

## Family and Friends Care Policy

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### 1. Scope of this Document

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The policies set out in this document have been informed by the Department for Education (DfE) (2011) Family and Friends Care: Statutory Guidance for Local Authorities. It applies to all children being brought up by extended family, friends or other **Connected Persons**, whatever the status of the arrangement and whether or not the children are Looked After

### 2. Introduction

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Children may be being 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 (see Section 6 below: Different Situations Whereby Children May Be Living With Family and Friends Carers):

- In informal arrangements with a close relative (a step-parent, grandparent, brother, sister, aunt or uncle, whether full blood, half blood, by marriage or civil partnership);

- In informal arrangements with friends or family members (other than a close relative) which last for a period of less than 28 days;
- As a Private Fostering arrangement
- As a Looked After child placed with relatives approved as foster carers (see also Placements with Connected Persons below)
- Under a Child Arrangement Order (formally Residence Order) or Special Guardianship Order;

Local Authority responsibilities will vary depending on the legal status of the child and the arrangement - see Family and Friends Care: Statutory Guidance for Local Authorities: Annex A, Caring for Somebody Else's Child - Options.

Whether or not a child who is cared for by a family and friends carer should be Looked After, or whether that child's needs should be met by providing support under Section 17 of the Children Act 1989, will be a matter to be decided by the authority, dependent on the child's circumstances and in partnership with the child and parents/carers, on a case by case basis.

### **3. Values and Principles**

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Children have a right to be brought up by their families and everyone has a right for their private and family life to be respected.

Family and friends carers play a very significant role in enabling children and young people to remain in the care of someone they know and trust, often at a time when things at home are not going well.

Whilst many who live with extended family and friends will do very well in life and require very little support except through universal services such as health and education, for a minority it will be a very difficult time. Children who go to live with family or friends may do so because of parental illness, neglect, imprisonment or death of a parent or other factors which impact on their parent's ability to care for them. This may in turn have a significant effect on the children themselves and their behaviour and health. It can be a demanding task looking after someone else's child and it is a time when children often need extra care and attention. Derbyshire County

Council has a duty to promote and safeguard the welfare of all children in its area and works closely with health services, schools and other agencies to achieve this.

The key principle underlying the Children Act 1989 is that children should be enabled to live within their families unless this is not consistent with their welfare. Derbyshire County Council 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. Where a child cannot live with their immediate family and consideration is being given to that child becoming Looked After by Derbyshire, the Local Authority will make strenuous efforts to identify potential carers within the child's network of family and friends.

Derbyshire County Council is committed to ensuring that friends and family carers are supported in undertaking, this challenging as well as rewarding task. Support is provided for any such arrangements based on the assessed needs of the child, rather than merely their legal status in order to prevent children becoming looked after or remaining longer than is needed, in Local Authority care under Section 20(1) of the Children Act 1989. When a child is discharged from section 20 accommodation into the care of friends or family there should always be a support plan in place to ensure that the child and carers continue to receive the support they need. For some older young people this may include "care leavers" support.

#### **4. Legal Framework**

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All local authorities have a general duty to safeguard and promote the welfare of Children in Need living within their area and to promote the upbringing of such children by their families. They are required to provide a range and level of services appropriate to those children's assessed needs (Section 17, Children Act 1989).

It is important to note that local authorities do not have a general duty to assess all arrangements where children are living within their family network, but do have a duty where it is evident that services may be necessary to safeguard or promote the welfare of a Child in Need.

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

For a summary of the meaning and implications of different legal situations, the rights of parents and carers and the nature of decisions which family and friends will be able to make in relation to the child, please see Family and Friends Care: Statutory Guidance for Local Authorities: Annex A, Caring for Somebody Else's Child and also Section 6 below.

## 5. Duties of the Local Authority

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The Department for Education (DfE) (2011) Family and Friends Care: Statutory Guidance for Local Authorities has introduced a number of specific duties on local authorities to ensure that the support that is offered to Family and Friends carers is clear and accessible. In particular issues to be addressed are:

- **Information about services and support, including support groups** – that are available to friends and family carers;
- **Financial support** – clarity about who can access what financial help and under what circumstances;
- **Accommodation** – ensuring that housing authorities and social landlords are aware of the needs of family and friends carers;
- **Supporting contact** - Information should be made available to family and friends carers about local contact centres and family mediation services, and how to make use of their services;
- **Family Meetings** – arrangements should always be made for families to come together with a facilitator to try to solve and manage their own .
- **Management Accountability** - The Director of Children's Services has identified a senior manager who holds overall responsibility for the Family and Friends Care Policy. She will ensure that the Policy meets the statutory requirements, and is responsive to the identified needs of children and carers; that Local Authority staff understand the Policy and it is applied in a consistent and fair manner across the Authority; that local partners are

aware of their responsibilities towards children living in family and friends care and are proactive in meeting those needs; that the Policy is publicised sufficiently to ensure that anyone who may be considering becoming a family and friends carer can be aware of its content and be clear about how to contact the Local Authority and other agencies for further information about relevant services and that staff who are responsible for implementing the Policy have appropriate training. A Family and Friends Carers Strategy has been developed to ensure that Derbyshire and its partners are able to meet these requirements.

Derbyshire County Council (DCC) will continue to consult children and young people, family and friends carers, and parents as appropriate in drawing up any new policies. Within Derbyshire there are a number of parents and children's groups who are regularly consulted on new or developing policies. Examples of these include the revised single assessment documentation and revised Child Arrangement Order (formally Residence Order) allowances and Special Guardianship Allowances.

## **6. Different Situations Whereby Children May Be Living With Family and Friends Carers**

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### **6.1 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 family care arrangements where the child is placed with a close relative (step parent, grandparent, brother, sister, aunt or uncle, whether full blood, half blood, by marriage or civil partnership), unless it appears to the Authority that early help services may be necessary or services to safeguard or promote the welfare of a Child in Need in their area. An Early Help Assessment would be completed with the carers to understand their and the child's emerging or additional needs, or a Social Care Assessment to assess more complex or serious needs. More information on the Assessment process can be found in

## Derbyshire County Council Children's Services and Partner Agencies Assessment Protocol.

Following assessment, a Team Around the Family (TAF) or Child in Need Plan may be drawn up and, if so, a package of support may be identified. This can comprise a variety of different services and support, such as information, advice and guidance and/or financial support.

Additionally, the Local Authority is not required to assess informal care arrangements with extended (i.e. not a close relative as defined above) family or friends if it lasts less than 28 days. If it is anticipated to last beyond 28 days, this would constitute Private Fostering (see Section 6.2, Private Fostering)

If it is recognised that financial assistance is required on a short or longer term basis to support carers who are caring for a the child within their extended family network and there is *no legal order in place*, payments may be made under Section 17 of the 1989 Children's Act. The level of payment will be commensurate with the need it is intended to meet and have regard to income from other sources, including from the child's parents who will continue to be the ones with parental responsibility. In exceptional circumstances longer term payments may be made and will be regularly reviewed.

Further information on financial support is contained in the paragraphs below linked to the particular circumstances of the child.

### **6.2 Private Fostering**

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. It is expected that the private

foster carer will make a claim for the child benefit for that child and the parent will support the placement financially and practically.

A parent should notify the Local Authority six weeks prior to the arrangements taking place or as a minimum, 48 hours after they have commenced.

The Local Authority has a duty to assess and monitor the welfare of all privately fostered children. The statutory requirements are clearly set out in the Children (Private Arrangements for Fostering) Regulations 2005. Once notified of a private fostering arrangement, the Local Authority will commence the process. Duties include; a written assessment and a visiting and review pattern in line with those of Looked After children.

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 may be drawn up and a package of support identified. This can comprise a variety of different types of services and support, including financial support.

### **6.3 Family and Friends Foster Carers - Connected Persons**

A connected person is defined under Regulation 24 of Care Planning, Placement and Case Review Regulations (England) 2010 as 'a relative, friend or other person connected with a child e.g. child minder, teacher. It grants temporary approval of a Connected Person to care for a child for up to 16 weeks while the carer is being assessed as an approved foster carer.

The National Minimum Standards for Foster Care will apply and the Connected Person must be fully assessed as a foster carer for the child by 16 weeks of the placement being agreed.

A placement with a Connected Person can be defined as being an arrangement where:

- A child cannot live with their parents and is living away from the parental home with a relative or friend; **and**
- The placement has in some way been assisted or initiated and/or is supported by Children's Services; **and**
- The child would otherwise be with foster carers, in residential care, independent living or adopted.

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 Assessments and Approvals of Foster Carers Procedure. An information pack is available to potential foster carers about the process please call Telephone 0800-0837744 or visit our Website.

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 meet the same standards and expectations as any other registered foster carer and co-operate with all the processes that are in place to ensure that the child receives appropriate care and support. Examples include: contributing to reviews of the child's Care Plan; working closely with the child's social worker and promoting the child's education and health needs.

#### **6.4 Child Arrangements Orders (formally Residence Orders)**

A Child Arrangements Order (CAO) is a court order which gives Parental Responsibility to the person in whose favour it is made, usually lasting until the child is 18. Parental Responsibility is shared with the parents.



To support the stable placement of children within their families, the 1989 Act has been amended to allow relatives to apply for a Child Arrangements Order or Special Guardianship Order without the permission of the court after caring for the child for one year, instead of three years as was previously the case.

CAOs 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 CAO 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 Public Law proceedings, a Permanence Plan for a Child in Need or a Looked After Child.

The Local Authority may pay CAO Allowances to relatives or friends, unless they are a spouse or civil partner of a parent, with whom a child is living under a CAO. This is set out in paragraph 15 of Schedule 1 of the Children Act 1989. However this is discretionary and Derbyshire County Council will only assess in relation to the payment of a Child Arrangements Order Allowance in respect of children:

- Who immediately prior to the CAO being made, were Looked After by the Local Authority for a period of at least three months and the Residence Order application is part of his/her Care Plan;
- Who are subject to a CAO as part of a disposal of Care Proceedings or as a direct alternative to care proceedings, whether or not the child/children were Looked After by the Local Authority for a period of at least three months; and
- The Local Authority supports the placement of the child with the person(s) taking the CAO; or
- Following an assessment of the circumstances of the child and carer, the Deputy Assistant Director agrees that the case is exceptional.

See Derbyshire's Child Arrangement Order Policy and DCC Support Scheme for details of what financial assistance may be available to holders of Child Arrangement Orders, the applicable criteria and who within the Local Authority will make decisions under the Policy.

## **6.5 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.

The following persons may apply:

- Any guardian of the child.
- Where the child is subject of a Care Order, any person who has the consent of the Local Authority;
- A Local Authority foster carer who is a relative of the child or with whom the child has lived for one year immediately preceding the application (even if the Local Authority does not consent);
- Anyone who holds a Residence Order or Child Arrangements Order with respect to the child or who has the consent of all those in whose favour a Residence Order or Child Arrangements Order is in force;
- Anyone with whom the child has lived for three years;
- Anyone who has the consent of all those with Parental Responsibility for the child;
- Anyone, including the child, who has the leave of the Court to apply.

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 Child Arrangement 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.

The eligibility for assessment is the same as for Child Arrangements Order and is set out in the section above

See Derbyshire's Special Guardianship Order Policy and DCC Support Scheme for details of what financial assistance may be available to holders of Special Guardianship Orders, the applicable criteria and who within the Local Authority will make decisions under the Policy.

## **7. Provision of Financial Support - General Principles**

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Derbyshire County Council is committed to supporting family/friend carers in a variety of ways, however it is important to ensure that families are assisted in accessing mainstream services and are aware of their entitlements to tax credits and social security benefits.

'Help in determining eligibility to benefits can be provided by Derbyshire's Welfare Rights Service.

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. Any assessment of financial support will consider what benefits the family are already able to access. 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.

For further details of the financial support available, see Derbyshire's Child Arrangements Order Policy , Special Guardianship Order Policy and Fostering Allowances.

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;
- Payments will be subject to regular review.

## **8. 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 is set out in the Derbyshire County Council Complaints Procedure.

## Glossary of Terms

Parental Responsibility	<p>Children Act 1989 section 3 defines parental responsibility as “all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and hi/her property”</p> <p>Others, other than birth parents, can obtain parental responsibility through a court order.</p>
Child in Need	<p>Children Act 1989 section 17 (10) A child shall be taken to be in need if;</p> <p>A child is unlikely to achieve or maintain , or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision of services by the local authority; or</p> <p>their health and development is likely to be significantly impaired, or further impaired without the provision of such services; or</p> <p>the child is disabled.</p>
Looked After	<p>The term Looked After is used to describe any child for whom the local authority holds a care order (section 31) or interim care order(section 38) or is accommodated by the local authority on a voluntary basis under section 20 of the Children Act 1989</p>
Child's Plan	<p>After undertaking an assessment of a child's need and their circumstances a Child's Plan might be created. A Child's Plan is the plan that the local authority</p>

	draws up with families (or others with responsibility for a child) outlining the support and help to be offered, and the expectations on all those involved with a child to achieve the stated goals/outcomes for the child.
Permanence plan	Permanence for a Looked After child means achieving, within a timescale which meets the child's needs, a permanent outcome which provides security and stability to the child throughout his or her childhood. It is therefore the best preparation for adulthood.
Care Leaver	A Care Leaver is a young person who has been looked after for at least 13 weeks and who has subsequently left care after the age of 16 years, or has entered care after 16 and remained for a period of more than 13 weeks. This includes any young person privately fostered or subject to a special guardianship order. Section 24(2) of the Children Act 1989 defines the persons qualifying for advice and assistance and includes a person who has reached the age of 16 but is not yet 21 and with respect of whom there is in force a Special Guardianship Order (or there was at the point the child turned 18) and who was looked after (a child in care) immediately before the making of a

	Special Guardianship Order. If those criteria are met, the child is a “Qualifying Child” within the meaning of the Act.