based on its individual circumstances; the final decision on the transitional timing and transitional rate(s) to the new procedure (protected payment period) will be at the discretion of a joint decision between the Head of Service and the Financial Assessments Manager, taking into account any necessary involvement of the Adoption Agency Decision Maker under adoption regulations;
- (ii) Where the decrease is largely as a result of the identification of mis-reported information by the family that the reduction is effective immediately and discretionally payment may be protected for up to 3 months;
- (iii) Where it is identified that the family is not claiming all the benefits for which they are eligible that the payment continues as is while the benefits element of this procedure is undertaken. Protected payment would not normally, therefore, continue beyond 3 months.

10.4 Where the decrease is solely as a result of the change in procedure and not in the financial circumstances of the household nor the financial circumstances that the household reported, that protection for 1 year is given as standard and protection at 50% of the difference for a further year may be given exceptionally on the approval of the Head of Service.

10.5 Responsibility for the annual review and monitoring of SGO allowances will be joint responsibility of the Children's Social Work service and the Revenue and Benefits department and as such ensures that objectivity is maintained in the financial assessment and the outcomes for the child remain paramount.

April 2015

Policy to be reviewed April 2018