

# Support from children’s services for relatives and friends looking after someone else’s child

## 1. About this advice sheet

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### 1.1 What information will I find in this advice sheet?

If you have taken on the care of a child who cannot live at home with their parents, for whatever reason, you may need financial and other support to help you care for them. There are various potential sources of support, including parents, local authority children’s services, support for education, support from your local council and social security support (e.g. benefits and tax credits).

In this Advice sheet, 21a, you will find information about support from:

- Parents
- Children’s services
- Your local council
- Educational settings.

This advice sheet also sets out the steps you can take to access the support you need. If you want information about social security support (benefits and tax credits) you need to look at Advice sheet 21b – ‘Social security support for relatives and friends

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looking after someone else's child', <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>

## **1.2 Using this advice sheet**

This advice sheet is divided up into sections to make it easier to understand. At the end of this advice sheet (In Appendix 1) there is a table that tells you about the different sources of support that children's services can provide to relatives/friends caring for a child. The support that should be/can be provided will depend on the child's legal status. This is all set out in the table.

The references for the different legal and practice requirements mentioned throughout this advice sheet can be found in section 11 below. You may also want to ask a friend, your social worker, or your solicitor to explain anything in the advice sheet that you don't understand.

**Note: "Social services" are now known as "children's services". This is how they are referred to throughout this advice sheet.**

## **1.3 Important terms used in this advice sheet**

The important terms used in this advice sheet include:

- ***Family and friends foster care*** means that you are caring for the child as an approved foster carer on behalf of children's services and the child you are caring for is 'looked after'
- ***Family and friends carer***, also known as kinship carer or connected persons carer, which means you are caring for someone else's child. The child might be looked after by children's services or they might be with you under some other arrangement.
- ***In care*** means that the child is under an interim or full care order or an emergency protection order and is looked after by children's services

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- **Looked after** means that the child is in care under a court order or is provided with accommodation by children's services under a voluntary arrangement, with the agreement of the parents/someone with parental responsibility
- **Parental responsibility** means the legal right to make decisions about a child's care. Parental responsibility is sometimes referred to as PR. (For more information on who has parental responsibility see FRG advice sheet on Parental Responsibility: <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>)

## **2. General information about help and support**

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### **2.1 What support should the child's parents give me?**

The child's parents remain financially responsible for the child throughout the time that they are living with you<sup>1</sup> but:

- In many cases the parents will not be able to give you any money to support their child because they do not have any money
- If they are working, you could ask them directly for child support if they clearly have the money to pay
- If they refuse, you can ask the child maintenance service to help you get it from them. However, you may have to pay to use this service. Speak to child maintenance service and child support agency Tel: 0345 7133 133
- You can also use the child maintenance calculator available at <https://www.gov.uk/calculate-your-child-maintenance> to see what might be the right level of support you need. You can use it, whether you are using the child maintenance service or if you're arranging child support with the parents directly
- You cannot ask the parents for child support if their child is looked after by children's services and you are an approved foster carer for them.

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## **2.2 Can I get parental leave from work as a family and friends carer?**

Parental leave offers 'parents' who qualify, the right to take unpaid time off work to look after their child or make arrangements for their welfare<sup>2</sup>. Whether or not you can get parental leave depends on the legal way you are caring for the child - see <https://www.gov.uk/parental-leave/eligibility> to find out whether you qualify or not.

The amount of parental leave you can take, and how you can take it also varies:

- If you have parental responsibility for a child who is under 5 **and** you have been working for your employer for 12 months or more, you can take up to 18 weeks of **unpaid** time off work to look after the child/make arrangements for them to live with you<sup>3</sup>
- The maximum amount of parental leave you can take in any one year (until the child is aged 5) is 4 weeks, unless your employer agrees otherwise. Time off should be taken in blocks of one week for a total of up to 4 weeks per year (unless your employer agrees otherwise). A 'week' is equivalent to the number of days that you would normally work per week<sup>4</sup>. Employees must give 21 days' notice before their intended start date, but this doesn't have to be in writing
- If the child is disabled, you can take up to 18 weeks unpaid parental leave before the child turns 18

If you are a local authority approved foster carer for the child and therefore do not qualify for parental leave (see <https://www.gov.uk/parental-leave/eligibility>) you may still be able to ask for a flexible working pattern. For further information about flexible working go to [www.gov.uk/flexible-working](http://www.gov.uk/flexible-working).

Further information about parental leave is available at: <https://www.gov.uk/parental-leave>

## **2.3 Can I get specialist help if my child has a particular problem?**

If you feel that the child you are caring for needs extra help, for example speech therapy or support with behaviour problems or bereavement counselling you may be able to get specialist help for them called 'early help':

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- You can speak to any professional that already knows the child (e.g. a teacher, health visitor) and they will arrange for your child's needs to be assessed
- An early help assessment often involves following the common assessment framework (CAF). It should identify what a child and family need in order to stop needs escalating to a point where children's services would have to become involved
- You and your child should be involved in this assessment and in drawing up any plan to give your child and family extra support. If you think a particular service may help you, discuss that with any of the professionals involved with your family
- After the assessment, a lead professional should be appointed to coordinate any support offered to your child by different professionals/agencies. Sometimes a carer takes on this role of lead professional instead<sup>5</sup>
- Services offered may include family and parenting programmes, assistance with health issues and help for problems relating to drugs, alcohol and domestic violence. Services may also focus on improving your family functioning and building your own capability to solve the problems your family is experiencing.
- You don't have to agree to an early help assessment or the help offered. Agreeing to the assessment and accepting support may be a good idea to make sure you/the child get the help you need as soon as possible. If you have questions or worries about the early help assessment or services being offered, you should contact the lead professional and talk things through.

### **3. Help from children's services**

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#### **3.1 Can children's services provide support to family and friends carers?**

Children's services can provide support depending on what they assess the child's needs to be. Government guidance says that:

- Details of the support services that children's services can provide should be set out in their local family and friends care policy<sup>6</sup>

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- The policy should set out services that are available to family and friends carers whatever the legal status of the child, and should be particularly aimed at preventing children becoming (or remaining) looked after, wherever possible<sup>7</sup>
- Children’s services should publish information in leaflets and on their websites about these services and to access them.

Government guidance also states support available to family and friends carers from children’s services should include<sup>8</sup>:

- Help to obtain suitable accommodation with housing and social care departments working together to ensure that family and friends carers housing needs are prioritised
- Help with contact, including signposting to suitable contact centres and mediation services
- Support groups for family and friends carers
- Financial help, both as a one off and on an on-going basis. Children’s services should have in place eligibility criteria about help for children who are ‘in need’ including financial help for children living with family and friends carers. For more information see below at section 4 onwards.
- Information about the legal framework and the powers and duties of children’s services.

It is a good idea to ask children’s services for:

- A copy of their family and friends care policy and any leaflets they have about family and friends care support so you can see what is available in your local area
- The name of the senior officer responsible for family and friends care if you find that these services are not available in your area. You can then ask that senior officer about them or make a complaint. For further information on how to make a complaint, see FRG advice sheet on ‘complaints’ <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>

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Appendix 1 tells you about the different sources of support that children's services can provide to relatives/friends caring for a child depending on the child's legal status.

### **3.2 How can I get help from Children's Services in my particular case?**

Government guidance says that children's services should provide help to family and friends carers whatever the legal status of the child. In practice, whether and how you get this help will be influenced by the child's legal status whilst they are living with you. As a starting point it is a good idea to be clear about the legal status of the child you are raising. The range of possible legal statuses for a child living with relatives or friends and the help that you can get from children's services in each circumstance is set out in sections 4 to 8 below which cover:

- Private arrangements, private fostering and testamentary guardianship (section 4)
- Child arrangement order or residence orders (section 5)
- Special guardianship (section 6)
- Family and friends foster care (section 7).

If you are not sure about the child's legal status, you should ask the social worker (if you have one) to explain it to you in writing – this is essential in order to work out whether you can claim support services or not.

#### **Tip:**

If the social worker says they are not responsible for the child even though they asked you to care for them, you should get legal advice because sometimes children's services are wrong about the child's legal status. For further advice on this contact FRG's advice service – contact details in section 10 of this advice sheet.

## **4. Private arrangements, private foster care and testamentary guardianship**

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#### **4.1 What is a private arrangement? What is private foster care?**

- If you are a close relative of the child, their parent has asked you to care for them, and children's services were not involved in the arrangements for them to come and live with you, then this is known as a private arrangement.
- A 'close relative' means you are the child's grandparent, uncle, aunt, sibling or step-parent.

**If children's services were involved in making the arrangement, or helping you make the arrangement, this is not usually a private arrangement – see FRG advice sheet: Relatives and friends taking on the care of a vulnerable child in an emergency <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>**

If you are not a close relative, you may be a private foster carer:

- If you are looking after a child in a private arrangement, which is going to be for 28 days or more, and you are NOT the child's grandparent, uncle, aunt, sibling or step parent, you will be considered a private foster carer
- The law says that you must tell children's services and they will then monitor the arrangement and inspect your premises.

Note that being a private foster carer is not the same as providing fostering through a private fostering agency. In those circumstances, the child will be looked-after and your financial and benefit position is no different to any other foster carer. For further information contact FRG advice line – contact details are in section 9 of this advice sheet.

#### **4.2 What is testamentary guardianship?**

You are a testamentary guardian if:

- You have been appointed by the parents/special guardians in writing (often, but not always, in a Will) to look after their child after they die, and
- The parents/special guardians have now died, and
- The appointment has taken effect.

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Note: There are particular rules that apply about when a guardianship appointment takes effect. For more information see FRG Advice Sheet 4 on 'Parental responsibility' <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>

### **4.3 What help can I get if I am caring for a child either in a private arrangement, as a private foster carer or under testamentary guardianship?**

In each of those situations it may be possible to get some support from children's services, but only if the child is assessed as being a 'child in need'<sup>9</sup>. The help for a 'child in need' is sometimes called 'section 17' help. Whether help is provided will depend on an assessment by children's services of the child's needs.

A child in need assessment should:

- Decide if the child is a 'child in need'
- Decide what services you need to help raise the 'child in need'
- Be carried out in accordance with local procedures, usually called the 'assessment protocol' which should be drawn up following government guidance
- If you want to know how the assessment will be done you can ask children's services for a copy of their 'assessment protocol' or you may find these documents online through your local safeguarding partners.<sup>10</sup>

Local children's services departments will have their own measures ('eligibility criteria') for deciding exactly which children in their area are enough 'in need' to get services but:

- A child who has a disability will be a child 'in need'
- Other children who need services in order to be healthy or to develop properly may also be children 'in need'
- Government guidance says that children living in family and friends care should be included in the eligibility criteria for children in need who can receive extra help.<sup>11</sup>

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If the assessment concludes that the child is 'in need' they will receive extra help/services, although what this is may vary. Children's services should draw up a support plan setting out what help, if any, they will give to you to help you meet the child's needs whilst they are living with you. Examples of extra help that may be offered to the family of a 'child in need' include:

- Day care (for children under 5)
- Parenting classes or courses
- A family support worker or other practical help at home
- Counselling for you and/or the child
- Advice and guidance (e.g. about benefits, work, childcare)
- Help with contact arrangements so the child can stay in touch with other family members.

Children's services can also provide practical assistance as part of the support plan including accommodation and cash:

- Cash to help you buy essential equipment for the child (e.g. a bed, clothes, food)
- Financial help with the cost of accommodation<sup>12</sup>
- On-going financial help with the costs of raising the child<sup>13</sup>
- Financial help under local welfare assistance schemes (although some councils no longer provide this support or have reduced it considerably - see [www.cpag.org.uk/lwas](http://www.cpag.org.uk/lwas))
- Respite accommodation if you need a break from your caring responsibilities. Children's services can arrange for your child to stay with an unrelated foster carer. Normally this will need the agreement of someone with parental responsibility. This service is most frequently available to disabled children on a 'short break' basis, but children's services can provide respite accommodation for any children in need who would benefit from this.

#### **4.4 What can I do if children's services refuses to assess the child's needs?**

Sometimes, children's services refuse to assess a child's needs, arguing that the child isn't sufficiently 'in need' because they are now safely living with you and therefore they are no longer at risk of harm. In these circumstances, you could politely remind the social worker that:

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- Financial help for children in family and friends care should be a priority in their eligibility criteria for child in need support<sup>14</sup>
- Every assessment of a child and family should be focused on the outcome for the child – so decisions about any services and support provided need to show how they will improve the situation for the child<sup>15</sup>

If they continue to refuse to assess the child needs you can make a complaint (see FRG's advice sheet on 'Complaints' at <http://www.frg.org.uk/need-help-or-advice/advice-sheets>).

## **5. Child arrangements orders & residence orders**

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### **5.1 What is a child arrangements order / residence order?**

These are court orders that say where a child will live:

- Courts can no longer make a residence order. They have been replaced by child arrangements orders
- A child arrangements order can be made in favour of someone who is not a parent of the child
- A residence order or a child arrangements order that says where a child will live gives the person(s) named in the order parental responsibility for the child.

### **5.2 Can I get help for the child I am raising under a child arrangements order or a residence order?**

You may be able to get help from children's services from either section 17 help, or from a child arrangements order/residence order allowance.

#### **Section 17 help:**

- If your child is assessed as being 'in need' you may be able to access this help - see information about child in need assessments and support services included at 4.3 above and the information in FRG's advice sheet on 'Family support', <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>

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### **Child arrangements/residence order allowance ('CAO/RO allowance'):<sup>16</sup>**

- Children's services have the power to pay this allowance but they don't have to provide it
- It is usually means tested which means that it will depend on your other income
- You can ask your local children's services department for information about how you can apply for this allowance and the criteria they use to decide who they will pay it to and how much to pay
- You can apply to them for this allowance at any time<sup>17</sup>
- If you are being paid (or offered) a child arrangements/residence order allowance that is significantly less than the national minimum foster care allowance you may be able to challenge this decision.<sup>18</sup>
- If you receive a CAO/RO allowance
  - You do not have to pay income tax on any CAO/RO allowance that you receive from children's services
  - The allowance will not be taken into account when assessing your entitlement to means tested benefits and tax credits (For further information see FRG advice sheet 21b 'Social security support for relatives and friends looking after someone else's child' at section 5: <https://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>).
  - Children's services may take into account benefit and tax credit entitlement when assessing what financial support they will provide by way of CAO/RO allowance.

You can contact Family Rights Group advice line for further advice – contact details in section 9 of this advice sheet.

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## **6. Special guardianship orders (SGO)**

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### **6.1 What is a special guardianship order (SGO)?**

A special guardianship order is a court order which:

- Says where a child will live until they are 18 (unless the order is ended by the court before then)
- Gives the person(s) named in the order parental responsibility for the child, which they can exercise to the exclusion of anyone else with parental responsibility such as the parents
- Is often applied by family members who are taking on the permanent care of the child.

### **6.2 Can I get help from children's services for the child I am raising under an SGO?**

If you have a special guardianship order, you may be able to get help from children's services via section 17 help and via special guardianship support services:

#### **Section 17 help:**

- If your child is assessed as being 'in need' (see section 4 at 4.3), you may be able to access this help
- For further information see FRG advice sheet 'Family support' <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>

#### **Special guardianship support services:**

Children's services must set up a special guardianship support service in their area. This does not mean that they have to provide support services to every child under a special guardianship order, but it does mean that children's services must set up a framework for providing help to children who are under special guardianship orders and need additional support. Special guardianship support services include:

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- Means tested financial support for a special guardian who is looking after the child. This can include one off costs as well as regular support<sup>19</sup>. This is known as special guardianship allowance. When deciding how much support is payable, children's services should follow the amount of foster care allowances in the area but may take into account any benefits claimed<sup>20</sup>
- Support groups and other services to enable children, parents and special guardians to discuss matters relating to special guardianship
- Help with the contact arrangements for the child to see their parents and any relatives/others with whom the child has an important relationship. This can include cash to help with the costs of contact (e.g. travel or entertainment)
- Therapeutic services for the child such as counselling and help with behaviour problems<sup>21</sup>
- Help, such as respite care or training, to enable you to have a positive and continuing relationship with the child
- Counselling, advice, information and other support services
- Support for the child to move to independent living after reaching 18
- If the child was looked after by children's services before the special guardianship order was made, they will also be entitled, to advice and assistance from children's services (which last looked after them) to move into independent living. This can include a higher education bursary (see below at section 8).<sup>22</sup>

### **A note about benefits/tax credits if you receive a SG allowance**

- You do not have to pay income tax on any special guardianship allowance that you receive from children's services.
- The allowance will not be taken into account when assessing your entitlement to means tested benefits and tax credits (For further information see FRG advice sheet 21b 'Social security support for relatives and friends looking after someone else's child' at section 5: <https://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>)
- Children's services may take into account benefit and tax credit entitlement when assessing what financial support they will provide by way of special

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guardianship allowance. They should not however deduct child benefit from the allowance if you are receiving income support<sup>23</sup>

### **6.3 As a special guardian, how can I get help for the child?**

To get help for the child, the child's needs must be assessed. A request for an assessment can be made by the:

- Parent
- Child who is subject to a special guardianship order, and/or
- Special guardian.<sup>24</sup>

Children's services does not have to do an assessment in all cases:

- If the child was looked after by children's services before the special guardianship order was made, they must carry out an assessment for support services
- If the child was not looked after by children's services immediately before the special guardianship order was made, they may carry out an assessment for support services<sup>25</sup>
- Children's services may carry out an assessment for support services at the request of any other person (not included in the list above) if that person has a significant and on-going relationship with the child (for example the child's other relatives)<sup>26</sup>.

The assessment of the child's needs will be carried out following the local protocol for assessment which should follow central government guidance.<sup>27</sup> You can ask the social worker for a copy of your local protocol for assessment.

If children's services refuses to carry out an assessment, they must give reasons for refusing and give you 28 days to make representations to them about this refusal. If you still don't manage to reach agreement, you can make a complaint – see FRG advice sheet on 'Complaints': <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>

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## **6.4 Once the assessment is finished how will I know what help I will get?**

At the end of the assessment, children's services must draw up a written report setting out your and the child's needs.<sup>28</sup> If they think you need help, they must prepare a plan of what help they will give you and nominate someone in children's services to monitor how this help is provided. Thereafter:

- You should be sent the draft plan and given an opportunity (normally 28 days) to comment on it before it becomes final. You should also be referred to independent sources of advice and advocacy at this stage.
- When you have responded, children's services must finalise the plan and let you know what help they will give you, with their reasons, and the name of the person in children's services who will monitor the implementation of the plan.

If children's services think you don't need help, they must notify you that they intend to refuse you support. After that:

- You should be told how to make representations if you don't agree with their decision. They should tell you how long you have to do this - normally it must be within 28 days<sup>29</sup>
- If you make representations and children's services still refuse you support, you don't have a right to appeal
- If you think the decision is totally unreasonable you could take advice about making a complaint or whether there may be grounds for judicial review. See FRG advice sheet on 'Complaints' <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets> or contact FRG advice service for further information – contact details in section 9 of this advice sheet.

For further information, see FRG advice sheet 'DIY special guardianship orders for family and Friends carers': <http://www.frg.org.uk/need-help-or-advice/our-advice-service/advice-sheets>

## **7. Family and friends foster care**

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### **7.1 What is family and friends foster care?**

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This is when:

- A child is in care (either with the parents agreement or under a care order or emergency protection order)
- They are placed with you by the social worker and
- You have been formally assessed and approved by children's services as a foster carer for the child, either temporarily or permanently.

This usually arises when the social worker is worried about the child's safety at home with their parents, or where there have been child protection enquiries or care proceedings

- If a child has been placed with you by children's services but you have not been assessed as a foster carer you may wish to seek advice from a solicitor or Family Rights Group advice line (contact details at section 9).
- Family and friends foster carers have better access to support than those caring for children under a private arrangement.

For further information see FRG advice sheet on 'Relatives and friends taking on the care of a vulnerable child in an emergency' and 'Being assessed as a foster carer'

<http://www.frg.org.uk/need-help-or-advice/advice-sheets>

**Tip:**

If Children's Services ask you to look after the child in an emergency because they have concerns about the child's safety and well-being, **it is really important that you ask them the legal basis on which they are placing the child with you** as this will affect your access to support, help and finance.

## **7.2 What support can I get if I am a family and friends foster carer?**

You should be paid the same as other unrelated foster carers in the area from the moment you take on the care of the child:

- This should be guided by the national minimum fostering allowances which apply in England<sup>30</sup>

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- Children’s services should not pay you less simply because you are a family member<sup>31</sup>
- The financial support you receive should be set out in the child’s placement plan<sup>32</sup>
- You are entitled to other support to meet the child’s needs for example help with contact or managing behavioural difficulties.

## **8. Help with education (in England)**

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### **8.1 Help in school**

Children who are looked after (including in family and friends foster care) or who are ‘previously looked after’ children can get extra help with school admissions and within the school setting<sup>33</sup>.

A ‘previously looked after’ child is one who has left care either:

- Under an adoption, special guardianship or child arrangements order, or
- Were adopted from ‘state care’ outside England and Wales.

#### **8.1.1 Looked after children**

- All looked after children must be given priority admission to a school of their carer’s choice<sup>34</sup>
- Local authorities have a duty to promote the child’s educational achievement, wherever they live or are educated<sup>35</sup>
- Every local authority is required to appoint a Virtual School Head (VSH), who is responsible for carrying out that duty
- Governors of schools and the proprietors of Academies must designate a member of staff (the designated teacher) as having the responsibility to promote the educational achievement of looked-after children, including those aged between 16 and 18 who are registered pupils at the school<sup>36</sup>
- All looked after children should have a Personal Education Plan (PEP) which is part of their care plan. The PEP must include the contact details of the VSH for the authority that looks after the child.

#### **8.1.2 Previously looked after children**

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- All previously looked after children must be given priority admission to a school of their carers choice
- Local authorities have a duty to promote the educational achievement of previously looked-after children in their area by providing information and advice to:
  - any person that has parental responsibility for the child;
  - providers of funded early years education, designated teachers for previously looked-after children in maintained schools and academies; and
  - any other person the authority considers appropriate for promoting the educational achievement of relevant children.
- The VSH is responsible for carrying out that duty on behalf of the local authority.
- Governors of schools and the proprietors of Academies must designate a member of staff (the designated teacher) to have responsibility for promoting the educational achievement of previously looked-after pupils<sup>37</sup>

For further information see government guidance 'Promoting the education of looked after children and previously looked after children.'

<https://www.gov.uk/government/publications/promoting-the-education-of-looked-after-children>

## **8.2 Bursary scheme for further education**

There is a 'bursary' scheme for 16-19 year olds who stay on in further education after GCSEs.

- If the child you are caring for is not looked after, you can apply to the young person's school or college for the bursary. It is administered by schools and colleges on a discretionary basis for students in non-advanced education (i.e. below degree level).
- Some children are entitled to a vulnerable student to bursary payment of up to £1200 per year. Your child will be entitled to this if they are:
  - Aged 16-17 and looked after or

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- Aged 18-19 and a care leaver or
- In receipt of income support or universal credit in their own name or
- In receipt of disability living allowance in their own name and either employment support allowance (ESA), or universal credit
- In receipt of personal independence payment in their own name and either ESA or universal credit.
- They may get the full amount if they have expenses and study full-time on a course of at least 30 weeks.
- They will usually get less than the full amount, or no bursary, if one of the following apply:
  - Their course is shorter than 30 weeks
  - They study part time
  - They have few expenses

See <https://www.gov.uk/1619-bursary-fund> for more information.

### **8.3 What help is available for university/higher education?**

Please note that the following advice applies to students going to university or higher education in England. Different rules apply for Scotland, Wales and Northern Ireland.

- A student applying for university financial support is assessed on the basis of their own and their parents' household income<sup>38</sup>
- A parent is defined as a natural or adoptive parent, so it does not include any other type of carer. This means that your household income should not be taken into account unless you are also the child's natural or adoptive parent
- The young person will still be financially assessed on the basis of their parent's household income, even if they do not live with them, unless they are classed as an independent student.
- If the student is an independent student they will be financially assessed on their own income. The young person is treated as 'independent' where<sup>39</sup>
  - the young person is estranged from their parents, or
  - the young person's parents have both died, or

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- the young person was looked after by children's services for 3 months ending on or after their 16th birthday and before the first day of their further education course.
- The 'independent student' category is decided on a case-by-case basis, depending on the particular circumstances of that family.
- Usually a young person will not be considered estranged from their parents unless they have had no contact for more than one year, or can show in some other way that their relationship with their parents has broken down irreconcilably.

Further information can be found at [www.gov.uk/browse/education](http://www.gov.uk/browse/education), and from Student Finance England, details in section 9 of this advice sheet. You can also get additional advice from the educational body the young person is applying to.

### **8.3 Support from children's services for further/higher education**

A young person aged between 16-21 who

- was previously looked after in foster care or,
- was cared for under a special guardianship order and was looked after by children's services before the order was made

has a right to advice and assistance from children's services (which last looked after them) to make their own arrangements when moving into independent living. This includes advising and befriending, financial support and vacation accommodation for the young person if they are under 25 and are in full time education.

## **9. Where to get further information**

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**Citizens Advice** is an independent organisation providing free, confidential and impartial advice. Their goal is to help everyone find a way forward, whatever problem they face. This may be money, benefits, housing or employment problems. You may be facing a crisis, or just considering your options. Online advice is available on the

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Citizens Advice website. They also have a national phone service called Adviceline. This is available in Wales for people who live or work there and is being rolled out in England:

- For England telephone: 03444 111 444
- For Wales telephone: 03444 77 2020
- TextRelay users should telephone: 03444 111 445
- Website: [citizensadvice.org.uk](http://citizensadvice.org.uk)

**Civil Legal Advice** A free and confidential advice service run on behalf of the government. It provides information directly to the public on a range of common legal issues; helps people find out if they are eligible for free legal advice from a solicitor; and helps them find a solicitor. It can also help you find legal advisors and find out if you are eligible for publicly funded free legal help. Check to see if you're eligible for advice on [www.gov.uk/check-legal-aid](http://www.gov.uk/check-legal-aid) or apply online:

- Telephone: 0345 345 4345 Mondays to Friday, 9am to 8pm and Saturday 9am to 12.30pm
- Minicom: 0345 609 6677
- Text 'legalaid' and your name to 80010 to ask CLA to call you back. This costs the same as a normal text message.
- Website: [gov.uk/civil-legal-advice](http://gov.uk/civil-legal-advice)

**Coram Children's Legal Centre** provides independent legal advice to children, parents, carers and professionals. Its Child Law Advice Service provides legal advice and information on areas of child, family and education law. To access this advice and information please visit [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) and follow the link to the Child Law Advice Service where you will be able to view a range of factsheets and 'how to' guides. Should you have clarifying questions following your visit to their website, their helpline number is available at the end of each factsheet. The helpline is available Monday to Friday 8am to 6pm.

**Family Rights Group** is an organisation which provides free telephone and email advice to family members who are involved with Children's Services about the care and protection of their children.

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- Contact FRG's advice line for specific advice about your case on 0808 801 0366. It is open Monday-Friday 9.30am-3pm.
- You can also visit [http://www.frg.org.uk/advice\\_sheets.html](http://www.frg.org.uk/advice_sheets.html) where you can download other relevant advice sheets.
- Join the FRG parents' or family and friends carers' discussion boards.

**Fostering Network** is an organisation which provides advice to foster carers who are approved by Children's Services. They produce detailed pamphlets on benefits and tax as it affects foster carers:

- Telephone information line: 0207 261 1884
- Website: [www.fostering.net](http://www.fostering.net).

**Shelter** helps people struggling with bad housing or homelessness. They provide advice, support and legal services.

Online advice is available at [https://england.shelter.org.uk/get\\_help](https://england.shelter.org.uk/get_help)

Telephone 0808 8004444 (if you can't find what you are looking for online)

- 8am - 8pm on weekdays
- 9am - 5pm on weekends

### **Specialist child welfare solicitor:**

To find a solicitor who specialises in childcare law, you can contact:

1. Solicitors Regulation Authority, Ipsley Court, Redditch, Worcestershire B98 0TD  
Telephone: 0870 606 2555 <http://www.sra.org.uk/consumers/find-use-instruct-solicitor.page>;
2. The Law Society of England and Wales, 113 Chancery Lane, London WC2A 1PL  
Tel: 020 7242 1222 Minicom: 0870 600 1560 Fax: 020 7831 0344  
E-mail: [info.services@lawsociety.org.uk](mailto:info.services@lawsociety.org.uk) [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

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***You can search their website for details of local solicitors who are members of the Children Panel:***

<http://www.lawsociety.org.uk/choosingandusing/findasolicitor.law>

3. Civil Legal Advice (CLA) See details above.
4. Citizens Advice may be able to recommend a local solicitor specialising in child care law. Citizens Advice is an independent organisation providing free, confidential and impartial advice on all subjects to anyone. The address and telephone number of your local CAB can be found in the telephone directory. There is also advice on line on their website.  
Website [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)  
Advice on line Website [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**Student Finance England** provides information on finance available for students going to university or higher education in England can be found at the following website: [www.studentfinanceengland.co.uk](http://www.studentfinanceengland.co.uk)

## **10. Benefit enquiry lines:**

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### Child Benefit

PO Box 1, Newcastle-upon Tyne, NE88 1AA

Tel : 0300 200 3100

[www.gov.uk/browse/benefits/child](http://www.gov.uk/browse/benefits/child)

Working Tax Credit/Child Tax Credit: Tel 0345 300 3900

Child Maintenance Service and Child Support Agency Tel: 0345 7133 133

Disability Living Allowance Tel: 0345 605 6055

Personal Independence Payment: Tel - 0345 850 3322

Universal Credit Helpline : Tel 0345 600 0723

"Entitled To": Calculator to help you work out your entitlement to benefits and tax credits  
- [www.entitledto.co.uk/benefits-calculator](http://www.entitledto.co.uk/benefits-calculator)

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## 11. References

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<b>ACA</b>	Adoption and Children Act 2002 <a href="http://www.legislation.gov.uk/ukpga/2002/38/contents">http://www.legislation.gov.uk/ukpga/2002/38/contents</a>
<b>ASS(LA)(E)R</b>	The Adoption Support Services (Local Authorities) (England) Regulations 2003 SI 1348 <a href="http://www.legislation.gov.uk/uksi/2003/1348/body/made">http://www.legislation.gov.uk/uksi/2003/1348/body/made</a>
<b>ASS(LA)(W)R</b>	The Adoption Support Services (Local Authorities) (Wales) Regulations 2004 WSI 1011 <a href="http://www.legislation.gov.uk/wsi/2005/1512/contents/made">http://www.legislation.gov.uk/wsi/2005/1512/contents/made</a>
<b>CA</b>	Children Act 1989 <a href="http://www.legislation.gov.uk/ukpga/1989/41/contents">http://www.legislation.gov.uk/ukpga/1989/41/contents</a>
<b>CBA</b>	Child Benefit Act 2005 <a href="#">Child Benefit Act 2005</a>
<b>CBR</b>	The Child Benefit (General) Regulations 2006 SI 223 <a href="http://www.legislation.gov.uk/uksi/2006/223/contents/made">http://www.legislation.gov.uk/uksi/2006/223/contents/made</a>
<b>ChA</b>	Childcare Act 2006 <a href="http://www.legislation.gov.uk/ukpga/2006/21/contents">http://www.legislation.gov.uk/ukpga/2006/21/contents</a>
<b>CPPCRR</b>	Care Planning, Placement and Case Review Regulations 2010 <a href="http://www.legislation.gov.uk/uksi/2010/959/contents/made">http://www.legislation.gov.uk/uksi/2010/959/contents/made</a>
<b>CTBR</b>	The Council Tax Benefit Regulations 2006 SI 215 <a href="http://www.legislation.gov.uk/uksi/2006/215/contents/made">http://www.legislation.gov.uk/uksi/2006/215/contents/made</a>
<b>CT(PC)BR</b>	The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 SI 216 <a href="http://www.legislation.gov.uk/uksi/2006/216/contents/made">http://www.legislation.gov.uk/uksi/2006/216/contents/made</a>
<b>CTCR</b>	The Child Tax Credit Regulations 2002 SI 2007 <a href="http://www.hmrc.gov.uk/manuals/tctmanual/attachments/tctm11000_daci_reg.pdf">http://www.hmrc.gov.uk/manuals/tctmanual/attachments/tctm11000_daci_reg.pdf</a>

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<b>CTFA</b>	The Child Trust Fund Act 2004 <a href="http://www.legislation.gov.uk/ukpga/2004/6/contents">http://www.legislation.gov.uk/ukpga/2004/6/contents</a>
<b>CYPA</b>	Children and Young Persons Act 2008 <a href="http://www.legislation.gov.uk/ukpga/2008/23/contents">http://www.legislation.gov.uk/ukpga/2008/23/contents</a>
<b>ERA</b>	The Employment Rights Act 1996 <a href="http://www.legislation.gov.uk/ukpga/1996/18/contents">http://www.legislation.gov.uk/ukpga/1996/18/contents</a>
<b>ESAR</b>	The Employment and Support Allowance Regulations 2008 SI 794 <a href="http://www.legislation.gov.uk/uksi/2008/794/contents/made">http://www.legislation.gov.uk/uksi/2008/794/contents/made</a>
<b>Framework</b>	Framework for Assessment of Children in Need and their Families, Department of Health, 2000 <a href="http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4003256">http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4003256</a> ,
<b>FSR</b>	The Foster Services Regulations, 2011 <a href="http://www.legislation.gov.uk/uksi/2011/581/contents/made">http://www.legislation.gov.uk/uksi/2011/581/contents/made</a>
<b>FFSG</b>	Statutory Guidance: Family and Friends Care 2010 <a href="https://www.education.gov.uk/publications/eOrderingDownload/Family%20and%20Friends%20Care.pdf">https://www.education.gov.uk/publications/eOrderingDownload/Family%20and%20Friends%20Care.pdf</a>
<b>GAR</b>	The Guardian's Allowance (General) Regulations 2003 SI 495 <a href="http://www.legislation.gov.uk/uksi/2003/495/made">http://www.legislation.gov.uk/uksi/2003/495/made</a>
<b>G &amp; R</b>	Children Act 1989, Guidance and Regulations, 2010 Department of Education <a href="https://www.education.gov.uk/publications/standard/Childrenandfamilies/Page1">https://www.education.gov.uk/publications/standard/Childrenandfamilies/Page1</a>
<b>HBR</b>	The Housing Benefit Regulations 2006 SI 213 <a href="http://www.legislation.gov.uk/uksi/2006/213/contents/made">http://www.legislation.gov.uk/uksi/2006/213/contents/made</a>
<b>HB(PC)R</b>	The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 SI 214 <a href="http://www.legislation.gov.uk/uksi/2006/214/contents/made">http://www.legislation.gov.uk/uksi/2006/214/contents/made</a>
<b>HRA</b>	Human Rights Act 1998 <a href="http://www.legislation.gov.uk/ukpga/1998/42/contents">http://www.legislation.gov.uk/ukpga/1998/42/contents</a>
<b>ISR</b>	The Income Support (General) Regulations 1987 SI 1967 <a href="http://www.legislation.gov.uk/uksi/1987/1967/contents/made">http://www.legislation.gov.uk/uksi/1987/1967/contents/made</a>
<b>JSAR</b>	The Jobseeker's Allowance (General) Regulations 1996 SI 207 <a href="http://www.legislation.gov.uk/uksi/1996/207/contents/made">http://www.legislation.gov.uk/uksi/1996/207/contents/made</a>
<b>LA(EY)R</b>	Children's Services (Duty to Secure Early Years Provision Free of Charge) Regulations 2008 SI 1724 <a href="http://lexisweb.co.uk/si/2008/1701-1800/local-authority-duty-to-secure-early-years-provision-free-of-charge-regulations-2008">http://lexisweb.co.uk/si/2008/1701-1800/local-authority-duty-to-secure-early-years-provision-free-of-charge-regulations-2008</a>
<b>LASSA</b>	Local authority Social Services Act 1970 <a href="http://www.legislation.gov.uk/ukpga/1970/42">http://www.legislation.gov.uk/ukpga/1970/42</a>
<b>PALR</b>	The Paternity and Adoption Leave Regulations 2002 SI 2788 <a href="http://www.legislation.gov.uk/uksi/2002/2788/contents/made">http://www.legislation.gov.uk/uksi/2002/2788/contents/made</a>
<b>SFMFER</b>	The Social Fund Maternity and Funeral Expenses (General) Regulations 2005 SI 3061 <a href="http://www.legislation.gov.uk/uksi/2005/3061/contents/made">http://www.legislation.gov.uk/uksi/2005/3061/contents/made</a>
<b>SGR</b>	Special Guardianship Regulations 2005 <a href="http://www.legislation.gov.uk/uksi/2005/1109/contents/made">http://www.legislation.gov.uk/uksi/2005/1109/contents/made</a>
<b>SSCBA</b>	Social Security Contributions and Benefits Act 1992 <a href="http://www.legislation.gov.uk/ukpga/1992/4/contents/enacted">http://www.legislation.gov.uk/ukpga/1992/4/contents/enacted</a>

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<b>SSB(CE)R</b>	The Social Security Benefit (Computation of Earnings) Regulations 1996 SI 2745 <a href="http://www.legislation.gov.uk/uksi/1996/2745/contents/made">http://www.legislation.gov.uk/uksi/1996/2745/contents/made</a>
<b>TCA</b>	The Tax Credits Act 2002 <a href="http://www.hmrc.gov.uk/manuals/tctmanual/attachments/tctm11000thetaxcreditact2002.pdf">http://www.hmrc.gov.uk/manuals/tctmanual/attachments/tctm11000thetaxcreditact2002.pdf</a>
<b>TC(DCI)R</b>	The Tax Credits (Definition and Calculation of Income) Regulations 2002 SI 2006 <a href="http://www.legislation.gov.uk/uksi/2002/2006/contents/made">http://www.legislation.gov.uk/uksi/2002/2006/contents/made</a>
<b>WT</b>	Working Together to Safeguard Children, 2018 HM Government <a href="https://www.gov.uk/government/publications/working-together-to-safeguard-children--2">https://www.gov.uk/government/publications/working-together-to-safeguard-children--2</a>
<b>WTC(EMR)R</b>	The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 SI 2005 <a href="http://www.legislation.gov.uk/uksi/2002/2005/contents/made">http://www.legislation.gov.uk/uksi/2002/2005/contents/made</a>

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## Appendix 1 : Sources of support for relatives and friends caring for a child from Children’s Services according to the child’s legal status

	Private arrangements (no order; parents have PR)	Testamentary Guardian	Child arrangement order (Residence Order)	Special Guardianship Order	Child is looked after by local authority
<b>Help from parents</b>	Yes	Yes in respect of any parent who is alive	Yes	Yes	Yes but the foster carer is paid by Children’s Services and Children’s Services may make a claim against the parent
<b>Help from Children’ Services</b>	Where child is assessed as being in need, support provided under s.17 and Part III Children Act 1989. Ongoing financial support and legal costs can be paid under s.17 (6).	Where child is assessed as being in need, support provided under s.17 and part III Children Act 1989. Ongoing financial support and legal costs can be paid under s.17 (6).	Where child is assessed as being in need, support provided under s.17 and Part III Children Act 1989. Ongoing financial support and legal costs can be paid under s.17 (6). Also children’s services may pay a means tested allowance but they don’t have to.	Where child is assessed as being in need, support provided under s.17 and Part III Children Act 1989. Ongoing financial support and legal costs can be paid under s.17 (6). In addition local authority may provide special guardianship support services including means tested financial support (Special Guardianship Allowance)	If the child is looked after by agreement with the parents or under a care or emergency protection order, and placed with a relative who is assessed/approved as a foster carer, s/he will be entitled to be paid a fostering allowance and to receive other practical support equal to that provided to unrelated foster carers.

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<sup>1</sup> s.1 CSA 1991

<sup>2</sup> The Maternity and Parental Leave Regulations 1999, reg 13

<sup>3</sup> Maternity and Parental Leave etc. Regulations 1999 reg 14(1)

<sup>4</sup> Maternity and Parental Leave Regulations 1999 Sch 2

<sup>5</sup> Working together 2018 Ch 1 para 7-10

<sup>6</sup> DfE, Statutory Guidance on Family and Friends Care, 2011,

<http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/Family%20and%20Friends%20Care.pdf>

<sup>7</sup> paras 2.12, 4.2 & 4.6 FFSG

<sup>8</sup> Chapter 5 FFSG

<sup>9</sup> S 17 CA89

<sup>10</sup> Ch 1 para 16 Working Together to Safeguard Children 2018

<sup>11</sup> Para 3.6 FFSG

<sup>12</sup> Para 3.6 FFSG

<sup>13</sup> s.17(6) CA

<sup>14</sup> Para 3.7 FFSG

<sup>15</sup> Working Together to Safeguard Children 2018 Ch 1 para 38

<sup>16</sup> Sch 1 para 15 CA

<sup>17</sup> R (H) v Essex CC(2009) 2 FLR 91; EWHC 353 (Admin)

<sup>18</sup> You could argue that the ruling in B v. LB Lewisham (2008) EWHC 738 (Admin), [2008] 2 FLR 523, at paragraph 57 should be followed. See also Ombudsman's Report, 2013, Family Values (p.11)<http://www.lgo.org.uk/news/2013/nov/family-friends-foster-carers-being-treated-unfairly-says-ombudsman/>

<sup>19</sup> Regs 3 and 13 SGR

<sup>20</sup> Guidance para 65 and R(B)v Lewisham LBC (2008) EWHC 738 and

<sup>21</sup> Regs 3 and Guidance para 24

<sup>22</sup> s.24 (1)A CA and Regulation 22. See also Advice sheet 21A (addendum)

<sup>23</sup> LGO report no 12006209 at . <http://www.lgo.org.uk/information-centre/news/2013/aug/liverpool-city-council-fails-to-give-adequate-support-to-340-carers>

<sup>24</sup> s.14F and Regulation 11 SGR

<sup>25</sup> s.14F and Regulation 11 SGR

<sup>26</sup> s.14F and Regulation 11 SGR

<sup>27</sup> Ch 1 para 39 Working Together to Safeguard Children 2018

<sup>28</sup> Regulation 14 and 15 SGR

<sup>29</sup> s. 14F(5) CA and Regulation 15 SGR

<sup>30</sup> <http://www.education.gov.uk/childrenandyoungpeople/families/fostercare/b0071246/infoforcarers/nma>

<sup>31</sup> s.22B & s.22C (10) CA (as amended by CYP(A)). Manchester City Council – V – F(2002) 1FLR 43; R (on the application of X) v London Borough of Tower Hamlets [2013] EWHC 480 (Admin)

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<sup>32</sup> Reg 9 and sched 2 CPPCRR

<sup>33</sup> CA89 s23ZZA

<sup>34</sup> School Admissions Code

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/389388/School\\_Admissions\\_Code\\_2014\\_-\\_19\\_Dec.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)

<sup>35</sup> CA89 s22(3A)

<sup>36</sup> Section 20 Children and Young Persons Act 2008 and statutory guidance at <https://www.gov.uk/government/publications/designated-teacher-for-looked-after-children>

<sup>37</sup> Section 20A Children and Young Persons Act 2008

<sup>38</sup> The Education (Student Support) Regulations 2011 (for those starting education after Sept 2012) sch 4 para 3

<sup>39</sup> ESSR 2011 Sch4 para2

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