 RELATED GUIDANCE

Children Act 1989: Family and Friends Care: Statutory guidance for local authorities about family and friends providing care for children who cannot live with their parents.

Contents

1. Introduction
2. Values and Principles
3. Legal Framework
4. Different Situations whereby Children may be Living with Family and Friend Carers
5. Provision of Financial Support - General Principles
6. Accommodation
7. Supporting Contact with Parents
8. Family Group Conferences
9. Complaints Procedure
10. Annex A: Caring for Somebody Else's Child - Options
1. Introduction

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

The London Borough of Barking and Dagenham (LBBD) recognises that, wherever possible and safe, being cared for by someone they already know is best for children, and that is why the Council wants to promote these family and friends care arrangements.

This policy sets out the approach, and the options involved, by the Local Authority through the Children’s Care and Support Service towards promoting and supporting the needs of such children and covers the assessments and services involved.

Links to more detailed procedures regarding the different options are included.

2. Values and Principles

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 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

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 of Needs' document which is available through the Barking and Dagenham Local Safeguarding Children Board website [http://newsite.bardag-lscb.co.uk/wp-content/uploads/2018/03/Multi-agency-thresholds-document-Feb-2018.pdf](http://newsite.bardag-lscb.co.uk/wp-content/uploads/2018/03/Multi-agency-thresholds-document-Feb-2018.pdf)

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, below, 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 and this will be 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.

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 and these are described below.

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

#### 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 which is based upon a financial means test.

#### 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 decision-making arrangements with the private foster carer. The responsibility to financially maintain the child remains with the parent/s and the person/s caring for the child can apply for Child Benefit or Child Tax Credit.

The local authority has a duty to visit to assess and monitor the welfare of all privately fostered children and the care arrangements. This is carried out by the Private Fostering Social Worker from the Fostering Service and these duties are set out in the Children (Private Arrangements for Fostering) Regulations 2005.

The local authority may however 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 which would be means tested.


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.

barking-dagenham.gov.uk\USER\CSHOME\mxbrown\Documents\place_with_connect.pdf.docx
Temporary approval is given by a Head of Service in the Children’s Care and Support Service and is valid for 16 weeks only. If it is felt that a placement will be needed for longer than 16 weeks, then during this period a full Family and Friends assessment will be carried out. If this assessment is not concluded before the temporary approval expires an extension of up to 8 weeks can be given. Where temporary approval is given to such a placement under the procedure, the carers will receive financial support on a regular basis. This may cover placements made at very short notice.

At any time during the 16 weeks, or further 8 weeks if an extension is made, the Local Authority can make a decision not to progress with the assessment solely on the basis of the information collected. If information comes to light indicating that the carer is unlikely to be suitable to foster, then the assessment will be ended and the child/ren moved from the placement.

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

http://www.proceduresonline.com/lbbd/cs/chapters/p_ass_app_fost.html

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 foster carers, 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.
Authority for day-to-day decision making about the child should be delegated to the carer(s), unless there is a valid reason not to do so.

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. Authority for day-to-day decision making about the child should be delegated to the carer(s), unless there is a valid reason not to do so.

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. This however is discretionary.

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.

http://www.proceduresonline.com/lbbd/cs/chapters/p_app_spec_guard.html

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.

### 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 which is means tested.

[http://www.proceduresonline.com/lbbd/cs/chapters/p_adop_support.html#what_adop_support](http://www.proceduresonline.com/lbbd/cs/chapters/p_adop_support.html#what_adop_support)

### 5. Supporting Contact with Parents

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.

http://www.proceduresonline.com/lbbd/cs/chapters/p_contact_parents.html

6. Family Group Conferences

Family Group Conferences are meetings held between family members and others close to the child, with support from a Family Group Co-ordinator, and which aim to make arrangements and plans to achieve the best outcomes for the child. 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.

We will offer a Family Group Conference or other form of family meeting at an early stage. If a child becomes Looked After, perhaps following an emergency, without a Family Group Conference having been held, then (where appropriate) we will arrange one as soon as possible.

http://www.proceduresonline.com/lbbd/cs/pdfs/family_group_conference.pdf?zoom_highlight=family+group+conference

7. Complaints Procedure

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 Procedure
## ANNEX A: CARING FOR SOMEBODY ELSE'S CHILD – OPTIONS

<table>
<thead>
<tr>
<th>Private fostering</th>
<th>Family care (informal)</th>
<th>Family and friends foster care</th>
<th>Unrelated foster care</th>
<th>Child Arrangements Order</th>
<th>Special guardianship order (SGO)</th>
<th>Adoption</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Route into the caring arrangement</strong></td>
<td><strong>Route into the caring arrangement</strong></td>
<td><strong>Route into the caring arrangement</strong></td>
<td><strong>Route into the caring arrangement</strong></td>
<td><strong>Route into the caring arrangement</strong></td>
<td><strong>Route into the caring arrangement</strong></td>
<td><strong>Route into the caring arrangement</strong></td>
</tr>
<tr>
<td>This is a private arrangement whereby the child is being cared for for 28 days or more and the intention is that the arrangement will last for 28 days or more by anyone who does not have parental responsibility, and who is not a close relative. Relative means grandparent, brother, sister, uncle or aunt (by full blood, half blood or by marriage or civil partnership) or a step parent. The child is not a looked after child.</td>
<td>The relative has chosen to take on the care of the child but does not have parental responsibility, and the arrangement was not made by the local authority. The child is not a looked after child. Relative may perceive the parents to be unable to care for the child, or the parents may be dead or otherwise not available (e.g. in prison); or the parents may be dead or otherwise not available (e.g. in prison); or there may be an agreement between relatives due to difficult family circumstances.</td>
<td>The child has been placed with the relative or friend by the local authority, because the person who had been caring for the child was deemed not to be providing suitable care. The child is a looked after child and so the local authority must approve the relative or friend as a local authority foster parent. The child may be accommodated voluntarily with the agreement of the parents or may be subject to a care order.</td>
<td>The child is a looked after child being accommodated by the local authority under section 20 Children Act 1989 or because the child is subject to a care order; but has been placed with a foster carer by the local authority. (Alternatively, the local authority may choose to place a child into residential care where this is considered to be in the child's needs).</td>
<td>The child may be at risk of becoming 'looked after' and a friend or relative applies for an order, or the child may have been 'looked after' and their foster carer or other relative/friend applies for an order. In either circumstance, application can be made without the support of the parents or the local authority. Notices may apply for an order after the child has lived with them for one year. Or, there can be specific reasons, e.g. after parents' death and in line with a prior agreement between the birth parents and the carer.</td>
<td>Looked after children: the LA may decide that the child should be placed for adoption. They can only do so with the consent of the birth parent or under a placement order made by a court. An approved foster carer can apply for an adoption order after a year of caring for the child. Other informal carers could apply for an adoption order if the child has lived with them for a period of 3 years.</td>
<td></td>
</tr>
<tr>
<td><strong>Parental Reponsability (PR)</strong></td>
<td><strong>Parental Reponsability (PR)</strong></td>
<td><strong>Parental Reponsability (PR)</strong></td>
<td><strong>Parental Reponsability (PR)</strong></td>
<td><strong>Parental Reponsability (PR)</strong></td>
<td><strong>Parental Reponsability (PR)</strong></td>
<td><strong>Parental Reponsability (PR)</strong></td>
</tr>
<tr>
<td>Remains with birth parents but the person who cares for the child may do what is reasonable to safeguard and promote the child's welfare.</td>
<td>Remains with birth parents but the person who cares for the child may do what is reasonable to safeguard and promote the child's welfare.</td>
<td>Remains with birth parents if child accommodated under section 20 CA, or if the child is subject to a care order or emergency protection order the local authority will have parental responsibility and determines the extent to which it may be exercised by others.</td>
<td>Shared by parents and holder of Child Arrangements Order.</td>
<td>PR shared with parents and any one else with parental responsibility for the child. The special guardian may exercise parental responsibility to the exclusion of all others with PR, apart from another special guardian.</td>
<td>Transfers to adopters and relationship with birth parents is severed.</td>
<td></td>
</tr>
<tr>
<td><strong>Approval basis</strong></td>
<td><strong>Approval basis</strong></td>
<td><strong>Approval basis</strong></td>
<td><strong>Approval basis</strong></td>
<td><strong>Approval basis</strong></td>
<td><strong>Approval basis</strong></td>
<td><strong>Approval basis</strong></td>
</tr>
<tr>
<td>The arrangement is assessed by LA, but the carer is not approved as a local authority foster carer. The arrangement may be prohibited if assessed by the local authority as unsuitable.</td>
<td>None.</td>
<td>Approved as local authority foster carer in accordance with Fostering Services Regulations. (If child is looked after, carers must be approved as foster carers even if close relative.)</td>
<td>Appointed by court following application.</td>
<td>Appointed by court following application from the applicant. LA must investigate the matter and prepare a report for the court dealing with the suitability of the applicant to be a special guardian.</td>
<td>Adoption agency assesses and approves prospective adopters; court makes order regarding specified child. If the child is not looked after then notice of intention to adopt must be given to the LA who then carry out an assessment/report for the court.</td>
<td></td>
</tr>
</tbody>
</table>