



## **Southend Borough Council Fostering Service Family and Friend Carers Policy**

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## **Family and Friends Care Policy**

### **Introduction**

Family and friends carers play a unique role in enabling children and young people to remain with people they know and trust if they cannot, for whatever reason, live with their parents. The Children Act 1989 puts local authorities under a duty to consider placing looked after children with family and friends carers unless this would not be reasonably practical or consistent with the child's welfare.

The Government has published statutory guidance for local authorities on Family & Friends Care: this sets out the requirement on local authorities to develop policy and procedure for delivering effective services to those children, young people and their carers across the range of legal arrangements which underpin family and friends care. The guidance includes how "connected persons" (who know the child) may be involved in their care. The guidance came into force on 1<sup>st</sup> April, 2011.

### **1: Key Objectives**

1.1. This procedure aims to achieve a number of objectives, which are:

- Promoting permanence for children
- Enabling children to remain living within their extended family network if they cannot live with their parents.
- Providing, wherever possible, better alternatives to supporting children living with a family / friend carer, than through being placed in alternative local authority care.
- Explaining the legal framework with respect to children living with family / friend carers.
- Setting out the means by which children and their family and friends carers can be adequately supported under the following circumstances:
  - ❖ In informal arrangements with a close relative.
  - ❖ In informal arrangements with friends or other family members which last for a period of less than 28 days.
  - ❖ As a private fostering arrangement.
  - ❖ As a looked after child placed with family / friend foster carers.
  - ❖ Through a child arrangement order or special guardianship order.
  - ❖ Through arrangements which may lead to an adoption order.

### **3. Family & Friends Policy**

- 3.1 This policy supports children remaining within their own wider family and should ensure that the proportion of children from more vulnerable backgrounds are not further disadvantaged by being removed completely from their family & friend network/community.
- 3.2 Like other Local Authorities Southend Borough Council wishes to appropriately reduce the numbers of looked after children (LAC). Our Children & young Persons Plan identifies the need to enable more children to live safely at home and this Policy underpins this.
- 3.3 When considering the need for care and accommodation, Social Workers must establish if there is anyone within the child's network who is eligible to apply for a Child Arrangement Order or Special Guardianship Order and whether such an application would be a better means of safeguarding the welfare of the child than the child becoming looked after.
- 3.4 The child's social worker is responsible for assessing the applicants and forming a view to put before the Court as to whether the granting of a Child Arrangement Order (CAO)/ Special Guardianship Order (SGO) is in the child's best interests. (see section 9)
- 3.5 These assessments should include the needs of the child, the suitability of the Applicant(s), the proposed contact arrangements and any support needs. The assessment of the applicants should include their medical history, the references received, the DBS and other statutory checks undertaken for the assessment.
- 3.6 Where children are already looked after, the possibility of a Child Arrangement Order/SGO being used to secure a permanent family placement should be kept under review and this must always be one of the options considered in formulating a child's permanence plan at their second LAC review. (see section 13)
- 3.7 Any request for child arrangement orders/ SGO must be considered by the Private Fostering/Child Arrangement Order/Special Guardianship panel.

### **4. Which children are covered by the Family & Friends element of this policy?**

The following criteria should be used to decide which children and their families come within the remit of these procedures:

- Where there is a possibility of a child being accommodated under section 20 (Children Act 1989), this includes abandonment, request from parents, risk to children.

- Children who are on the threshold of pre proceedings or in care proceedings.
- Where rehabilitation to the child's extended family network is being planned for children who are already looked after.

## 5. Definitions

- 5.1 For the purposes of this policy the following definitions are provided:  
The term **Family & Friends Care** is used generically to refer to circumstances in which children are in the primary care of a relative/family friend because their own parents are not able or willing to care for the child themselves. There are 3 types of Family & friends care:
- 5.2 **Independent Family & friends Care** is where the local authority is not directly involved in supporting the care arrangement. This covers arrangements where the parent has placed the child or young person with a close relative on their own volition (for example a teenage daughter living with her grandparent). It is important that the Directorate does not get involved in these arrangements.
- 5.3 **Informal Family & Friends Care** is where the local authority is involved in setting up and supporting the care arrangement outside of the looked after children system. For example a child is supported to move to live with a close relative by agreement with the parents and the child's needs are such that they do not require the additional protection of becoming looked after. The family & friends carers may need some financial support over and above the child benefit that should be transferred by the parent in order for them to look after the child. The prospective carer undergoes a risk and suitability assessment undertaken by the child's social worker.
- 5.4 **Formal Family & Friends Care** is where the local authority is involved in supporting the care arrangement through the child being looked after under the Children Act 1989, or the Public Law Outline April 2008. Under Regulation 24 & 25 (Care Planning Regulations 2010) a child can be placed under these arrangements with a relative (not necessarily close) or a family friend but the child must know them. The suitability of such a placement is established by the child's social worker through a viability assessment. The relative or family caring for the child then undergoes a full assessment in line with the Fostering Regulations 2011 (amend 2013) by a fostering supervising social worker and if approved will become a Family & friends Foster Carer (Kinship carer). Full fostering allowances are then paid to cover the costs of caring for the child. The Child Benefit must be stopped by the parent.
- 5.5 **Private Fostering** is not family & friends care. A child is privately fostered if: he/she is under the age of 16 (or under the age of 18 if disabled) and is

cared for and provided with accommodation by someone other than a parent, person with parental responsibility, the local authority or a relative. For it to be private fostering the period of care must also be intended to last for more than 28 days. (A person should be considered a relative for this purpose if he/she is a grandparent, brother, sister, uncle or aunt; or a step-parent).

(See Southend Borough Council's Procedures on Private Fostering and Statement of Purpose for the Private Fostering Service and the Replacement Children Act 1989 Guidance on Private Fostering 2005).

## **6. Key Principles**

- For most children, the best prospect of achieving permanency will be living with their birth parents without the need for a legal order.
- The child's parents / others with parental responsibility should be empowered in the decision making about where the child lives.
- The local authority will only seek to interfere with a parent's authority to make decisions about where the child lives when it is necessary to safeguard the welfare of the child.
- When a child cannot remain with, or return to, their birth parents the preferred option is for the child to live with a member of their family / friend network – ideally without the need for a legal order.
- Where a legal order is required to secure a family / friend carer living arrangements, this can be achieved through a child arrangement order, special guardianship order, or an adoption order.
- Children living with a family / friend carer should only be looked after in exceptional circumstances. When the child is looked after this should be seen as a temporary measure until full permanence can be achieved.
- Not all family / friend carer living arrangements need the support of the local authority. The majority are established independently between the child's parent(s) and the family / friend carer. The local authority should not become involved with these arrangements unless it is deemed necessary to safeguard and promote the welfare of the child.
- When the local authority does become involved in the arrangements for a child living with, or going to live with, a family / friend – this should be based on a thorough assessment of the child and the family / friend carer.
- Not all family / friend carers require ongoing practical or financial support from the local authority. Any support provided by the local authority is exceptional and on the

basis of having established that there are no other sources of support available from within the child's and the family / friend carer's networks of family and friends.

## **7. Financial Arrangements for Family & Friends care arrangements**

7.1 **Formal Family & Friends carers** are paid the same allowance for the child as Southend Borough Council foster carers, which is dependent on the child's age.

7.2 Each arrangement for **Informal family & friends carers** will be different depending on the needs of the child and linked to their age and also to the carer's financial circumstances. A financial assessment forms part of the risk and suitability assessment, however financial support will only be paid in exceptional circumstances to informal family & friends carers.



## Assessments involving Looked After Children

### Children already looked after

9.1. For any child who has been looked after for 4 months or more, their care plan must provide details of how permanency for the child is to be achieved.

9.2. The child's care plan and all subsequent reviews of the plan, should explore all options about how permanence can be achieved, including whether the child can be returned to their parents / others with parental responsibility or provided with a living arrangement with someone within their family / friend network outside of the looked after system. Only in exceptional cases would it be considered necessary for a child living with a family / friend carer to be looked after on a long term basis.

9.3. The route out of the looked after system will in most cases be through the child returning home to live with their parents / others with parental responsibility, or through an order giving parental responsibility to the family / friend carer (e.g. Child Arrangement Order, Special Guardianship Order, or Adoption Order).

9.4. The child's social worker should ensure that the family / friend carer understands their role in providing a strong sense of permanence for the child. Establishing any intention of the family / friend carers to apply for a child arrangement order, special guardianship order, or an adoption order is important in this respect. The implications of the family and friend's decision regarding how they intend to strengthen the child's sense of permanence will also inform the assessment of the types of support (financial and practical) that will need to be provided to enable this to happen.

### The assessment of family and friends as foster carers

9.5. Where the relevant Senior Manager has agreed that a child needs to be looked after by the local authority, and a family / friend member has been identified as being able to provide a suitable placement for the child, the family / friend carer **must** be temporarily approved as a connected person for a period not exceeding 16 weeks. This time period has been set to allow sufficient time for a foster carer approval process to be undertaken, including DBS checks. Where the approval process has taken longer than anticipated (the temporary approval may be extended for a further 8 weeks).

9.4. As with all foster carer assessments, family and friends assessments need to be undertaken in ways that involve the family / friend being assessed, so that the assessment is undertaken in a genuine partnership.

9.5 Regulations 24 & 25 of the 2011 Regulations set out arrangements for the temporary approval of a connected person as a foster carer to allow an immediate placement. Therefore the following guidelines should apply :-

1. The authority must be satisfied that the placement is the most suitable means to safeguard and promote the child's welfare and that the placement cannot wait until the full approval process can be completed.
2. The child's wishes and feelings about the proposed placement must be ascertained, subject to understanding and wherever possible an opportunity provided for the child to visit the connected person being assessed as their family and friend foster carer before the decision is finalised.
3. A Connected Persons notification form should be completed by the child's social worker, in the name of the proposed carer(s), and sent to the Fostering Team Manager, for allocation of the assessment.
4. The Child's Care plan should be attached to the referral together with some background information about the child's circumstances/family background and if completed, a viability assessment.
5. In all circumstances a meeting should be held between the child's social worker and the allocated Fostering social worker in order to discuss and plan the assessment.

9.6. Initial viability assessments of family and friends carer placements must be carried out by the child's social worker, who will undertake a risk assessment and identify the child's specific needs, and assess the family and friend carer's ability to meet those needs.

## **10. Family Group Conferences**

Family group conferences may be particularly effective at an early stage to avoid or reduce the need for ongoing support and intervention by children's social care services, and should be considered as a valuable tool to engage families in planning as soon as it is thought possible that a child may need to become looked after. A Family Group Conference may assist the social worker's assessment and planning, by ensuring that alternatives to care or accommodation are considered before decisions are made about accommodating the child or commencing proceedings. Family Group Conferences may also identify relatives or friends who can offer respite support to parents, which may eliminate the need for a child to become a looked after child.

## **11: Providing support under Section 17 of the Children Act 1989**

### **The legal context**

11.1. The local authority does not have a duty to assess 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 their area.

11.2. 'Family' in relation to such a child includes not only a person who has parental responsibility for the child but also any other person with whom the child has been living.

11.3. Family support services for informal kinship care living arrangements may be made under Section 17. Section 17(6) provides that the family support services provided by a local authority may include giving financial assistance to the family.

11.4. The High court judgments **Re H (2003)** and **Southwark v D (2007)** have important implications for how social workers and support staff representing local authorities must demonstrate the way in which they are working with children, their parents and family and friend carers.

11.5. An important lesson from these judgments is that in situations where a local authority has not properly explained the nature of their involvement at the outset and established agreement with the parent and family/friend carer about how support will be provided to a child, courts, in cases of dispute about the legal status of the child, will inevitably assume that the child is looked after (by virtue of section 20(1) and section 23 (2), the Children Act 1989) and not subject to Section 17 support.

11.6. It is therefore essential when working with a child where the possibility of them moving to live with a family / friend carer is being considered that the following steps are adhered to in order to ensure that any support provided to the child and their family/friend carer is provided and maintained under Section 17, the Children Act 1989.

#### **Practice principles and requirements when making arrangements for a child to live with an informal family & friends carer under Section 17**

11.7. Action's prior to an arrangement for a child to live with a family/friend carer under Section 17

- The decision for a child to go and live with anyone in the child's family/friend network rests with the parents and/or others with parental responsibility for the child.
- The social worker should not take over decision making from the parent/person with parental responsibility with respect to determining where the child lives. The social worker may offer advice to the parent/those with parental responsibility about which family/friend member(s) would be the most appropriate to care for the child.
- In circumstances where a Single Social Work Assessment (SSWA) of the child and their family has identified a high probability that at some point in the foreseeable future the child will not be able to remain living at home, the social worker should begin to discuss and help the parent develop a contingency plan for an alternative living arrangement within their family / friend network.
- In cases where the probability of the child needing to live somewhere other than with their parents/those with parental responsibility in the near future is very high, the social worker must consider making a referral for a **Family Group Conference (FGC)** to enable the parents and their wider family to develop a contingency plan for where the child could live.

**If any of the above actions are not undertaken there is a risk that the child will be considered Looked After in any dispute that is decided by a Court.**

**The social worker must be respectful of the legal authority of the child's parent(s)/those with parental responsibility when becoming involved in decision making with respect to the child.**

#### 11.8. Other actions

- If the social worker needs to provide ongoing assistance to the informal kinship carer and the child's parent / those with PR they **must not** undertake the following types of tasks without first informing and establishing permission from the child's parents and the informal kinship carer:
  - ❖ Arranging and determining contact between the child and anyone in their family / friend network, including the child's parents / anyone else with PR, siblings, other relatives / family friends. Information should be made available to family and friend carers about local contact centres and how to make use of their services. **Where there are safeguarding concerns there may be a need for the involvement of children's social care services to support safe contact arrangements, although where contact needs to be supervised this is most likely to be undertaken by the carers themselves.**
  - ❖ Making arrangements for any significant event in the child's life, including GP appointments, attending cultural and religious events.
  - ❖ Taking the child to and from school/college or arranging other alternative transport for this purpose.

**If a parent/those with PR does not give permission for any of these types of tasks to be undertaken then the social worker should not undertake them.**

#### **What support can be provided under a section 17 arrangement?**

11.9. The statutory Guidance regarding Family and Friend's Carers sets out the type of support available under section 17 of the Children Act 1989.

11.10. The exact menu of support provided to an informal family & friends carer will be determined the social workers assessment of the family / friend's suitability to provide a home for the child.

11.11. The types of support available under section 17 are outlined below:

- The child is not looked after by the Local Authority
- The child will not have a care plan but there may be a child in need plan or child protection plan

- If there is a child in need plan or a child protection plan a social worker or other worker will visit the child and carers
- The child must be offered access to an advocacy service where they make or intend to make representations under section 26 of the 1989 Act
- The carers will not usually have a separate social worker
- The local authority has discretion to give financial assistance (which can be on the basis of regular payments) but there is no entitlement and family income may be taken into account since the local authority must have regard to the means of the child and parents under section 17 (8) the (1989 Act)
- Child Benefit and Child Tax Credit may be payable
- Support may be offered to the carers and/or child but is discretionary
- There is no entitlement to leaving care support
- Any support offered will cease on the young person becomes 18, unless criteria are met for support from adult services

## **12: Private Fostering and Informal Family & Friends Care**

### **What should happen when the private fostering regulations apply?**

12.1. The following guidelines should be applied for any child who is living with an informal kinship carer that constitutes a **private fostering** arrangement.

**Definition of Private Fostering** – If the carers of a child under the age of 16 years (or 18 if he or she is disabled) are not the child’s grandparent, brother, sister, uncle or aunt (whether full blood or half blood or by marriage or civil partnership) or step-parent, and the placement continues beyond 28 days or is intended to do so, then the arrangement will fall within the definition of private fostering (section 105 of the Children Act) and the Children (Private Arrangements for Fostering) Regulations 2005.

12.2. If the child’s social worker identifies that the informal kinship care arrangement also constitutes a private fostering arrangement, they should consult with the Private Fostering Social Worker based in the Fostering Team. ( refer to the Southend Private Fostering Policy for more information)

### **13: The use of Child Arrangement Orders or Special Guardianship Orders to secure a permanent living arrangement with a family/friend carer**

13.1. Where a relative, friend or other connected person wishes to make a long term commitment to caring for a child, they may apply for a **child arrangement order** or a **special guardianship order** to obtain parental responsibility. Where a child is already living with a family and friend's carer it may also be possible for them to apply for an **adoption order**.

13.2. The motivation of a family and friend carer to seek an order giving them parental responsibility for the child will be influenced by a number of factors, including the prevailing circumstances that require the child to be cared for by them, the age of the child / young person, the child's wishes and feelings and the relationship that the family and friend carer has with the child's parent(s).

13.3. It is important that the assessment identifies those children in family and friend care living arrangements where the bestowing of parental responsibility to the family and friend carer is necessary to secure the child's living arrangement.

13.4. It should also be remembered that the Court is required to take into account the factors included within the 'welfare checklist' (Section 1, the Children Act 1989), which includes the principle of 'no order' (section 1(5) The Children Act 1989).

13.5 The circumstances where an application for a child arrangement order, special guardianship order or adoption order is likely to be necessary to secure the child's living arrangement with their family and friend carer are:

- Children subject to a care order (section 31, the Children Act 1989) or Interim Care Order (section 38, the Children Act 1989) where an order bestowing parental responsibility to the family and friend carer is required to promote permanence.
- Children, particularly young children, where there is no adult with parental responsibility for them.
- Situations where an order giving parental responsibility to a family and friend carer is necessary to establish the child's living arrangements and safeguard and promote the welfare of the child.
- Where the child/young person, often through independent legal advice, wishes to seek the permission of the court to discharge their care order in favour of a residence order or special guardianship order to their family and friend carer.

#### **Financial and practical support for children subject to a CAO or SGO**

##### **Financial support; Child Arrangement Orders**

13.6. The way in which financial support can be provided to family and friends holding a child arrangement order with respect to the child they are caring for will be dependent on the specific additional needs of the child concerned. Financial support can be provided through the use of a 'child in need carer allowance'. This can be at the discretion of the relevant Senior Manager following a financial assessment and agreement at the CAO/SGO Panel. (For more information see CAO (formally RO) financial Policy and Southend SGO financial Policy)

## Leaving Care Support

14.16. The Children Act 1989, as amended by the Children (leaving care) (England) Act 2000 places a duty on the local authority towards looked after children and care leavers who meet the **eligibility criteria** to provide a range of support to help these young people make a successful transition to adulthood. This duty applies to children and young people placed by the local authority with family and friends foster carers in the same way as it does for all other looked after children and care leavers.