

# Private Fostering

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## 1. Introduction

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Children may be brought up by members of their extended families, friends or other people who are connected with them for a variety of reasons and in a variety of different arrangements.

This policy sets out the local authority's approach towards promoting and supporting the needs of such children and covers the assessments which will be carried out to determine the services required and how such services will then be provided.

The policy is available on Solihull MBC public website.

***The manager with overall responsibility for this policy is Head of Service.***

This policy will be regularly reviewed and take into account views from children, carers and parents.

## 2. Values and Principles

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Consideration of children's welfare and best interests will always be at the centre of the work we do.

It is an underlying principle that children should be enabled to live within their families unless this is not consistent with their welfare. We will therefore work to maintain children within their own families, and facilitate services to support any such arrangements, wherever this is consistent with the child's safety and well-being. This principle applies to all children in need, including those who

are looked after by the local authority. Where a child cannot live within his or her immediate family and the local authority is considering the need to look after the child, we will make strenuous efforts to identify potential carers within the child's network of family or friends who are able and willing to care for the child.

We will provide support for any such arrangements based on the assessed needs of the child, not simply on his or her legal status, and will seek to ensure that family and friends carers are provided with support to ensure that children do not become looked after by the local authority, or do not have to remain looked after longer than is needed.

### **3. Legal Framework**

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The local authority has a general duty to safeguard and promote the welfare of Children in Need\* living within its area and to promote the upbringing of such children by their families. The way in which we fulfil this duty is by providing a range and level of services appropriate to those children's assessed needs (Section 17, Children Act 1989). This can include financial, practical or other support.

It is important to note that the local authority does not have a general duty to assess all arrangements where children are living with their wider family or friends network rather than their parents but it does have a duty where it appears that services may be necessary to safeguard or promote the welfare of a Child in Need.

\*A Child in Need is defined in Section 17(10) of the Children Act 1989 as a child who is disabled or who is unlikely to achieve or maintain a reasonable standard of health or development without the provision of services by the local authority.

***To clarify the children who may come within the definition of Children in Need, the local authority has drawn up a 'Thresholds to Children's Social Care Services' document, which is available through the Council's website.***

Children in Need may live with members of their family or friends in a variety of different legal arrangements, some formal and some informal. Different court orders are available to formalise these arrangements.

Looked after children will always come within the definition of Children in Need, whether they are accommodated under Section 20 of the Children Act 1989 (with parental consent) or in care subject to a Court Order whereby the local authority shares parental responsibility for the child. The local authority has a responsibility wherever possible to make arrangements for a looked after child to live with a member of the family (Section 22 of the Children Act 1989).

For a detailed summary of the meaning and implications of different legal situations, the rights of carers and parents, and the nature of decisions which family and friends carers will be able to make in relation to the child, please see **Annex A: Caring for Somebody Else's Child - Options. Section 4, Different Situations whereby Children may be Living with Family and Friend Carers**, which sets out the local authority's powers and duties in relation to the various options.

In relation to financial support, the local authority may provide carers of children in need with such support on a regular or one-off basis, under Section 17 of the Children Act 1989. This may include discretionary funding based upon a financial means test. However, the status of the placement will determine the nature and amount of the financial support and who can authorise its payment. The legal status of the child may have a bearing on the levels of financial support which may be available to carers, however. There are different legislative provisions which apply to financial support for children living with family or friends in looked after/adoption/special guardianship/Child Arrangements Order arrangements. The following sections of this policy set out the financial support that we may provide to family and friends who are caring for children in these different

contexts.

## **4. Different Situations whereby Children may be Living with Family and Friends Carers**

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### **4.1 Informal family and friends care arrangements**

Where a child cannot be cared for within his or her immediate family, the family may make their own arrangements to care for the child within the family and friends network.

The local authority does not have a duty to assess any such informal family and friends care arrangements, unless it appears to the authority that services may be necessary to safeguard or promote the welfare of a Child in Need. In such cases, the local authority has a responsibility under Section 17 of the Children Act 1989 to assess the child's needs and provide services to meet any assessed needs of the child. Following assessment, a Child in Need Plan will be drawn up and a package of support will be identified. This can comprise a variety of different types of services and support, including financial support.

### **4.2 Private fostering arrangements**

A privately fostered child is a child under 16 (or 18 if disabled) who is cared for by an adult who is not a parent or close relative, where the child is to be cared for in that home for 28 days or more. Close relative is defined as 'a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent.' It does not include a child who is Looked After by a local authority. In a private fostering arrangement, the parent still holds parental responsibility and agrees the arrangement with the private foster carer.

The local authority has a duty to assess and monitor the welfare of all privately fostered children and the way in which they carry out these duties is set out in the Children (Private Arrangements for Fostering) Regulations 2005. However, the local authority may also become involved with a child in a private fostering arrangement where the child comes within the definition of a Child in Need. In such cases, the local authority has a responsibility to provide services to meet the assessed needs of the child under Section 17 of the Children Act 1989. Following assessment, a Child in Need Plan will be drawn up and a package of support will be identified. As in 4.1 above, this can comprise a variety of different types of services and support, including financial support.

### **4.3 Family and friends foster carers – 'Connected Persons'**

Where a child is looked after by the local authority, we have a responsibility wherever possible to make arrangements for the child to live with a member of the family who is approved as a foster carer (Section 22 of the Children Act 1989). The child can be placed with the family members prior to such approval, subject to an assessment of the placement, for up to 16 weeks. This temporary approval can only be extended in exceptional circumstances. In this context the carer is referred to as a Connected Person and the process of obtaining approval for the placement is set out in the Placement with Connected Persons Procedure. Where temporary approval is given to such a placement under the procedure, the carers will receive financial support on a regular basis. This will be the foster carer child allowance rate.

In addition the child will have a placement plan which sets out the specific arrangements surrounding the child and the carers including the expectations of the foster carers and the support they can expect to receive to enable to fulfil their responsibilities for the child.

The assessment and approval process for family and friends who apply to be foster carers for a specific Looked After child will be the same as for any other foster carer except that the timescales

for the assessment are different where a child is already in the placement as indicated above. In all other respects the process is the same as for any other potential foster carers and is set out in the Assessment and Approval of Foster Carer Procedure. An information pack will be available to potential foster carers about the process and they will be given the name and contact details of the social worker from the Fostering Service allocated to carry out the assessment.

Once approved as foster carers, they will be allocated a supervising social worker from the fostering service to provide them with support and supervision; and they will receive fostering allowances for as long as they care for the child as a foster carer.

While the child remains a looked after child, as a foster carer, they will be expected to cooperate with all the processes that are in place to ensure that the child receives appropriate care and support, for example, contributing to reviews of the child's Care Plan, cooperating with the child's social worker and promoting the child's education and health needs.

#### **4.4 Child Arrangements Order**

A Child Arrangements Order is a Court Order which sets out the arrangements as to when and with whom a child is to live, spend time or otherwise have contact.

These orders replace the previous Contact Orders and Residence Orders.

A Child Arrangements Order may give parental responsibility to the person in whose favour it is made. Parental responsibility is shared with the parents.

Child Arrangements Orders may be made in private family proceedings in which the local authority is not a party nor involved in any way in the arrangements. However, a Child Arrangements Order in favour of a relative or foster carer (who was a 'Connected Person') with whom a child is placed may be an appropriate outcome as part of a permanence plan for a Child in Need or a 'Looked After' child.

The local authority may pay Child Arrangements Order Allowances to relatives or friends, unless they are a spouse or civil partner of a parent, with whom a child is living under a Child Arrangements Order. This is set out in paragraph 15 of Schedule 1 of the Children Act 1989, however this is discretionary.

Allowances may be payable depending on assessment of need and of means. See policy on allowances for further details.

#### **4.5 Special Guardianship Order**

Special Guardianship offers a further 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.

Relatives may apply for a Special Guardianship Order after caring for the child for one year. As Special Guardians, they will have parental responsibility for the child which, while it is still shared with the parents, can be exercised with greater autonomy on day-to-day matters than where there is a Child Arrangements Order.

Special Guardianship Orders may be made in private family proceedings and the local authority may not be a party to any such arrangements. However, a Special Guardianship Order in favour of a relative or foster carer (who was a 'Connected Person') with whom a child is living may be an appropriate outcome as part of a permanence plan for a Child in Need or a 'Looked After' child.

Where the child was Looked After immediately prior to the making of the Special Guardianship Order, the local authority has a responsibility to assess the support needs of the child, parents and Special Guardians, including the need for financial support.

Allowances may be payable depending on assessment of need and of means. . See policy on allowances for further details.

#### **4.6 Adoption Order**

Adoption is the process by which all parental rights and responsibilities for a child are permanently transferred to an adoptive parent by a court. As a result the child legally becomes part of the adoptive family.

An Adoption Order in favour of a relative or foster carer (who was a 'Connected Person') with whom a child is living may be an appropriate outcome as part of a permanence plan for a Child in Need or a 'Looked After' child.

Local authorities must make arrangements, as part of their adoption service, for the provision of a range of adoption support services. They then have to undertake assessments of the need for adoption support services at the request of the adopted child, adoptive parents and their families, as well as birth relatives. The support required is then set out in an Adoption Support Plan and this may include financial support.

Allowances may be payable depending on assessment of need and of means. . See policy on allowances at Appendix B for further details.

### **5. Provision of Financial Support – General Principles**

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There are three categories of payment, which may be considered. One or more of these may be applicable, depending on the particular circumstances of the case:

#### **1. Subsistence crisis (one-off) payments**

These should be used to overcome a crisis, following the best assessment that can be achieved in the circumstances;

#### **2. Setting-up**

These are for such items as clothing, furniture, or bedding. The social worker must be satisfied that the carers' financial position justifies the payment through a financial assessment. Assistance may be given subject to conditions, including repayment in certain situations. However, in most situations, it will be inappropriate for the Department to seek to recover money provided under these circumstances;

#### **3. Weekly living contribution**

It is possible for the local authority to make regular payments where family members or friends care for a child whether or not the child is not Looked After. Where regular payments are to be made, relative carers should be assisted to maximise their

Income/Benefit as regular payments may adversely affect an individual's claim to income support.

In all cases where regular financial support is agreed, a written agreement will be drawn up detailing the level and duration of the financial support that is to be provided, and the mechanism for review.

The following criteria will be applied to all such payments:

- The purpose of the payments must be to safeguard and promote the welfare of the child;
- As part of the assessment, a view should be taken as to whether the carers need financial support based on their reasonable requirements in taking on the care of the child;
- There are no other legitimate sources of finance;
- Payments will be paid to the carer, not the parents;
- The payment would not place any person in a fraudulent position.

## **6. Accommodation**

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The authority works with landlords to ensure that, whenever possible, family and friends carers living in social housing are given appropriate priority to move to more suitable accommodation if this will prevent the need for a child to become looked after.

## **7. Supporting Contact with Parents**

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The authority is under a duty to promote contact for all Children in Need, although this differs depending on whether or not the child is Looked After.

Where the child is not Looked After, we are required to promote contact between the child and his/her family 'where it is necessary to do so in order to safeguard and promote his or her welfare'. As part of the support arrangements, it may be identified that specific assistance is required to ensure that any such contact can be managed safely. If necessary, information will be made available to family and friends carers about local contact centres and family mediation services, and how to make use of their services

Where a child is Looked After, we are required to endeavour to promote contact between the child and his or her family 'unless it is not practicable or consistent with the child's welfare'. The overall objective of the contact arrangements will be included in the child's Care Plan and the specific arrangements will be set out in the child's Placement Plan - see Contact with Parents and Siblings Procedure.

**8. Family Group meetings** Family Group meetings may be held between professionals and family members, to achieve the best outcomes for children. They promote the involvement of the wider family to achieve a resolution of difficulties for Children in Need, and may help to identify short-term and/or permanent solutions for children within the family network.

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We will offer a Family Group meeting at an early stage.

## 9. Complaints Procedure

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Where a family or friends carer is not satisfied with the level of support provided to enable them to care for the child, then they have access to the local authority's complaints process. Our aim would be to resolve any such dissatisfaction without the need for a formal investigation but where an informal resolution is not possible, then a formal investigation will be arranged.

The timescales and process are set out in the **Complaints and Representations Procedure**.

## Annex A: Caring For Somebody Else's Child - Options

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[Click here to view Annex A](#)

## Annex B:

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### Policy on allowances for special guardianship, child arrangement and adoption orders

**SMBC permanence policy and placement strategy has the goal of achieving permanence for looked after children. There are a number of routes to achieve permanency, including through the granting of an Adoption Order, a Special Guardianship Order or a Residence Order through the courts.**

**An Adoption Court Order makes an adoption legal and gives the carer(s) parental rights and responsibilities for the child.**

**Special Guardianship was introduced in December 2005. It provides a legally secure foundation for building a permanent relationship between the child and their special guardian, while preserving the legal link between the child and their birth family. Parental responsibility is shared with parents and anyone else who has parental responsibility for the child, but the Special Guardian may exercise their Parental responsibility to the exclusion of all others with parental responsibility.**

**A Residence Order<sup>1</sup> is a court order settling the arrangements as to the person with whom a child is to live. An order made in a carer's favour will mean that that child will live, or continue to live, with that carer. It will also give the carer parental responsibility for the child as long as the order continues. However, that parental responsibility is not held to the exclusion of all others with parental responsibility, thereby differing to Special Guardianship.**

**For all of these court orders, when the child has been looked after, the Local Authority will financially assess the family, if such an assessment is requested, so that financial constraints should not be an issue in terms of the order being granted. The Adoption Support Services Regulations 2005 and 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.**

Financial Support for Residence Court Orders (replaced with Child Arrangement Orders ) is at the discretion of the Local Authority. Financial support, where appropriate, is provided under section 17 of the Children's Act 1989<sup>2</sup>.

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<sup>1</sup> Children Act 1989 Section 8

<sup>2</sup> Children in Need

## Payable Financial Support

**The same process and criteria and rates will applied across Child Arrangement Orders, Special Guardianship Orders and Adoption.**

### **When Support is payable**

**Broadly, financial support is payable only in the following circumstances<sup>3</sup>:**

- (a) Where the local authority consider it necessary to ensure that the carer or prospective carer can look after the child;
- (b) Where the local authority 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 local authority consider that it is appropriate to contribute to any legal costs associated with the making of the care order;
- (d) Where the local authority consider it appropriate to make a contribution to expenditure necessary for the purpose of maintaining and accommodating the child.

**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.**

**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, residence order or specific issue order;
- (iii) An order for financial provision to be made to or for the benefit of the child.

**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 and any additional needs (exceptional) of the child. The local authority's means test then applies.**

**Financial support paid under the regulations cannot duplicate any other payment available to the 'order carer'. In determining the amount of financial support the local authority 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 to access benefits to which they are entitled. In Solihull this advice is provided from the Income and Awards team.**

**The agreed allowance is payable from the date that the Special Guardianship or Residence Order is made, or the date that the child(ren) is placed for adoption.**

## **Conditions of Payment of Financial Support**

**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**

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<sup>3</sup> Regulation 6 of The Special Guardianship Regulations 2005 and Regulation 8 of The Adoption Support Services Regulations 2005

**out in the legislation<sup>4</sup> and outlined in the appropriate SMBC templates. These include the requirement for the order carer to contact the Authority with any changes in their circumstances that would affect the amount payable.**

In awarding any financial support the Authority will recommend to carers that they, as appropriate, set up and make 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

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.

**On occasion an overpayment will occur, for instance if the order carer does not update the authority on any relevant changes to circumstances. 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 family<sup>5</sup>, 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 authority's policy is to seek full recovery of the outstanding debt from previous weeks payments 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 normal circumstances 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, that an individual agreement is reached between the authority and the carers. This would be subject to the approval of the Head of Service and take into account any necessary involvement of the Adoption Agency Decision Maker under adoption regulations. This agreement should seek to recover the debt in the shortest timescale possible and as necessary in reference to the Authority's standard debt collection procedures;
- (e) Any debt write-off would be highly exceptional and subject to authorisation in accordance with the Authority's debt write-off policy as set out in Cabinet and Officer Delegations and the Financial Regulations.

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<sup>4</sup> Regulation 10(2) of The Special Guardianship Regulations 2005 and Regulation 12(2) of The Adoption Support Services Regulations 2005

<sup>5</sup> 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

### Review of Financial Support Payable

**The local authority will review regular financial support paid as part of annual review of support package, and :**

- a) **If there is a relevant change in circumstances or a breach in the conditions of payment;**
- b) At any stage in the implementation that the authority deem appropriate.

If the local authority proposes, as a result of the review, to reduce or terminate the financial support, the local authority 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

**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.

**In respect of payments beyond the child's 18<sup>th</sup> birthday, these are only payable on an assessed on a 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 relevant Team Manager 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 Team Manager;
- (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 authority 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 local authority 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<sup>6</sup>.**

## Assessment for Financial Support

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<sup>6</sup> The current rate of Income Support / Job Seekers Allowance / Employment & Support Allowance set nationally is £56.80 per week. Source (<https://www.gov.uk/>)

## When to Carry Out an Assessment

**An assessment for financial support must be carried out if requested by specified individuals, including the looked after child.**

**The authority is not required to, but may choose 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 for offer a financial assessment in such circumstances is at the discretion of the Head of Service.**

## Basic Allowance Payable

**Allowances payable in Solihull 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).**

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

## The Means Test – What it is and when it applies

**The means test used by Solihull complies with the regulatory requirements.**

**Financial Assessments will be carried out in all cases where the Authority 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.**

**All initial financial assessments are subject to either a visit from a Solihull Visiting Officer from the Income and Awards section if the carer lives within borough or a reasonable distance out of borough, or a telephone assessment<sup>7</sup> if the carer lives a significant distance out of borough. 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**

**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, Solihull 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.**

**In exceptional cases, at the discretion of the Financial Assessments 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 Solihull MBC. 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.**

**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<sup>8</sup>, to amend payments to reflect any changes to national benefit rates and changes to the basic child allowances set by Solihull MBC. A full financial assessment will also be**

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<sup>7</sup> All required evidence to be submitted via e-mail or post

<sup>8</sup> The new tax year starts 6<sup>th</sup> April

undertaken annually 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.

All subsequent financial assessments, excluding those undertaken as part of the 'annual financial rate review', are subject to a visit from a Solihull Visiting Officer or a telephone assessment where the authority deems it appropriate.

Means is disregarded where Solihull is considering:

- a. A 'settling-in grant' (section x;
- b. Ad hoc financial support (section 0);
- c. Including an element of remuneration for former foster carers (section 0);

A contribution towards legal costs (section 0).

Means is regarded where Solihull is considering additional on-going financial support in respect of a child's additional needs. However, an exceptional dis-regard is available in specific adoption cases with appropriate approval (see table below. 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.

A 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.

**Review of Decision**

If a carer is dissatisfied with outcome of their financial assessment, they are able to request a 'Review of Decision' through the Assistant Director, within 4 weeks of receiving the assessment decision.

### Additional Needs

In accordance with the legislation the costs of supporting the child in respect of additional needs must be considered. Regulation<sup>9</sup> requires that the local authority 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.

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 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:

#### **Additional Needs**

Where the local authority 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:

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<sup>9</sup> Regulation 12 of The Special Guardianship Regulations 2005 and Regulation 14 of The Adoption Support Services Regulations 2005

<b>Approver</b>	<b>Approval Limit</b>	<b>Description of potential type of Needs</b>
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 36p 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 authority 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.
Head of Service	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.
Assistant Director	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 Head of Service)	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 <sup>rd</sup> 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.

**The final decision in any case would be subject to delegated approvals and the normal decision making panels. 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.**

Once the additional need is assessed and a value determined, this additional financial support determined in respect of on-going needs is then fed into the financial assessment model, for means testing, alongside the basic allowance payable.

### Solihull's Payments to Former Foster Carers

The regulations<sup>10</sup> state that financial support may include an element of remuneration for former foster carers, where the local authority consider it necessary to facilitate arrangements for a local authority 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 local authority considers its continuation to be necessary having regard to the exceptional needs of the child or any other exceptional circumstances. 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 payable<sup>11</sup>. The proportions recommended, from the date the order is made, are:

a. 75% in the first year

25% in the second year

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.

In exceptional circumstances<sup>12</sup>, payment of an element of remuneration beyond the initial years may be made at the discretion of the Assistant Service Director. Approval is limited to paying no more than the lower of the 'amount the carer was receiving on the date the order was made' or '£230.00 per child per week'. 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.

It should not become normal practice for the carer to continue to receive a 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.

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 (section 0), which may include significant care time input by the carer where the child has complex additional needs.

### Initial Accommodating Costs – 'Settling-in Grant'

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<sup>10</sup> Regulation 7 of The Special Guardianship Regulations 2005 and Regulation 9 of The Adoption Support Services Regulations 2005

<sup>11</sup> All foster fee payments are eligible including training/skills fees and CHES fee.

<sup>12</sup> 'Exceptional circumstances' might include keeping a sibling group together, but that is not guaranteed.

**In order to support the smooth transition to becoming a carer under one of the orders, a settling in grant may be payable under the following terms:**

- (i) Initial costs would not normally be payable where the child had been previously accommodated with the carer for a period of 3 months or more.**
- (ii) A 'Settling-in Grant' can be considered for small scale purchases to be awarded at the discretion of the relevant Team Manager, subject to a limit of no more than £100 per child being newly placed, with payment to be authorised on production of receipts.**
- (iii) In exceptional circumstances, financial support may be available in the form of a non-repayable grant or a repayable loan to meet single, larger items of expenditure<sup>13</sup> to enable a placement to proceed, subject to the discretionary approval of the Assistant Director. These grants / loans will only be made if the placement would otherwise not be practicable and if a clear financial and social business case for their award can be made.**

**In the case of Adoption, the required financial support will be presented to SMBC Adoption and Permanence Panel in the Adoption Support Plan. The Agency Decision Maker will be responsible for authorising the final amount and the adopters will be sent details in a Statement of Particulars.**

The order carers will be required to sign a statement of particulars agreeing to the conditions of the grant and in the case of material amounts a legal grant/loan agreement will be required.

### 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.**

**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 Authority under regulation (0(c) and 0),**
- (ii) Such support can only be considered where the following criteria apply:**
  - b. The authority supports the legal application, and**
  - c. The authority agrees that legal representation on behalf of the applicants is necessary or the court subsequently decides that the child must be placed with that carer, and**
  - d. 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.**

Support may be considered, at the discretion of the Assistant Director, of up to £2,000. Any final decision should be informed by advice from the allocated Authority solicitor.

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<sup>13</sup> For example to support the purchase of a larger vehicle or the making of alterations to the family home, particularly in the case of a large sibling group

## Ad hoc Financial Support

In exceptional cases, additional infrequent financial support may be required, for example above average costs in relation to maintaining contact with relatives<sup>14</sup>. The exceptional payments may be made as follows:

- (i) The ad hoc nature of such an 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 Head of Service,
- (iv) Support for exceptional mileage would be subject to the latest rate payable to SMBC Officers for non-essential mileage.

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.

## Transitional Arrangements for those currently receiving an allowance

This policy and practice is implemented with immediate effect for new cases from 10 December 2013.

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 reviewed together during the transitional assessment phase.

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

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<sup>14</sup> 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 local authority to be beneficial to the welfare of the child having regard to the factors specified in 1(3) of the Children Act.

**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;**

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.

End