

# CHILDREN'S SERVICES PORTFOLIO DECISION SCHEDULE



Friday 25 August 2006

at 3.00pm

in Committee Room "A"

Councillor Hargreaves, Cabinet Member responsible for Children's Services will consider the following items.

1. **KEY DECISIONS**

None.

2. **ITEMS REQUIRING DECISION**

- 2.1 Variation to an Instrument of Government - *Director of Children's Services*
- 2.2 Extension of Long Term Absence Cover - *Director of Children's Services*
- 2.3 Appointment of Local Authority Representative to serve on a School Governing Body - *Director of Children's Services*
- 2.4 Special Guardianship – Financial Support Scheme - *Director of Children's Services*

3. **REPORTS FROM OVERVIEW OF SCRUTINY FORUMS**

None

## **CHILDREN'S SERVICES PORTFOLIO**

Report to Portfolio Holder

25<sup>th</sup> August 2006



**Report of:** Director of Children's Services

**Subject:** TO APPROVE A VARIATION TO AN  
INSTRUMENT OF GOVERNMENT

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### **SUMMARY**

#### **1. PURPOSE OF REPORT**

To request the Portfolio Holder for Children's Services to approve a variation to the Instrument of Government of a community school.

#### **2. SUMMARY OF CONTENTS**

The report sets out the background to Varying Instruments of Government for community schools.

#### **3. RELEVANCE TO PORTFOLIO MEMBER**

The Portfolio Holder is responsible for all education and childcare matters.

#### **4. TYPE OF DECISION**

Non-key decision.

#### **5. DECISION MAKING ROUTE**

The meeting of the Portfolio Holder for Children's Services, 25<sup>th</sup> August 2006.

#### **6. DECISION(S) REQUIRED**

The Portfolio Holder is requested to approve the variation to Instrument of Government

**Report of:** Director of Children's Services

**Subject:** TO APPROVE A VARIATION TO AN  
INSTRUMENT OF GOVERNMENT

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**1. PURPOSE OF REPORT**

To seek approval to a variation to an Instrument of Government as attached at **Appendix 1**.

**2. BACKGROUND**

In accordance with the Schools Governance (Constitution) (England) Regulations 2003, all Governing Bodies were required to choose and adopt a new model for the size and membership of their governing body by 31<sup>st</sup> August 2006.

During the Spring term 2004 and 2005 a number of governing bodies of community schools considered and agreed to adopt a new constitutional model for their governing body by drawing up a new Instrument of Government for their school, based on guiding principles as set out in the regulations. These prescribe what categories of governors must be represented on the governing body and what the level of representation is for each of the categories.

The governing body set out in **Appendix 1** had agreed and adopted a new constitutional model for their school under the School Governance (Constitution) (England) Regulations 2003 in September 2004 and agreed to vary the model in the Summer 2005 which was approved by the Portfolio holder at their meeting on 11<sup>th</sup> July 2005.

The Governing Body of Manor College of Technology proposes to change one of the sponsor governors set out in the Instrument of Government.

The Governing Body has agreed to change the name of one of the two Sponsor Governors named in the Instrument of Government from PX (TPP) to British Energy.

**3. RECOMMENDATIONS**

That the Portfolio Holder approve the variation to Instrument of Government as attached at **Appendix 1** as outlined in this report.

**4. CONTACT OFFICER**

Ann Turner, Governor Support Officer.



## INSTRUMENT OF GOVERNMENT

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1. The name of the school is: Manor College of Technology
2. The school is a community school
3. The name of the governing body is "The governing body of Manor College of Technology"
4. The governing body shall consist of:
  - a. 7 parent governors;
  - b. 4 LA governors;
  - c. 4 staff governors;
  - d. 5 community governors
  - e. 2 sponsor governors
5. Total number of governors 22
6. The sponsors who are entitled to nominate 2 persons for appointment as sponsor governors under schedule 5 of the Regulations are British Energy and Siemens.
7. This instrument of government comes into effect on 1<sup>st</sup> September, 2006.
8. This instrument was made by order of Hartlepool Local Authority on
9. A copy of the instrument must be supplied to every member of the governing body (and the headteacher if not a governor).

## **CHILDREN'S SERVICES PORTFOLIO**

Report to Portfolio Holder

25<sup>th</sup> August 2006



**Report of:** Director of Children's Services

**Subject:** EXTENSION OF LONG TERM ABSENCE  
COVER

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### **SUMMARY**

#### **1. PURPOSE OF REPORT**

To provide the Portfolio Holder with details of the current BEST long term absence scheme for schools and to request approval of an extension to the current contract until 31<sup>st</sup> March 2009.

#### **2. SUMMARY OF CONTENTS**

Background to the current contract, consultation with schools regarding renewal of the contract and a recommendation to approve the extension of the current BEST contract to 31<sup>st</sup> March 2009.

#### **3. RELEVANCE TO PORTFOLIO MEMBER**

The Portfolio Holder is responsible for all education and childcare matters.

#### **4. TYPE OF DECISION**

Non key decision.

#### **5. DECISION MAKING ROUTE**

Children's Services Portfolio Holder meeting on 25<sup>th</sup> August 2006.

#### **6. DECISION(S) REQUIRED**

The Portfolio Holder approves the extension of the current BEST contract to 31<sup>st</sup> March 2009.

**Report of:** Director of Children's Services

**Subject:** EXTENSION OF LONG TERM ABSENCE  
COVER

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**1. PURPOSE OF REPORT**

To provide the Portfolio Holder with details of the current BEST long term absence scheme for schools and to request approval of an extension to the current contract until 31<sup>st</sup> March 2009.

**2. BACKGROUND**

In 1999, the Authority took out a three-year contract with BEST Underwriting Ltd (BEST), now part of the Capita Group, to act as the Authority's preferred supplier of long term absence insurance for schools. After a tendering exercise, the contract was subsequently renewed for a further three year period in 2002. The contract was then extended, with Portfolio Holder approval, for a further two years. This contract will end in March 2007.

The long term absence scheme allows for a flexible policy designed to meet individual schools needs, covering both teachers and support staff. Schools can also take out maternity cover and can make claims for jury service and paternity leave.

The scheme is administered by the Children's Services Department Finance team, for which commission is received. This provides schools with a local point of contact with experience of the scheme to process claims, deal with queries and assist with renewals. Schools who do not wish to take out insurance from BEST are able to choose from one of the other suppliers in this market, thus fulfilling Best Value requirements.

**3. CURRENT CONTRACT**

The current contract ends in March 2007 with 25 schools covered by a BEST insurance policy. The Authority has been offered the opportunity to extend the contract for up to 2 years.

The benefits to schools would be continuation of existing cover and stability for schools already taking up insurance cover with BEST, with no requirements for schools to provide staffing information other than that normally requested by the company. A new supplier would not cover pre-existing medical conditions and a new set of staffing information and claims history would have to be provided to a new company. Maternity cover would

also be subject to a delay to avoid schools making claims for maternity already known at the commencement of the policy.

The Children's Services Finance team contacted all schools currently insured by BEST to seek their opinion on extending the contract period by a further two years.

Responses from 22 schools were received, with 20 schools agreeing to extend the Authority's contract and 2 schools willing to take up the option preferred by the majority.

#### **4. CONCLUSIONS**

Feedback from schools consulted as part of this exercise suggests that the BEST long term absence insurance scheme provides schools with a very good service and demonstrates value for money.

The extension of the contract will allow schools to have continuous cover for staff where a medical condition has occurred. A new company will view these conditions as pre-existing and, therefore, will not provide comparable cover to the BEST scheme.

Commission will continue to be received by the Authority for providing the administrative support and the point of contact.

#### **5. RECOMMENDATIONS**

The Portfolio Holder approves the extension of the current BEST contract to 31<sup>st</sup> March 2009.

**Contact Officer: Alan Voyzey, Interim Head of Finance**

## **CHILDREN'S SERVICES PORTFOLIO**

Report To Portfolio Holder

25<sup>th</sup> August 2006



**Report of:** Director of Children's Services

**Subject:** APPOINTMENT OF LOCAL AUTHORITY  
REPRESENTATIVES TO SERVE ON A  
SCHOOL GOVERNING BODY

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### **SUMMARY**

#### **1.0 PURPOSE OF REPORT**

To request the Portfolio Holder for Children's Services consideration and approval of the recommendation of the General Purposes Committee, in respect of the appointment of a Local Authority representative Governor, to serve on the Governing Body at Ward Jackson Primary School.

#### **2.0 SUMMARY OF CONTENTS**

The report summarises the process for inviting applications for representative governors and the criteria for their selection.

#### **3.0 RELEVANCE TO PORTFOLIO MEMBER**

It is the responsibility of the Portfolio Holder to decide the appointment of Local Authority representative school governors following advice from the General Purposes Sub Committee.

#### **4.0 TYPE OF DECISION**

Non-key decision.

#### **5.0 DECISION MAKING ROUTE**

Portfolio Holder's meeting on 25<sup>th</sup> August 2006.

#### **6.0 DECISION(S) REQUIRED**

Approval by the Portfolio Holder of the recommendation of the General Purposes Committee, in respect of the appointment of a representative Governor to serve on the Governing Body of Ward Jackson Primary School where a vacancy exists.



**Report of:** Director of Children's Services

**Subject:** APPOINTMENT OF LOCAL AUTHORITY  
REPRESENTATIVE TO SERVE ON A SCHOOL  
GOVERNING BODY

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## **1. PURPOSE OF REPORT**

To request the Portfolio Holder for Children's Services consideration and approval of the recommendations of the General Purposes Committee, in respect of the appointment of a Local Authority representative Governor, to serve on the Governing Body of Ward Jackson Primary School where a vacancy currently exists.

## **2. BACKGROUND**

Applications are invited from members of the general public, elected members and those governors whose term of office is about to expire or have expired who are interested in serving or wish to continue serving as a Local Authority representative governor on school governing bodies.

The following criteria were agreed by the Borough Council for the recruitment of Local Education Authority representative governors in 2000.

Local Authority governors should be able to show:

- Demonstrable interest in and commitment to education;
- A desire to support the school concerned;
- A commitment to attend regular meetings of the governing body (and committees as appropriate) and school functions generally;
- Good communication/interpersonal skills;
- Ability to work as part of a team;
- A clearly expressed willingness to participate in the governor training programme.

A schedule setting out details of vacancies together with applications received in respect of the vacancies was considered by members of the General Purposes Sub Committee at their meeting held on 31 July 2006 (Appendix 1).

## **3. RECOMMENDATION**

The Portfolio Holder for Children's Services approves the recommendation of the General Purposes Committee in respect of the appointment of a Local Authority representative governor to serve on the Governing Body of Ward Jackson Primary School. A schedule outlining recommendations of the General Purposes Sub Committee is attached at **Appendix 1**.

**Contact Officer: Ann Turner, Governor Support Officer**



**VACANCIES FOR  
LOCAL AUTHORITY REPRESENTATIVES  
AUGUST, 2006**

**Contact Officer: Ann Turner  
Tel. 523766**

**Children's Services Department**

## VACANCIES FOR LOCAL AUTHORITY REPRESENTATIVES ON GOVERNING BODIES

SCHOOL INCLUDING LA GOVERNORS	VACANCIES	POSSIBLE INTEREST	RECOMMENDED FOR APPOINTMENT
<b>Barnard Grove Primary School</b>	Vacancy	No interest expressed	Defer
Mr. J. M. Kay			
Mrs D. Stonehouse			
Vacancy (Since September, 2004)			
<b>Brougham Primary School</b>			
Mrs J. Thompson	Mr. R. Atkinson	No interest expressed	Defer
Mr. R. Atkinson	Term of office expires 31.8.06		
Mr. A. Walker			
<b>Catcote School</b>			
Mrs I. Hodgman	Mr. J. Proud	No interest expressed	Defer
Dr. M Banim	Term of office expires 31.8.06		
Mr. J. Proud			
<b>Grange Primary School</b>			
Mrs J. Hamilton	Mrs. Hamilton term of office expires	No interest expressed	Defer
Mr. H. D. Smith	31.8.06		
Mr. R. Flintoff			
<b>Hart Primary School</b>			
Mrs D. Adamson	Mr. W. Knowles – term of office expires	No interest expressed	Defer
Mr. W. Knowles	31.8.06		
<b>Jesmond Road Primary School</b>			
Councillor Mrs J. Shaw	Vacancy Vice	No interest expressed	Defer
Mrs D. Adamson	Mr. R. Addison		
Mr. M. H. Ward			
Vacancy			

## 23 APPENDIX 1

SCHOOL INCLUDING LA GOVERNORS	VACANCIES	POSSIBLE INTEREST	RECOMMENDED FOR APPOINTMENT
<b>Manor College of Technology</b>			
Councillor A. Preece	Mrs. J. Hamilton – term of office	No interest expressed	Defer
Mrs E. Blakey	expires 31.8.06		
Mrs J. Hamilton			
Mr. F. Reid			
<b>Rift House Primary School</b>			
Mrs M. Coser	Mrs M Coser and Mr J Proud	No interest expressed	Defer
Councillor D. Young	terms of office expire 31.8.06		
Mr. J. Proud			
<b>Rossmere Primary School</b>			
Mrs D. Stonehouse	Vacancy Vice	No interest expressed	Defer
Mrs M. Smith	Mrs. L. Hodgson		
Vacancy			
<b>Springwell School</b>			
Mrs E. Parkinson	Vacancy Vice	No interest expressed	Defer
Vacancy	Mr. C. Rowntree		
<b>St. Joseph's R.C. Primary School</b>			
Mrs J. Ganzerla	Mrs. J. Ganzerla – term of office expires	No interest expressed	Defer
	31.8.06		
<b>Throston Primary School</b>			
Councillor H. Clouth	Vacancy Vice	No interest expressed	Defer
Miss J. Norman	Councillor P. Jackson		
	Removed non-attendance		
<b>Ward Jackson Primary School</b>	One vacancy only		
Mr. M. Ruddock	Mr. M. Ruddock – term of office expires	Cllr J J F Brash	Cllr J J F Brash
Vacancy	31.8.06		
Vacancy			

## **CHILDREN'S SERVICES PORTFOLIO**

Report to Portfolio Holder

25 August 2006



**Report of:** Director of Children's Services

**Subject:** SPECIAL GUARDIANSHIP – FINANCIAL  
SUPPORT SCHEME

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### **SUMMARY**

#### **1.0 PURPOSE OF REPORT**

To seek approval for a scheme of financial support in respect of Special Guardianship Orders in keeping with the Children Act 1989 and associated Regulations and Guidance.

#### **2.0 SUMMARY OF CONTENTS**

Under the Adoption & Children Act 2002, amendments have been made to the Children Act 1989 and associated Regulations, to introduce a new legal status called Special Guardianship. This report describes the proposed scheme of financial support that should be available to special guardians or prospective special guardians.

#### **3.0 RELEVANCE TO PORTFOLIO MEMBER**

The Department is proposing a scheme of financial support to be made available to private individuals and existing foster carers who obtain Special Guardianship Orders.

#### **4.0 TYPE OF DECISION**

Non-Key.

#### **5.0 DECISION MAKING ROUTE**

The Council's Chief Financial Officer has confirmed that, within the Council's Financial Regulations, this decision is appropriately made by the Portfolio Holder.

#### **6.0 DECISION(S) REQUIRED**

To approve the proposed scheme for Special Guardianship financial support.

**Report of:** DIRECTOR OF CHILDREN'S SERVICES

**Subject:** SPECIAL GUARDIANSHIP – FINANCIAL SUPPORT SCHEME

## 1. PURPOSE OF REPORT

To seek approval for the implementation of a scheme of financial support in respect of Special Guardianship Orders in keeping with and the recently amended Children Act 1989.

## 2. BACKGROUND

Following the commitment set out in the White Paper *Adoption: A new approach*, the Government via section 115(1) of the Adoption & Children Act 2002 inserted new sections 14A – 14F into the Children Act 1989. These additional sections detailed:

- Who may apply for a Special Guardianship Order
- The circumstances in which Orders may be made
- The nature and effect of Special Guardianship Orders
- Local authority support services for special guardians.

Special Guardianship Orders are intended to meet the needs of children who cannot live with their birth parents, for whom adoption is not appropriate, but who could still benefit from a legally secure placement. Research highlighted the need to provide an alternative legal status for children and young people who would benefit from a more legally robust arrangement than long-term fostering, without formally severing legal links with the birth family. Following strong support in the consultation process, the government has legislated to provide legal permanence for children for whom adoption is not appropriate, thus modernising the law and reflecting the religious and cultural needs of some minority ethnic communities.

Special Guardianship Orders will:

- Mean that the child will no longer be looked after by the local authority. The day to day care will become the legal responsibility of the carer;
- Provide an opportunity for the child and the carer to develop life-long relationship;
- Be legally secure;
- Maintain the basic link between the child and their birth family;
- Be accompanied by access to a full range of support services including (where appropriate) financial support.

Special Guardianship extends the opportunities available to children and their carers and should be considered alongside other options such as Adoption Orders and Residence Orders. The former have the effect of severing all ties with the birth family and make the child concerned a full member of their adoptive family with all the rights and privileges equivalent to a child born into that family. Adoption is irreversible. Residence Orders give day to day care and control to the carers but do not remove parental responsibility (PR) from birth parents. Residence Orders can be discharged by the Courts and the child remains a natural child of the birth family. A full comparison of Residence Orders; Special Guardianship Orders and Adoption Orders is detailed in **Appendix 1**.

### 3. IMPLICATIONS FOR THE LOCAL AUTHORITY

The Court can make a Special Guardianship Order in any family proceedings including private law applications where the Local Authority is not, and may never have been, involved with the family. This is a significant change and unlike any other existing arrangements. The effect of this new legislation is to widen the assessment responsibilities of the Local Authority to require further consideration of both the appropriateness of a Special Guardianship Order and the need for any support services, including financial support.

The Local Authority must make arrangements for the provision of a range of support services such as counselling, advice and information, to be available to meet the needs of people affected by special guardianship. These support services are defined as:

- financial support (See Section 4 below)
- services to enable groups of children for whom a special guardianship order is in force or in respect of whom is being formally considered, special guardians and prospective special guardians, and parents of the child to discuss matters relating to special guardianship;
- assistance, including mediation services, in relation to contact between the child and their parents or relatives or any other person with whom the child has a relationship that the local authority considers to be beneficial to the welfare of the child;
- therapeutic services for the child;
- assistance for the purpose of ensuring the continuance of the relationship between the child and his special guardian or prospective special guardian, including training for the special guardian or prospective special guardian to meet any specific needs of the child; respite care; and mediation in relation to matters relating to special guardianship orders.

Special guardianship support services should not be seen in isolation from mainstream services and the Local Authority should take into account similar services already being delivered such as adoption

support services. Support Services may be provided directly or commissioned from other local authorities or independent registered providers.

There is one specific group of children and young people for whom special guardianship could provide an opportunity to secure their long-term stability. These are children currently looked after by the Local Authority and matched, on a long-term basis, with their current carers. In other words, there are no plans for these children to return to their birth parents during their childhood. Special Guardianship could help secure improved outcomes for these children and has a series of associated benefits for the Local Authority. In particular Special Guardianship could:

- reduce the number of children looked after by the Local Authority;
- increase the number of looked after children placed for adoption (Special Guardianship Orders count as adoptions in respect of BVPI 163)
- reduce the overall costs of children looked after;
- limit financial liabilities in respect of Independent Fostering Agencies;
- contribute to the Council's efficiency strategy.

#### **4. FINANCIAL IMPLICATIONS**

Hartlepool is both an Adoption Agency and a Fostering Service Provider. Consequently, there are a range of services and skills available to meet the support service requirements of this legislation. However, there is currently no scheme of financial support in relation to Special Guardianship.

Currently, the Adoption Panel makes recommendations on which children should be considered for adoption; on whom should be approved as adoptive parents and on which children should be matched to which approved adoptors. As part of this process, the Adoption Panel also makes recommendation on whether an Adoption Allowance should be paid to enable specific applicants to succeed as adoptors or to meet the needs of specific children matched for adoption. These allowances are "means tested" and linked to the income of the approved adoptors.

The current position with Residence Orders is that the Fostering Panel makes recommendations on the approval of foster carers and the matching of looked after children with specific foster carers on a long-term basis. This includes recommendations on whether a Residence Order would be appropriate, together with any Residence Order Allowances to support the arrangements. Again, these allowances are "means tested". In private law applications, where the Local Authority is not involved with the family, no consideration is given to the payment of allowances, which is standard practice for Local Authorities across the country.



Regulation 6 of the Special Guardianship Regulations 2005 sets out the circumstances in which financial support may be paid to a special guardian or prospective special guardian and is attached as **Appendix 2**. This Regulation clearly implies that any payment should either be a "single", non-recurring payment to facilitate the placement of a child or linked to specific identifiable special needs, if paid on a recurring basis. Financial support cannot normally include the payment of remuneration to the special guardian or prospective special guardian for care of the child.

Regulation 7 of the Special Guardianship Regulations 2005 provides for the one exception to the payment of remuneration, which applies to approved foster carers. This regulation provides that where the special guardian or prospective special guardian previously fostered the child and they received an element of remuneration in the financial support paid to them as the child's foster parent, the Local Authority may continue to pay that element of remuneration for two years from the date of the special guardianship order. Payments can continue for longer than two years but should be reviewed no later than two years after the making of the order.

Maintaining this level of remuneration may superficially look as though it is committing the Local Authority to additional expenditure but this is not the case. Rather, the Local Authority is continuing to make fostering payments in circumstances where a special guardianship order could be made if the right incentives were available. Nowhere is this more apparent than where children have been matched to foster carers through an Independent Fostering Agency where, in addition to the weekly fostering allowance, there is also a payment to the agency. The Value for Money Audit of all such placements undertaken in January 2006, considered the position of the 10 children currently residing in matched long-term independent sector placements. If, after proper consideration, these children were made the subject of special guardianship orders and the remuneration to the foster carers maintained, the potential savings to the Council would be in the region of £180,000 in a full year.

**This item contains exempt information under Schedule 12A Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, information relating to any individual (para 1).**

**Appendix 3** sets out the current levels of remuneration available to Hartlepool Foster Carers and the cost of placements through Independent Fostering Agencies.

## 5. SPECIAL GUARDIANSHIP ARRANGEMENTS

The Special Guardianship Regulations came into force on 30 December 2005. Interim arrangements were put in place to ensure compliance with these regulations whilst further consideration was given to developing a more coherent scheme of financial support, consistent with the Council's current strategy on placements for children. Currently, the regulations are followed in respect of assessing the need for special guardianship orders in private law applications and any consideration for financial support is dealt with under Section 17 Children Act 1989, where the Local Authority has discretion, in exceptional circumstances, to make financial provision – usually a single payment for a specific purpose. For children currently looked after, there have been no applications for special guardianship orders and, pending an explicit scheme of financial support, no promotion of such orders.

The Regulations set out clearly the matters to be addressed in respect of the welfare of any child for whom special guardianship is being considered. This is similar to the considerations required when planning within care proceedings and when considering adoption as being in the child's best interests. The Local Authority has a specific requirement to consider the best outcome for looked after children and to pursue permanence and stability for children who cannot be reunited with their birth families within a meaningful timescale.

## 6. SPECIAL GUARDIANSHIP – PROPOSED FINANCIAL ALLOWANCES SCHEME

### (a) Private Law Applications

Where the Local Authority is asked to comment on the appropriateness of a special guardianship order in private law proceedings, it is proposed that consideration of support services, including financial support should be devolved to the appropriate Head of Business Unit within the Safeguarding & Specialist Services Division. This would include consideration of all the circumstances specified in Regulation 6 (**Appendix 2**). In exceptional circumstances, where the need for regular financial support is identified, this should relate directly to specific needs of the child concerned and be subject to means testing, similar to the arrangements currently used for Residence Orders. Where, following such means testing, payments are made they should be reviewed at least annually. Additional monies have been made available in the 2006/07 financial resources to meet the need for these payments.

### (b) Care & Associated Proceedings

Special Guardianship Orders are an additional order to be considered alongside the existing range of orders available in care proceedings. Where it is considered appropriate for a Special Guardianship Order to

be made it is proposed that reports should be presented to the Adoption Panel. This will enable the Panel to consider the specific circumstances of each child, the status and suitability of each carer and the appropriateness of any match. In addition, the Panel can make recommendation on the appropriateness of any support services, provided or offered, to ensure the success of the order. Where such applications are referred to the Adoption Panel from existing foster carers, it is proposed that the fostering allowance, less child benefit except where carers are in receipt of state benefits, will be automatically maintained and not subject to any means testing. Such allowances will be reviewed after two years and thereafter annually subject to Regulation 9 which provides for the formal cessation of financial support – see **Appendix 4**. As with Adoption Orders, it is proposed that the final decision will rest with the Assistant Director – Safeguarding & Specialist Services in the capacity of Adoption Agency Decision Maker.

There are a number of looked after children for whom a Special Guardianship Order could be appropriate. It is proposed that all looked after children matched long-term with their current carers should be reviewed to determine whether consideration should be given to making such an order. Where this is thought to be in the best interests of the child, discussion should take place with the foster carer to identify the need for any support services prior to and following the making of any such order. In circumstances where Special Guardianship Order applications are likely, reports should be presented to the Adoption Panel for formal consideration and subsequent recommendations. As in paragraph 6.2 above, it is proposed that the fostering allowance will be maintained and reviewed. Again, it is proposed that the final decision will rest with the Assistant Director – Safeguarding & Specialist Services in the capacity of Adoption Agency Decision Maker.

## 7. LEGAL IMPLICATIONS

The Adoption and Children Act 2002 provides the legal framework for special guardianship under the Children Act 1989. Section 115(1) of the 2002 Act inserts new sections 14A-F into the Children Act 1989. The Special Guardianship Regulations came into force on 30 December 2005 and Special Guardianship Guidance was issued under section 7 of the Local Authority Social Services Act 1970, which requires local authorities in their social services responsibilities to act under the general guidance of the Secretary of State. As such the Special Guardianship Guidance does not have the full force of statute, but should be complied with unless local circumstances indicate exceptional reasons which justify variation.

## 8. CONCLUSIONS

Special Guardianship extends the opportunities available to children and their carers and should be considered alongside other options such as Adoption Orders and Residence Orders. Special Guardianship is a new status offering children long-term security without the full effect of adoption. There are a number of children currently looked after by the Council who could well benefit from Special Guardianship but there is no financial incentive for their foster carers to make an application. The Special Guardianship Regulations permit the Council to maintain financial remuneration to existing foster carers who make an application for a Special Guardianship Order.

Unlike any existing legislation, the Local Authority has a responsibility to assess the need for Special Guardianship Orders in private law proceedings where there may never have been any involvement with the child or family previously. The Local Authority has a duty to consider whether any support services, including financial support, should be made available. This is a new responsibility with potentially increased financial risks for the Council.

## 9. RECOMMENDATIONS

In private law applications, where the Council was not party to the proceedings, it is proposed that:

- The decision to approve any support service arrangements should be delegated to the relevant Head of Business Unit in the Safeguarding & Specialist Services Division;
- That any financial support should be provided in accordance with Regulation 6 and, in exceptional circumstances, where the payment is linked to specific, special needs and on-going, “means-tested” on a similar basis to those arrangements currently in place for Residence Order allowances.

In care and associated proceedings, where the child is looked after and placed with approved foster carers, it is proposed that;

- The decision to approve an application for Special Guardianship should be delegated to the Assistant Director – Safeguarding & Specialist Services, in the capacity of Adoption Agency Decision Maker, following consideration by, and a recommendation from, the Adoption Panel;
- That where the applicant is an approved foster carer currently caring for the child, any financial allowance should be equivalent to the level of foster carer payment that the applicant is receiving or would receive if the existing fostering arrangements were to continue;

- Where this would not be financially detrimental, the remuneration should be less the equivalent child benefit rate, which carers should claim independently;
- All financial remuneration be reviewed after 2 years and, where continuing, annually thereafter.

**Contact Officer: Phillip Warrilow, Interim Assistant Director, Safeguarding & Specialist Services.**

**Background Papers:**

Adoption & Children Act 2002

Children Act 1989

Special Guardianship Regulations 2005

Special Guardianship Guidance 2005

Cabinet report 15<sup>th</sup> November 2004 – Recruitment and retention of foster carers – allowances & progression payments (carers' progression payments scheme)

## 2.4 APPENDIX 1

ISSUE	Residence Order	Special Guardianship	Adoption Order
<b>Who can apply</b>	Can be under 18.  May be a parent.	Must be over 18.  Any two or more people who do not have to be married.  Must not be a parent.	Must be over 21 (unless the birth parent in a step parent adoption who must be 18 or over).  In rare cases can be a parent e.g. unmarried father on own.
<b>PR for those to whom the order applies</b>	PR can be more equally shared  Child does not necessarily live all the time with person with RO        Acquired once the order is made	May exercise PR to the exclusion of all others with PR, apart from another SG  EXCEPTION – Person with SG order cannot agree to change the child's surname or live abroad for more than 3 months without the agreement of other people with pr, or leave of the court.  EXCEPTION – Person with SG order cannot agree to adoption. Acquired once the order is made   Acquired once the order is made	Gives absolute and exclusive PR.          Acquired when child placed by a local authority but exercise of it may be restricted prior to the adoption order
ISSUE	Residence Order	Special Guardianship	Adoption Order
<b>Does local authority hold PR?</b>	No PR	No PR	No PR
ISSUE	Residence Order	Special Guardianship	Adoption Order
Appointing a guardian in the event of death	Only if person holding RO is the birth parent	Yes	Yes
ISSUE	Residence Order	Special Guardianship	Adoption Order
<b>Birth parents' role</b>	Birth parents will retain PR.  Birth parents retain the right to consent or not, to adoption.	Birth parents will retain PR but their exercise of this will be more limited.  Birth parents retain the right to consent or not, to adoption.	Birth parents lose PR  If there were another adoption it would be the adoptive parents (not birth parents) who would need to consent or not to this adoption
ISSUE	Residence Order	Special Guardianship	Adoption Order
<b>Duration of order</b>	Under the ACA a residence order will now last until the child is 18.	The SG order will last until 18.  The prospective SG should be considered able to meet the child's needs at the time of making the order and in the future (Guidance 106).	Lasts for life.
ISSUE	Residence Order	Special Guardianship	Adoption Order
<b>Can the order be</b>	Yes	Yes, but the thresholds are higher	No. The only way an

## 2.4 APPENDIX 1

ISSUE	Residence Order	Special Guardianship	Adoption Order
<i>revoked?</i>			adoption order could be ended by the making of another adoption order.
<b>Provision of Support Services</b>	<p>Possible, but no regulatory framework, apart from discretion on the part of a local authority to make a Residence Order allowance.</p> <p>(N.B Any child in the community 'in need' can be offered support).</p>	<p>There are regulatory SG Support Services, which are similar to Adoption Support Services (handled by same agencies).</p> <p>Previously looked after children are eligible for Leaving Care Support.</p>	Adoption Support Services (module 7).
ISSUE	Residence Order	Special Guardianship	Adoption Order
<b>Contact</b>	<p>Section 8 Contact Order Children Act 1989</p> <p>Birth family may well be quite involved</p>	<p>Section 8 Contact Order Children Act 1989</p> <p>It is likely that there will be more face to face contact with birth family than with adoption</p>	<p>A Section 8 Contact Order Children Act 1989 possible at the time of the adoption or occasionally later</p> <p>It would be more usual for contact to be negotiated with adopters, for them to make decisions about contact, and for there to be no Section 8 order</p>
ISSUE	Residence Order	Special Guardianship	Adoption Order
<b>The process for achieving the order</b>	<p>Each LA will need to look at their own policies and procedures to make the decision about a Residence Order as a placement option for looked after children.</p> <p>There is nothing in Regulations or Guidance to say it is necessary to have a panel to make this recommendation.</p> <p>Report by LA at the discretion of the court</p>	<p>Each LA will need to look at their own policies and procedures to make the decision about SG as a placement option for looked after children.</p> <p>There is nothing in Regulations or Guidance to say it is necessary to have a panel to make this recommendation.</p> <p>Both for looked after and other children there must be a report by the Local Authority for the court. (Schedule in SG Guidance)</p> <p>LAs are expected to ensure that the social worker who prepares the report to the court is suitably qualified and experienced.</p>	<p>For looked after children the planning process is clearly set out in regulations and consideration by an adoption panel is essential.</p> <p>Must be a report by the LA for the court.</p> <p>There are prescribed people who can write adoption reports (the Restriction on the Preparation of Adoption Reports Regulations 2005).</p>

## DFES - THE SPECIAL GUARDIANSHIP REGULATIONS 2005

### Regulation 6

#### **Provision of Financial Support**

37. Financial issues should not be the sole reason for a special guardianship arrangement failing to survive. The central principle is that financial support should be payable in accordance with the Regulations to help secure a suitable special guardianship arrangement where such an arrangement cannot be readily made because of a financial obstacle. **Regulation 6** provides that financial support is payable to facilitate arrangements for a person to become the child's special guardian, where this is considered to be beneficial to the child's welfare, and to support the continuation of these arrangements after the order has been made.

38. **Regulation 6** sets out the circumstances in which financial support may be paid to a special guardian or prospective special guardian. These are:

- a) where it is necessary to ensure that the special guardian or prospective special guardian can look after the child
- b) where the child needs special care which requires a greater expenditure of resources than would otherwise be the case because of illness, disability, emotional or behavioural difficulties or the consequences of past abuse or neglect.
- c) where the local authority consider that it is appropriate to contribute to any legal costs, including court fees, of a special guardian or prospective special guardian associated with –
  - i. the making of a special guardianship order or any application to vary or discharge such an order
  - ii. an application for an order under section 8 of the Act (a contact order, a prohibited steps order, a residence order or a special issue order)
  - iii. an order for financial provision to be made to or for the benefit of the child.
- d) where the local authority consider it appropriate to make a contribution to the expenditure necessary for the purpose of accommodating and maintaining the child, including the provision of furniture and domestic equipment, alterations to and adaptations of the home, provision of means of transport, and provision of clothing, toys and other items necessary for the purpose of looking after the child.

39. Payment of financial support under (b) is intended where the child's condition is serious and long term. For example, where a child needs a special



diet or where items such as shoes, clothing or bedding need to be replaced at a higher rate than would normally be the case with a child of similar age who was unaffected by the particular condition.

40. Financial support paid under (c) is payable so that the local authority may contribute to initial legal costs where appropriate but also any future legal costs that are associated with the order, to continue to support the existence of the order, again, where the local authority consider this to be appropriate.

41. In many special guardianship arrangements, contact between the child and their relatives or others with whom the local authority consider the child to have a beneficial relationship is very important. Where assistance with travel costs is required this may either be given in cash under **regulation 3(1)(b)**, or, if such costs are on a recurring basis, as part of any financial support provided under **regulation 6(2)(b)** to support the arrangements for ensuring the special guardian can look after the child.

## **DFES - THE SPECIAL GUARDIANSHIP REGULATIONS 2005**

### **Regulation 9**

#### **Cessation of Financial Support**

45. Regulation 9 provides that financial support ceases to be payable to a special guardian or prospective special guardian if:

- a) the child ceases to have a home with him
- b) the child ceases full time education or training and commences employment
- c) the child qualifies for Income support or jobseeker's allowance in his own right, or
- d) the child attains the age of 18 unless he continues in full time education or training, when it may continue until the end of the course or training he is then undertaking.