

## SURREY COUNTY COUNCIL

## CABINET

DATE: 19 DECEMBER 2023



REPORT OF CABINET MEMBER: CLARE CURRAN, CABINET MEMBER FOR CHILDREN, FAMILIES AND LIFELONG LEARNING

LEAD OFFICER: RACHAEL WARDELL, EXECUTIVE DIRECTOR FOR CHILDREN, FAMILIES AND LIFELONG LEARNING

SUBJECT: SPECIAL GUARDIAN AND FOSTER CARE REMUNERATION

ORGANISATION STRATEGY PRIORITY AREA: TACKLING HEALTH INEQUALITY/ EMPOWERING COMMUNITIES

<b>Purpose of the Report:</b>
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The Cabinet is being asked to agree increased remuneration to Special Guardians who are caring for children under a Special Guardianship Order and are eligible for financial support under Surrey County Council's policy, and that the remuneration should be in line with that of Surrey's in-house foster carers.

Special Guardians are people who look after children who are not their own, following a court order. The Special Guardianship Order (SGO) gives children more permanence than a regular fostering arrangement and gives their guardians more rights to make decisions on their behalf.

Government guidance states that financial issues should not be the cause of special guardianship arrangements failing. Guidance and case law (R v Kirklees 2010) and the Statutory Guidance for Special Guardians has been updated (2018) <https://www.gov.uk/government/publications/special-guardianship-guidance> and now states:

*In determining the amount of any ongoing financial support, the local authority should have regard to the amount of fostering allowance which would have been payable if the child were fostered. The local authority's core allowance plus any enhancement that would be payable in respect of the particular child, will make up the maximum payment the local authority could consider paying the family. Any means test carried out as appropriate to the circumstances would use this maximum payment as a basis.*

The current foster care payment uplift for foster carers was agreed by cabinet in January 2023, it should have followed, in line with previous guidance set out above, that the Special Guardian allowance should match this.

The recommendations contribute to tackling health inequality by enabling children who are supported through a Special Guardianship Order, receive good quality care, close to their families, friends and communities. This is shown to improve their long-term outcomes, including their physical and emotional health.

### Recommendations:

It is recommended that Cabinet:

1. Agrees, as per statutory guidance, to match Special Guardian allowances to those of foster carers, subject to the means test and Surrey County Council Allowance policy.
2. Considers the request to back-date the improved remuneration package to 1 April 2023.

### Reason for Recommendations:

To bring the current Special Guardianship allowances in line with statutory guidance.

### Executive Summary:

#### Background

1. In January 2023 Surrey County Council approved an uplift for foster carers to support the recruitment of in-house foster carers to meet the Council sufficiency demands.
2. In line with statutory guidance when there is an uplift of remuneration for foster carers, it follows that we review the Special Guardianship allowances to ensure we are acting in accordance with the guidance.
3. Surrey County Council currently financially supports 456 children who have been placed under a Special Guardianship Order. In the last financial year 2022/23 there were an additional 59 children that we began to support financially through a Special Guardianship Order.
4. Surrey County Council's Special Guardianship allowance policy was reviewed back in 2014 and not been subject to a review since. The Statutory Guidance document has been updated (2018) <https://www.gov.uk/government/publications/special-guardianship-guidance> and now states:

*In determining the amount of any ongoing financial support, the local authority should have regard to the amount of fostering allowance which would have been payable if the child were fostered. The local authority's core allowance plus any enhancement that would be payable in respect of the particular child, will make up the maximum payment the local authority could consider paying the family. Any means test carried out as appropriate to the circumstances would use this maximum payment as a basis.*

Given that the Council has approved an uplift to foster carers, we ought now to align the Special Guardianship allowances with this.

5. Special Guardianship Orders have come to be a significant order in ensuring that, where children cannot be cared for by their birth parents, they are cared for by adults who can lawfully exercise parental responsibility in respect of them. These Special Guardians are typically, but not solely, other family members. Special Guardians were introduced to ensure that children have the experience of a permanent family life, which is fundamental to their safety, welfare and development.
6. The purpose of the order is to create a permanent family life for the child or young person with all the advantages and challenges that accompany this. It lasts until the young person reaches 18 but can be varied or discharged. An SGO can only be discharged upon application, with some applications (including those made by the

parents, 'others' with parental responsibility and the child) requiring the leave of the court to permit the application to proceed.

7. A Special Guardianship Order offers legal permanency and an alternative to children remaining on a Care Order and being looked after by the local authority.
8. The guidance Regulation 6 (*C.A 1989 S.G regulations 2005*) states that "financial issues should not be the sole reason for an SGO arrangement failing to survive." The principle underpinning the regulations and guidance is that financial support should be available to ensure that financial aspects are not an obstacle. Regulation 13 outlines the expectation that special guardians should access the benefits that they are entitled to, and that the role of local authorities is to facilitate this process. It also stipulates that any financial support made to special guardians under these circumstances should not duplicate any other payment that they receive. The areas that the local authority is required to consider as part of a financial assessment are:
  - The financial resources – including investments of the (prospective) special guardian;
  - Outgoings of the prospective special guardian;
  - Financial needs of the child or young person.

#### **Current payments and benchmarking**

9. The current SGO allowances are not aligned to the current foster carer rates, which were uplifted in 2023. This proposal is to ensure we are meeting our statutory duty to address this misalignment and ensure that SGO rates match those of Surrey County Council Foster carers.
10. These changes mean there is an additional pressure of £1.745m annual increase to Special Guardianship allowances. The tables below show why the impact is so large and represent the backdating of the uplift to 1<sup>st</sup> April 2023 and any proposed new Special Guardians under the new rate.

#### **Proposals**

11. It is proposed that the Special Guardianship allowance reflect the uplift in the age-related fostering allowance agreed in January 2023.

Overall change in comparison to current SGO rates and new fostering rates.

<b>Age banding</b>	<b>Current SGO Standard weekly rate</b>	<b>New fostering weekly rates as at Apr 23</b>	<b>Weekly increase</b>	<b>Number of SGO's in each banding</b>	<b>Weekly increase cost</b>	<b>Annual increase in cost</b>
0-4	161.3	190.66	29.36	29	851	44,394
5-10	161.3	216.25	54.95	194	10,660	555,828

11-13	220.14	288.3	68.16	103	7,020	366,048
14-17	220.14	334.95	114.81	130	14,925	778,205
					<b>33,458</b>	<b>1,744,475</b>

12. All Special Guardianship allowances will continue to remain subject to a DfE means test.

### **Overall aims and desired outcomes of the proposals**

13. The overall aim of the proposals is to bring the Special Guardianship allowances in line with the statutory guidance.

#### **Consultation:**

14. The proposals set out here have been developed in consultation with colleagues from across SCC who play a role in the development of fostering and the implementation of Surrey's sufficiency strategy. This includes operational managers from across Children's Services, CFL commissioners and CFL finance. Whilst not directly considered by CFL Select Committee, the work to develop support for SGOs has been shared as part of our broader sufficiency strategy and budget planning. We have not consulted with Special Guardians as part of the review of the allowances as this proposal ensures equity for Special Guardians that should have been included in the Foster Carers Uplift paper.

#### **Risk Management and Implications:**

15. Financial risks: We need to review our Special Guardianship allowance and it would be timely to ensure we are acting with accordance with the set-out guidance. There may be a risk to children being offered permanence through an SGO if the allowance does not match that of foster carers.

#### **Financial and Value for Money Implications:**

16. Looking at September average costs, the additional £1.7m annual cost pressure identified in the table above will increase the average cost of SGOs from £180 per week to £240 per week. This compares to in-house fostering average costs of £602 per week and Independent Fostering Agency costs of £1,138 per week. Financially this is still a more cost-effective option.

#### **Section 151 Officer Commentary:**

17. Significant progress has been made in recent years to improve the Council's financial resilience and the financial management capabilities across the organisation. Whilst this has built a stronger financial base from which to deliver our services, the increased cost of living, global financial uncertainty, high inflation and government policy changes mean we continue to face challenges to our financial position. This requires an increased focus on financial management to protect service delivery, a continuation of the need to

be forward looking in the medium term, as well as the delivery of the efficiencies to achieve a balanced budget position each year.

18. In addition to these immediate challenges, the medium-term financial outlook beyond 2023/24 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority, to ensure the stable provision of services in the medium term.
19. The additional £1.7m is included in the 2023/24 budget monitoring position and is included in the MTFs from 2024/25 (subject to Council approval). As such, the Section 151 Officer supports the alignment of the SGO allowances with the Foster Care allowances in line with statutory guidance.

#### **Legal Implications – Monitoring Officer:**

20. The report sets out above the Council's responsibilities to support Special Guardians and the relevant statutory guidance the Council must have regard to when setting rates of financial support.

#### **Equalities and Diversity:**

21. Special Guardians may have one or more protected characteristics. An Equality Impact Assessment undertaken has not identified any discrimination or negative impact of this proposed change.
22. There is no impact on staff of the proposals in this paper.
23. The proposal offers equity between Special Guardianship and Foster Carers allowances.

#### **Other Implications:**

24. The potential implications for the following Council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

<b>Area assessed:</b>	<b>Direct Implications:</b>
Corporate Parenting/Looked After Children	The proposals in this paper are intended to directly impact on the Council's corporate parenting responsibilities by supporting our statutory responsibility to Special Guardians
Safeguarding responsibilities for vulnerable children and adults	No direct implications
Environmental sustainability	No implications
Compliance against net-zero emissions target and future climate compatibility/resilience	No implications
Public Health	No direct implications

**What Happens Next:**

25. Following Cabinet's decision, it is proposed that the changes are incorporated into the revised Special Guardianship Allowances policy and arrangements made to implement revised payments from a date to be confirmed and payments backdated to 1<sup>st</sup> April 2023.

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