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STATUTORY INSTRUMENTS

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**2005 No. 1109**

**The Special Guardianship Regulations 2005**

**PART 2**

**SPECIAL GUARDIANSHIP SUPPORT SERVICES**

**CHAPTER 3**

**ASSESSMENT AND PLANS**

**Request for assessment**

**11.**—(1) The following persons are prescribed for the purposes of section 14F(3) of the Act (persons at whose request an assessment must be carried out)—

- (a) a relevant child who is looked after by the local authority or was looked after by the local authority immediately before the making of a special guardianship order;
- (b) a special guardian or prospective special guardian of such a child;
- (c) a parent of such a child.

(2) Paragraph (3) applies if the local authority receive a written request from or, in the case of a child, on behalf of any of the following persons (not being a person falling within paragraph (1)) for an assessment of his needs for special guardianship support services—

- (a) a person mentioned in section 14F(3)(a) to (c) of the Act;
- (b) a child of a special guardian;
- (c) any person whom the local authority consider to have a significant and ongoing relationship with a relevant child.

(3) The local authority must, if they are minded not to carry out an assessment, give the person notice of the proposed decision (including the reasons for it) and must allow him a reasonable opportunity to make representations in relation to that decision.

(4) Where the request of a person for an assessment relates to a particular special guardianship support service, or it appears to the local authority that a person's needs for special guardianship support services may be adequately assessed by reference to a particular special guardianship support service, the local authority may carry out the assessment by reference to that service only.

**Procedure for assessment**

**12.**—(1) Where the local authority carry out an assessment of a person's needs for special guardianship support services they must have regard to such of the following considerations as are relevant to the assessment—

- (a) the developmental needs of the child;
- (b) the parenting capacity of the special guardian or prospective special guardian, as the case may be;

- (c) the family and environmental factors that have shaped the life of the child;
  - (d) what the life of the child might be like with the person falling within sub-paragraph (b);
  - (e) any previous assessments undertaken in relation to the child or a person falling within sub-paragraph (b);
  - (f) the needs of a person falling within sub-paragraph (b) and of that person's family;
  - (g) where it appears to the local authority that there is a pre-existing relationship between a person falling within sub-paragraph (b) and the parent of the child, the likely impact of the special guardianship order on the relationships between that person, that child and that parent.
- (2) The local authority must, where they consider it appropriate to do so—
- (a) interview the person whose needs for special guardianship support services are being assessed;
  - (b) where the person falling within sub-paragraph (a) is a child, interview—
    - (i) any special guardian or prospective special guardian, as the case may be, of the child; or
    - (ii) any adult the local authority consider it appropriate to interview.
- (3) Where it appears to the local authority that the person may have a need for services from a Local Health Board, Primary Care Trust or local education authority, they must, as part of the assessment, consult that Local Health Board, Primary Care Trust or local education authority.
- (4) After undertaking an assessment, the local authority must prepare a written report of the assessment.

### **Assessment of need for financial support**

**13.**—(1) This regulation applies where the local authority carry out an assessment of a person's need for financial support.

(2) 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 a special guardian of the child.

(3) Subject to paragraphs (4) and (5) the local authority must also take account of the following considerations—

- (a) the person's financial resources, including any tax credit or benefit, which would be available to him if the child lived with him;
- (b) the amount required by the person in respect of his reasonable outgoings and commitments (excluding outgoings in respect of the child);
- (c) the financial needs and resources of the child.

(4) The local authority must disregard the considerations in paragraph (3) where they are considering providing financial support in respect of legal costs, including court fees, in a case where a special guardianship order is applied for in respect of a child who is looked after by the local authority and the authority support the making of the order or an application is made to vary or discharge a special guardianship order in respect of such a child.

(5) The local authority may disregard any of the considerations in paragraph (3)—

- (a) where they are considering providing financial support in respect of—
  - (i) initial costs of accommodating a child who has been looked after by the local authority;

(ii) recurring costs in respect of travel for the purpose of visits between the child and a related person; or

(iii) any special care referred to in regulation 6(2)(b) in relation to a child who has been looked after by the local authority; or

(b) where they are considering including an element of remuneration under regulation 7.

(6) In paragraph (5)(a)(ii) “related person” 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 section 1(3) of the Act.

### **Plan**

**14.**—(1) This regulation applies in relation to the requirement in section 14F(6) of the Act for the local authority to prepare a plan in accordance with which special guardianship support services are to be provided.

(2) The local authority must prepare a plan if—

(a) they propose to provide special guardianship support services to a person on more than one occasion; and

(b) the services are not limited to the provision of advice or information.

(3) Where it appears to the local authority that the person may have a need for services from a Local Health Board, Primary Care Trust or a local education authority, they must consult that Local Health Board, Primary Care Trust or local education authority before preparing the plan.

(4) The local authority must nominate a person to monitor the provision of the services in accordance with the plan.

### **Notice of proposal as to special guardianship support services**

**15.**—(1) Before making any decision under section 14F(5) of the Act as to a person’s needs for special guardianship support services, the local authority must allow the person an opportunity to make representations in accordance with this regulation.

(2) The local authority must first give the person notice of the proposed decision and the time allowed for making representations.

(3) The notice must contain the following information—

(a) a statement as to the person’s needs for special guardianship support services;

(b) where the assessment relates to his need for financial support, the basis upon which financial support is determined;

(c) whether the local authority propose to provide him with special guardianship support services;

(d) the services (if any) that are proposed to be provided to him;

(e) if financial support is to be paid to him, the proposed amount that would be payable; and

(f) any proposed conditions under regulation 10(2).

(4) In a case where the local authority propose to provide special guardianship support services and are required to prepare a plan under section 14F(6) of the Act, the notice must be accompanied by a draft of that plan.

(5) The local authority shall not make a decision until—

(a) the person has made representations to the local authority or notified the local authority that he is satisfied with the proposed decision and, where applicable, the draft plan; or

- (b) the period of time for making representations has expired.

**Notification of decision as to special guardianship support services**

**16.**—(1) After making their decision under section 14F(5) of the Act as to whether to provide special guardianship support services to a person, the local authority must give the person notice of that decision, including the reasons for it.

(2) Where the local authority are required to prepare a plan under section 14F(6) of the Act, the notice must include details of that plan and the person nominated under regulation 14(4).

(3) If the local authority decide that financial support is to be provided, the notice given under paragraph (1) must include the following information—

- (a) the method of the determination of the amount of financial support;
- (b) where financial support is to be paid in instalments or periodically—
  - (i) the amount of financial support;
  - (ii) the frequency with which the payment will be made;
  - (iii) the period for which financial support is to be paid;
  - (iv) when payment will commence;
- (c) where financial support is to be paid as a single payment, when the payment is to be made;
- (d) where financial support is to be paid subject to any conditions imposed in accordance with regulation 10(2), those conditions, the date (if any) by which the conditions are to be met and the consequences of failing to meet the conditions;
- (e) the arrangements and procedure for review, variation and termination of financial support;
- (f) the responsibilities of—
  - (i) the local authority under regulations 17 and 18 (reviews); and
  - (ii) the special guardian or prospective special guardian pursuant to any agreement mentioned in regulation 10.