

# Support for relatives and friends who are looking after someone else's child

# 21

## Introduction

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From time to time, many families may have difficulties caring for their children. This may be for a whole range of reasons, for example a family bereavement or the parent/carer having health problems or overwhelming personal difficulties. In these circumstances relatives and friends often take on the care of their children either temporarily or in some cases on a long term basis. Sometimes, this is arranged directly between the parents and the family member and sometimes a social worker is involved in making the arrangement.

If you have taken on the care of a child who cannot live at home with their parents, you may need financial and other support to help you care for them. There are various potential sources of support, including parents, specialist agencies, the local council and benefits/tax credits. This advice sheet provides information about these sources of help, and the steps you can take to access it. It is quite long so we have divided it into the following sections:

- ✓ Part 1: General information about help and support (page 3)
- ✓ Part 2: Information about help which Children's Services can provide (page 5)
- ✓ Part 3: Information about benefits you may be entitled to (page 18)
- ✓ Part 4: Information about help with further and higher education (page 31)
- ✓ Part 5: Information about where to go for further help (page 33)

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If you find it hard to follow this advice sheet, it may be a good idea to ask a friend to go through it with you or you can talk to FRG advisers on our advice line – you can find FRG advice line contact details in Part 5.

We have included the references for any legal and practice requirements in endnotes which you can find on the last page of this advice sheet. For full details of all the documents referred to in the endnotes, see the References section also at the end of the advice sheet.

**Note: “Social services” are now known as “Children’s Services”. This is how they are referred to throughout this advice sheet.**

Important terms used in this advice sheet include:

- **‘Looked after’** means that the child is in care due to a court order or accommodated by Children’s Services (by agreement with the parents/someone with parental responsibility - sometimes known as a Section.20 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;
- **‘Accommodated’** means that a child is being looked after by Children’s Services with the agreement of the parents/those with parental responsibility.
- **Parental responsibility** means the legal right to make decisions about a child’s care. (For more information on who has parental responsibility see FRG advice sheet on Parental Responsibility: <http://www.frg.org.uk/need-help-or-advice/advice-sheets>).
- **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 Care** (also known as kinship care) which means you are caring for someone else’s child who may or may not be looked after by Children’s Services (see above) and you may or may not be approved officially as a foster carer. It’s important to find out whether or not the child is looked-after, as this will affect the financial help you can get from Children’s Services/the benefit system.

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## PART 1: GENERAL INFORMATION ABOUT HELP AND SUPPORT

### 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> In many cases the parents will not be able to give you any money to support their child. However, you could ask them directly for child support if they clearly have the money to pay, for example because they are working.

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 Options** on 0800 0835 130

You can also use the child maintenance calculator ([www.cmoptions.org/en/calculator](http://www.cmoptions.org/en/calculator)) 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.

#### **BUT please note:**

- 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;
- Child support doesn't count as income when your benefits/tax credits are calculated.

### 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:

- If you have parental responsibility for a child who is under 5 (for example because you have a Child Arrangement Order (saying the child should live with you – previously known as a Residence Order), a Residence Order, a Special Guardianship Order or you were appointed as guardian by their parent who has now died), 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>, provided you have been working for your employer for 12 months or more.

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- But the maximum parental leave you can take in any one year (up to the age of 5) is 4 weeks, unless your employer agrees otherwise. Time off should be taken in blocks of one week, 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>
- If the child is disabled, you can take up to 18 weeks unpaid parental leave before the child turns 18.
- But if you have been approved as a foster carer and Children's Services have placed the child with you, you do not have a right to parental leave but you may be able to ask for a flexible working pattern. For further information go to [www.gov.uk/flexible-working](http://www.gov.uk/flexible-working).

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

Maybe. You may feel that the child you are caring for needs specialist help, for example speech therapy or support with behaviour problems or bereavement counselling. If this is the case, you can ask any professional, who is already involved with the child, such as a health visitor or teacher, to assess their need for this help. This assessment will be carried out using the local authority's assessment protocol. This should normally look at three aspects of a child's life:

- the child's development;
- the parents and/or carers; and
- the child's environment.

This assessment should lead to an agreement with you about what each of the relevant agencies, practitioners and/or you will do to help meet the child's needs.

## PART 2: HELP FROM CHILDREN'S SERVICES

### Can Children's Services provide support to family and friends carers?

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Yes. They can provide support depending on what they assess the child's needs to be (see next question). Details of the support services they can provide should be set out in the local Family and Friends Care policy which every Children's Services Department should now have, according to government guidance.<sup>5</sup> The services that should be **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>6</sup> The guidance says:

*'No child or young person should have to become looked after... for the sole purpose of enabling financial, practical or other support to be provided to the child's' carer.'*<sup>7</sup>

Government guidance says that 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 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 page 8 below
- Information about the legal framework and the powers and duties of Children's Services.

Children's Services should also:

- publish information about these services, and how they can be accessed, in leaflets and on websites and they should make sure that they are disseminated through a wide range of agencies;

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- appoint a senior officer who is responsible for ensuring that all staff are trained and are sensitive to the needs of family and friends carers, both in Children's Services and in other agencies. This person will be responsible if Children's Services fails to have a policy or implement it. There is no requirement to have a dedicated kinship team but it is suggested that this may be helpful.<sup>9</sup>

Children's Services should comply with this guidance unless there are exceptional circumstances to justify not following it. 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.

See also Appendix 1 for further information about sources of support from Children's services.

If you find that these services are not available in your area you could contact the senior officer responsible for family and friends care to ask 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/advice-sheets>.

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

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Although government guidance says that Children's Services should provide help to family and friends carers whatever the legal status of the child, whether and how you get this help will, in practice, be influenced by the child's legal status whilst they are living with you. So 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 includes:

- Private arrangements
- Testamentary guardianship
- Child arrangement orders (previously known as residence orders)
- Special Guardianship
- Family and friends foster care

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The help you can get from Children’s Services in each of these circumstances is set out below. 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 benefits 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 there is a disagreement about the child’s legal status. For further advice on this contact FRG’s advice service – contact details in part 5 of this advice sheet.

## **1. PRIVATE ARRANGEMENTS & TESTAMENTARY GUARDIANSHIP:**

### **When do private arrangements arise?**

A private arrangement is when you and the child’s parents (or anyone else with parental responsibility for the child) make an agreement that you will care for the child. However, sometimes social workers ask relatives to care for children who are at risk of harm and then say it is a private arrangement. This is not usually correct – see page 16-17 for further information about this or contact FRG advice service for further advice – contact details in part 5 of this advice sheet.

### **How do I know if I am a testamentary guardian?**

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 they have now died and the appointment has taken effect.

**Note:** There are particular rules that apply about when a guardianship appointment takes effect. For more information see FRG advice sheet on Parental Responsibility see <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

### **Can I get help for the child I am raising in these circumstances?**

Maybe. Children’s Services can provide you with support (sometimes called s.17 support) in a private arrangement or under testamentary guardianship, but only if the child is assessed as being ‘*in need*’. The law says that children are ‘*in need*’ if they

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need extra help to be healthy and develop normally and also if they are disabled.<sup>10</sup>

Each Children's Services department has its own criteria for prioritising which children they will support. However, government guidance says that they should include children living in family and friends care in their eligibility criteria for children in need who can receive extra help (see page 5 above).<sup>11</sup>

Government guidance also says that social workers should not wait until they finish their assessment of a child's needs before arranging support for a child and their family. In some cases the needs of a child are so acute that a very quick assessment is needed.<sup>12</sup>

For more information about support for children in need, see FRG advice sheet on Family Support Services <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

### **How do I know if the child I am raising is *in need*?**

Whether or not Children's Services will give you help in these circumstances will depend on them carrying out an **assessment of the child's needs** to decide if they are a 'child in need' and, if so, what services you need to help you to raise them.

The assessment should be carried out in accordance with local procedures, usually called the 'Assessment Protocol'. This protocol should be drawn up following government guidance<sup>13</sup> So the starting point is to ask Children's Services for an assessment of the child's support needs. You can also ask the social worker for a copy of their 'assessment protocol' (or you may be able to find it online through the Local Safeguarding Children's Board) so you know how the assessment will be done.

### **What can I do if Children's services refuse 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:

- Financial help for children in family and friends care should be a priority in their eligibility criteria for s.17 help<sup>14</sup> and

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- 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. For more information see FRG advice sheet on Complaints <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

### **Once the assessment is finished, how will I know what help is available?**

**The Support Plan:** at the end of the assessment, they should then draw up a support plan setting out what help, if any, they will give you to help you meet the child's needs whilst they are living with you. The kind of services they can provide include:

- **Day Care** – which could include day nurseries, playgroups, childminding, and out of school clubs;
- **Help provided in the family home** – this might involve someone from a befriending scheme or a family support worker coming to give you practical help and support in your home.
- **Counselling** for you and/or the child;
- **Advice and guidance** for example about benefits, work, childcare;
- **Help with contact arrangements** to enable the child to stay in touch with members of the family whilst they are living with you;
- **Practical assistance**, including accommodation and cash help. This includes
  - cash to help you buy essential equipment for the child such as a bed, clothes and even food and other necessities,
  - financial help with housing costs or some other form of accommodation.<sup>16</sup>
  - ongoing financial help with the costs of raising the child. Government guidance specifically says that they: “may now provide support on a regular basis under s.17 not just in exceptional circumstances as before”.<sup>17</sup>
  - financial help under local welfare assistance schemes, set up by local councils from April 2013 onwards in response to the DWP stopping

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community care grants and crisis loans (although this help may be withdrawn or reduced in some areas from April 2015 onwards)

- **Respite accommodation:** if you need a break from your caring responsibilities, Children's Services can arrange for the child to stay with an unrelated foster carer, although this would normally need the agreement of someone with parental responsibility (this could be you if you have a child arrangement order (residence order) or special guardianship order, or you are the child's testamentary guardian, otherwise it will be the child's parents). 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.

For more detailed information about help for children in need see FRG advice sheet on Family Support Services:<http://www.frg.org.uk/need-help-or-advice/advice-sheets>.

### **Are YOU a private foster carer?**

If you are looking after a child in a private arrangement, which is (or is intended to be) for 28 days or more, and you are NOT the child's grandparent, uncle, aunt, sibling or stepparent, 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. You can still get help from Children's Services in the same way as any other private arrangement (as above). For further information on this contact FRG advice line – contact details are in part 5 of this advice sheet.

## **2. CHILD ARRANGEMENTS ORDER (AND RESIDENCE ORDERS)**

### **What is a child arrangements order (saying where the child will live)?**

This is a new court order which says where a child will live. It replaces a previous residence order. It can be made in favour of someone who is not a parent of the child; in these circumstances it gives that person parental responsibility for the child.

### **What is a residence order?**

A residence order is a court order which says where a child will live and gives the person caring for the child parental responsibility. Residence orders can no longer

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be made as they have been replaced by child arrangements orders saying where the child will live (see above). Any previously made residence order will be treated as if it was a child arrangements order saying where the child will live.

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

Maybe. If you child arrangements order saying the child will live with you or you have a residence order, you can get help from Children's Services via two routes:

- s.17 help if the child is assessed as being 'in need' in the same way as a child who is in a private arrangement, as outlined in the previous section
- a child arrangements/residence order allowance:<sup>18</sup> Children's Services have the power to pay this but they don't have to. It is usually means tested. 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 the time, before or after the order is made.<sup>19</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>20</sup> Contact Family Rights Group advice line for further advice – contact details in part 5 of this advice sheet.

### **3. SPECIAL GUARDIANSHIP ORDERS:**

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

This 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). It gives the person caring for the child parental responsibility, which they can exercise to the exclusion of anyone else with parental responsibility such as the parents. SGO's are often used by family members who are taking on the care of the child permanently without the child having to stay in or be in the care system, without actually adopting the child.

## Can I get help from Children’s Services for the child I am raising under an SGO?

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Maybe. If you have a special guardianship order, you can get help from Children’s Services via two routes:

- s.17 help: if the child is assessed as being ‘in need’ in the same way as a child who is in a private arrangement as outlined on page 7-9.<sup>21</sup>
- special guardianship support services: The law says that Children’s Services must:
  - set up a **special guardianship support service** in their area. Although this does not mean that they have to provide support services to **every** child under a special guardianship order, it does mean Children’s Services must set up a framework for providing help to children who are under special guardianship orders and need additional support; and
  - tell prospective special guardians about these services and how to request an assessment of needs, when they receive notice from an individual or request from the court to prepare a special guardian report.

Special guardianship support services include:

- **Financial support** for a special guardian who is looking after the child – this is usually means tested. It can include one off costs as well as regular support.<sup>22</sup>  
**Note:** When deciding the amount of financial support payable, Children’s Services should follow the amount of foster care allowances in the area but may take into account benefits such as child benefit and child tax credit that a special guardian can claim which a foster carer can’t claim;<sup>23</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 that Children’s Services considers to be beneficial. This can include:
  - cash to help with the costs of contact (travel, entertainment) – it is not means tested; and
  - mediation to help resolve difficulties which may arise on contact.

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- **Therapeutic services** for the child such as counselling, help with behaviour problems.<sup>24</sup>
- Help for you to have a positive and continuing relationship with the child which can include:
  - **respite care** which means the child could stay with an approved foster carer to give you a break;<sup>25</sup>
  - **mediation**, as above, for example where there are difficulties over contact or there is disagreement between you and the parents about important decisions the child's life; and
  - **training** so that you are able to meet the child's particular needs.
- **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.<sup>26</sup>

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

To get help for the child, their needs must be assessed. But Children's Services does not have to do this in all cases. The law says that:

- i. 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 at the request of:
  - the parent;
  - the child who is subject to a special guardianship order; and/or
  - the special guardian.<sup>27</sup>

#### **BUT**

- ii. 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 (but they don't have to) at the request of:
  - the parent,
  - the child; and/or
  - the special guardian.<sup>28</sup>

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Also, 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 they have a significant and on going relationship with the child (for example the child's other relatives)<sup>29</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>30</sup> Again you will need to ask Children's Services to assess the child's needs and you can ask the social worker for a copy of your local protocol for assessment (see page 8 above).

If Children's Services refuses to carry out an assessment (for example where they have a power to do so, but are not obliged to), 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/advice-sheets>

### **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>31</sup> If they decide you need extra help, they must tell you what help they plan to give you, before they finalise their decision.

**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. They will then send you the draft plan and give you 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. Once they hear back from you, they 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 they think you don't need help**, Children's Services must notify you if they intend to refuse you support, and they must also tell you how to make representations to them 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>32</sup>.

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If after you have made representation they still refuse you support, you don't have a right to appeal but if this decision appears to be totally unreasonable you could take advice about making a complaint or whether there may be grounds for judicial review. Contact FRG advice service for further information – contact details in part 5 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/advice-sheets): <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

## 4. FAMILY AND FRIENDS FOSTER CARE

### When does family and friends foster care arise?

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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 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 when they are at home with their parents, or where there are or have been child protection enquiries or care proceedings. This is because when a child goes into care, Children's Services must place the child:

- with a parent or other person with parental responsibility, but if they think this is not in the child's best interests, then they must place them
- with a relative, friend or other person connected with them (who must also be assessed and approved by Children's Services as a local authority foster carer) before considering placing them with an unrelated foster carer, unless that is also not in the child's best interests.<sup>33</sup>

### If Children's Services want to place a child they are looking after with me do I need to be formally assessed as a foster carer?

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Yes. If the child is 'looked after' and Children's Services want to place the child with you (as a relative or friend), they must assess you as a foster carer. If there is an emergency they can do this initially on a temporary basis and then do a full assessment of you later on. 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.

### **Can I get support for a *looked after* child in my care?**

Yes. If you are a family and friends foster carer for a child who is looked after in care system, 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. They should not pay you less simply because you are a family member.<sup>34</sup> National minimum fostering allowances apply in England.<sup>35</sup> The financial support you receive should be set out in the child's placement plan;<sup>36</sup> and
- entitled to other support to meet the child's needs for example help with contact, managing the child's behaviour etc.

### **What if the social worker asked me to care for the child and then says it is a private arrangement and they cannot help?**

Sometimes, social workers arrange for children to live with a relatives/friends but later say that they were only helping to make a private arrangement and that they do not have any further financial or other responsibility for, or involvement with, the child.

**Important note:** the Court of Appeal has said in several recent cases that:

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- if the social worker is involved in arranging for the child to live with the carer, then, unless they agree something different **at the time of the placement**, the child is to be treated as a 'looked after child'.<sup>37</sup> In these circumstances you should be assessed, paid and supported like any other foster carer – see above.  
BUT:
- if you agreed with the social worker that you would support the child without any help from social services when they placed the child with you, then it is more likely to be treated as a private arrangement although the parents would still need to agree to it. In that case your options for support are as outlined under private arrangements on page 7-9 above.

***This is a complicated and developing area of law. For further advice contact FRG's advice line*** – FRG contact details are in part 5 of this advice sheet.

## **PART 3: BENEFITS AND TAX CREDITS:**

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Social security law can seem very complicated and the rules change frequently. It is not possible to cover all of the benefit rules in this advice sheet. For more comprehensive benefits advice, you can

- contact your local Citizens Advice Bureau – contact details are in part 5 of this advice sheet. You can also look at the ‘money, tax and benefits’ section of [www.gov.uk](http://www.gov.uk).
- read The Fostering Network’s detailed ‘signposting’ pamphlets on benefits, and on allowances and income tax. To contact their information line call 020 7261 1884.

### **Are there any benefits I am automatically entitled to whatever my income?**

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No, apart from child benefit (but only if you meet certain criteria about earnings) and Guardians Allowance (see below for both).

#### **Child benefit:**<sup>38</sup>

This benefit is paid to people with children aged under 16, or aged under 20 if the child is in full-time non advanced education (up to and including A levels and NVQ level 3) or approved training (e.g. in England, Foundation Learning).

If the young person is 19, **you** can only get child benefit for them if they started or were accepted on the course before they were 19. Child benefit is not fully means tested so it is paid whether or not you are working and whatever your savings are.<sup>39</sup> But see below for a recent change regarding income.

#### ***Important note about changes to child benefit:***

- Since January 2013, child benefit becomes subject to tax for higher earners (i.e. if you or your partner *individually* earn over £50,000 a year). Child benefit will still be paid but some or all of it will be clawed-back by Revenue and Customs at a later date and you will have to complete a self-assessment tax form - See [www.gov.uk/child-benefit-tax-calculator](http://www.gov.uk/child-benefit-tax-calculator)

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- You can't get child benefit if the child you are caring for is 'looked-after' and you are a family and friends foster carer, but you can claim it if they are under a child arrangement order (residence order) or special guardianship order or are in a private arrangement.
- There may also be circumstances when the child's parents are still getting child benefit but the child is living with you, not them. You can ask for the child benefit to be transferred to you – that is often more reliable than asking their parent to hand-over the money to you each week.

How to claim: You will need to complete form CH2. You can do this online at [www.gov.uk/browse/benefits/child](http://www.gov.uk/browse/benefits/child) or you can phone 0300 200 3100 and ask for the paper form.

You can find out more about child benefit in Appendix 2.

### **Guardian's Allowance:**

You may also be able to get guardian's allowance as well as child benefit if you are caring for a child or young person (same age limits as child benefit) and at least one of their parents is dead and:

- the other parent's whereabouts or paternity are not known or established; or
- the other parent is in prison serving a sentence of two years or more; or
- the other parent has been detained by the courts in a psychiatric hospital.

If you are a step-parent, you do not count as a parent and so you may be entitled to guardian's allowance for your stepchild if the above criteria are met.

Foster carers cannot claim guardian's allowance for children they are fostering. Guardians allowance stops if you adopt the child.

Despite the similarity in name, a Guardians Allowance is NOT the same as a Special Guardians Order payment from Childrens Services. You may be due both, one or neither!

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How to claim: You will need to complete form BG1. You can download a form from the website: [www.gov.uk/guardians-allowance](http://www.gov.uk/guardians-allowance) or you can phone 0300 200 3101 to ask for the paper form.

## **What help can I get if I am on a low income?**

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### **Child Tax Credit (CTC)**

CTC is paid to families with one child with a household income of less than about £27,000 per year – higher if more than one child or a child has a disability. The lower your income, the more child tax credit you should get.

You can get CTC whether or not you are working but you can't claim CTC for a looked-after child – the rules are the same as child benefit.

How to claim CTC: You will need to complete form TC600. You can order a form and find out more about tax credits by ringing the tax credits help line on 0345 300 3900 or Textphone: 0345 300 3909

### **Working Tax Credit (WTC)**

If you are working, you may also be entitled to working tax credit, although the income cut off point is lower than it is for CTC. But working tax credit can also help with up to 70% of child care costs in some cases.

If you are a family and friends carer who is approved as a foster carer for a looked-after child in your care, you are treated by Revenue and Customs (HMRC) as being self-employed, and this means you may be able to get working tax credit, no matter how old you are. This could be especially useful if you have no other wages or very low earnings from other work. Your fostering allowances will generally not be counted as earnings when your tax credit is calculated, unless they are above certain limits. You should get advice as to whether you would be better off claiming working tax credit or income support (see below).

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How to claim WTC: You will need to complete form TC600. You can order a form and find out more about tax credits by ringing the tax credits help line on 0345 300 3900 or textphone 0345 300 3909

### Help with childcare:

**Free early education:** All 3 and 4-year-olds in England are entitled to 570 hours of free early education or childcare a year. This is often taken as 15 hours each week for 38 weeks of the year. Some 2-year-olds are also eligible. If you receive certain benefits or if the child is looked-after. See [www.gov.uk/free-early-education](http://www.gov.uk/free-early-education)). This free early education can be at:

- nursery schools
- children's centres
- day nurseries
- playgroups and pre-school
- childminders

For more information about free early education in your area, contact your local Family Information Service. To find your local service, telephone 0800 2346346, and to search for childcare online log on to [www.gov.uk/find-registered-childminder](http://www.gov.uk/find-registered-childminder)

**Childcare element of working tax credit:** In addition, if you are a lone parent working at least 16 hours a week, or you have a partner and between you, you work 24 hours a week or more (with one of you working at least 16 hours a week), then you may also qualify for the childcare element of working tax credit. You will get up to 70% of your childcare paid for, but the lower your income the more help you will get. In order to qualify for this help, the childcare you are using must be registered. Foster carers cannot claim WTC childcare costs for children they are fostering.

How to claim: To claim the childcare element of working tax credit you will need to complete form TC600, which you can order by phoning the helpline if you have not already made a tax credits application. If you are already getting tax credits ring the

help line and tell them you now want to claim for childcare costs. To find out more ring the tax credits help line on 0345 300 3900

### **UNIVERSAL CREDIT (UC)**

Commencing in parts of NW England in April 2013 and in other pilot areas throughout 2013/14, UC will replace the above tax credit system, as well as housing benefit and income support, income-based JSA and income-related ESA by 2017 UC is paid as a single monthly payment to working-age claimants by the Department for Work and pensions, whether you are in or out of work, with the amount of benefit you get depending on what you earn (if anything),, the number of children you have and your housing costs There are special rules for foster carers – see below.

#### **Free school meals**

You may be able to qualify for free school meals for the child or children you are caring for if:

- you are getting income support, income-related employment and support allowance, the guaranteed credit of pension credit or income-based jobseeker's allowance or universal credit in the pilot areas; or
- you are claiming child tax credit (but not working tax credit) and your annual income is below £16,190
- From September 2014, **all** state-school children in England in Reception, Years 1 or 2 will get free school meals automatically.

#### **Pension credit:**

Pension credit is the means-tested 'top-up' to retirement pensions. If you or your partner are over women's pension age (which is now around 63 and is going up in stages to 66 by 2020) all fostering allowances, special guardianship allowances and child arrangement order (residence order) allowances are completely ignored when your pension credit is worked out. Pensioners with dependent children (who are not foster children) can claim child benefit and child tax credit in the same way as other carers can. Pension Credit is not directly affected by the introduction of universal credit, except that older carers who would have got child tax credit before, will in future get extra pension credit for the children instead.

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### **Housing Benefit and Council Tax Support:**

You may be able to get housing benefit and council tax support if you pay rent and/or council tax. These benefits are paid to people who have a low income whether or not they are working. You claim these benefits from your local council.

Housing benefit and council tax support are calculated to include an amount for any child living with you. **Housing benefit and council tax support are not reduced if you receive a child arrangement order (residence order) allowance or special guardianship allowance.**

Since April 2013, council tax support has been 'localised' so each council can set it's own rules about what help is available to people of a working age. This may mean changes to the help had in the past.

To apply, contact your local council, give them details (type and amount) of the allowance you are receiving and ask them to confirm if and how your housing benefit or council tax support will be affected if a child moves in with you.

#### **UNDER-OCCUPATION PENALTY (known as the Bedroom Tax)**

Since April 2013, tenants who claim housing benefit and are living in social housing are affected by a 'bedroom tax'. Housing benefit is reduced or restricted if you have more bedrooms than the council says you need.

Two children of different genders are expected to share until age 10 and two young people of the same gender who are under 16 are also expected to share a bedroom. If they don't, your housing benefit may be reduced. However if you are a family and friends approved foster carer you are allowed to include one bedroom in the calculation for children under 16 that you are caring for (but not more than one, no matter how many children you foster).

If you are badly affected by these rules, ask your local council for a payment from their discretionary housing payment fund.

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Also, ***if you are living in private rented accommodation***, and your child is no longer living at home, or a child starts living with you, this may affect your housing benefit and council tax support. You should contact your housing benefit office immediately to find out what changes may be made.

## **What benefits can I get if I am not in (full time) paid work?**

### **Income Support:**

This is a means-tested benefit. Your income and capital is taken into account in calculating how much you will get.

You only qualify for income support if you are a foster carer of a child aged under 16, or a lone parent of a child under five, or are caring for a disabled person.

If you do not fall into one of these categories, you will either have to:

- sign on as unemployed and claim jobseeker's allowance (JSA), or,
- if you cannot work because of sickness or disability, claim employment and support allowance (ESA).

If you are aged over women's pension age, you should claim pension credit instead of these benefits. If you have a mortgage, you may be able to get extra income support, employment and support allowance, jobseekers' allowance or pension credit to help with the cost of your mortgage.

### **Important note about money that is disregarded:**

If you receive any of the following allowances from Children's Services they are ignored when your income support, jobseekers allowance or employment and support allowance is worked-out:

- adoption allowance,
- fostering allowance,
- child arrangement (residence order) allowance or special guardianship allowance
- any help you receive for a child in need under Section 17 (for more information, see part 2 above).

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Also if you are fostering a child privately, any money you get from the child's parents will be treated as maintenance - these payments do not affect your income support, ESA or jobseekers' allowance either.

If Children's Services describe what you are getting as a 'kinship care allowance' or 'friends and family fostering allowance', it is important that you find out exactly what it is they are paying because it may be a fostering allowance if the child is 'looked after' or it may be some other form of payment if they are not.

To claim Income Support you need to complete form A1, which you can get via 0800 0556688 or Textphone: 0800 023 4888

#### **Important note about Universal Credit:**

- As stated above, UC began to replace income support and other means-tested benefits from 2013 onwards.
- People who foster children aged under 16 or who have a child aged under 5 will get UC without having to look for work, but if you are part of a couple, one of you *may* be expected to look for work.
- If you are getting UC as a foster carer and the placement ends, you will be allowed an 8 week period where you will continue to get UC without having to sign-on as unemployed.
- There will also be concessions if both partners are needed for the fostering (e.g. because of a disabled child) or a child aged 16/17 who needs additional help.

### **How might I be affected by the benefit cap?**

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- The benefit cap was introduced in July 2013. It put an overall limit of £500 a week on the amount of benefit income you can receive from housing benefit, child benefit, tax credits, income support etc.
- If you receive a fostering allowance or any other payments from Children's Services, these won't count as income when the benefit cap is applied.
- But if you are caring for someone else's child and they aren't **looked-after**, it is possible that getting extra benefit for them, when combined with your other

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benefit income, could put you over the cap figure – this is especially likely if you are in private rented accommodation and/or have 3-4 children.

- If you, your partner or any of the children are getting Disability Living Allowance or Personal Independence Payment, the cap doesn't apply to you at all.

You can get further advice about this from organisations listed in part 5 of this advice sheet.

## **Are there any other sources of help for one off items?**

### **Child Trust Fund:**

Every child born between 1 September 2002 and 2<sup>nd</sup> January 2011 will have a child trust fund account.

If the child was in the care of Children's Services when the child trust fund voucher was awarded, then the Revenue (HMRC) will have opened an account for them and invested £500. Otherwise, whoever was claiming child benefit on their behalf will have been sent the voucher – for either £250 or £500 depending on the carer's financial situation. This person should have invested the money but if they didn't, HMRC will have done it on the child's behalf. The child trust fund can be added to, but cannot be accessed until the child reaches 18.

Between September 2009 and August 2010, additional payments were also made by the Government when the child reached their 7<sup>th</sup> birthday. Extra payments were made to disabled children. No new payments are now being made.

In November 2011, the Government launched Junior ISA's (individual savings accounts) but these do not include any public funds. However, around 55,000 looked-after children across the UK will get an initial payment of £200 from the Government into their ISA account.

The scheme provides a junior ISA for every child looked-after for 12 months or more and who could not benefit from a child trust fund (CTF). This includes those born after January 2<sup>nd</sup> 2011, as well as those born before September 2<sup>nd</sup> 2002.

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The £200 can be 'topped-up' by relatives, local councils etc up to the ISA limit (currently £15,000 per year). See [www.sharefound.org](http://www.sharefound.org) for details.

### **The Family Fund:**

The Family Fund is a charity which helps families with severely disabled children and young people. It gives help with things like washing machines, driving lessons, computers and holidays. To qualify, you have to be getting any one of these benefits:

- Child Tax Credit,
- Working Tax Credit,
- Income based Job Seekers Allowance,
- Income Support,
- Incapacity Benefit\*,
- Employment Support Allowance\*,
- Housing Benefit
- Pension Credit.

\* depending on overall family income

Families must still however meet all their other eligibility criteria in order to get payment.

### **How to claim**

You can get an application form from their website at [www.familyfund.org.uk](http://www.familyfund.org.uk), or by phoning them on 0845 130 4542

### **Social Fund:**

There are different payments available in this fund, which are set out below

- ***Sure Start Maternity Grant:*** This is a £500 payment available to help buy things for a baby. The grant can be claimed up to three months after a baby's birth, or for a child less than 12 months old if the baby has been adopted or is looked after or is under a child arrangement (residence) order, within three months of those orders.

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To qualify you have to be getting pension credit, income support, income-related employment and support allowance, income-based jobseeker's allowance or child tax credit of more than the family element. It is not paid if there is another child aged under 16 in the household.

How to claim: Claim on form SF100 (Sure Start) from your local Jobcentre Plus.

- **Budgeting loans:** These are interest-free loans available from Job Centre Plus to help you buy things that you have not been able to save for while on benefits. To qualify you must have been getting pension credit, income support, income-related employment and support allowance or income-based jobseekers' allowance for at least 26 weeks.

How to claim: Claim on form SF500 from your local Jobcentre Plus.

- **Short-term benefit advances:** These can be claimed from Job Centre Plus if you are waiting for benefits to be paid or calculated . They replace crisis loans, which ended in March 2013.

## What financial help can I get if the child I am raising is disabled?

### Disability Living Allowance (DLA):

DLA is the main benefit paid to people with disabilities who need help to look after themselves and/or get around. New claims can now only be made by or on behalf of people aged under 16. People aged 16 or over claim PIP (see below). DLA is made up of two parts: mobility and care.

- i. The mobility component is paid at two rates for two different levels of need. The higher rate may be paid to children who are aged at least three if they are unable (or are virtually unable) to walk; the lower rate is not payable until a child is aged at least five.
- ii. The care component is paid at three rates for three different levels of need. To get DLA care component for a child, you must be able to show that the child needs more care than other children of the same age.

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How to claim: To claim DLA for a child you need to complete form DLA1A child, available from 0345 712 3456 or download it from [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/307913/dla1a\\_child.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307913/dla1a_child.pdf) . The form is long, and you may find it useful to get help with filling it in from somewhere like a welfare rights worker or Citizens Advice Bureau. If the child you are looking after is awarded DLA, you may be able to get extra child tax credit, and extra housing/council tax benefit. To get this extra money you should let Children's Services and the tax credit office know about the DLA award.

You can get DLA for any child who lives with you, whether they are looked-after or not. If the child is already getting DLA, you can ask the DLA office that you take-over the payment from the parent or whoever had it before.

### **Personal Independence Payment (PIP)**

Since June 2013, this benefit has begun to replace DLA for people aged 16 or over. DLA will remain for children under 16. It will take around 5 years to re-assess all existing DLA claims for PIP.

PIP has two elements – for daily living and mobility. It shares many similarities with DLA but the assessment process is different, as are the aspects of a person's life that will be looked at. Looked-after young people can get PIP in their own right from age 16 or it can be paid to an appointee. If they are already getting DLA when they reach 16, and they are in certain parts of the country, they will have the option of being assessed for PIP but should get advice before doing that.

### **Carer's Allowance:**

If you are caring for a child or young person who is getting the middle or higher rate care component of DLA (or either rate of PIP for daily living), and you are not working (or earning below £102 a week), you may be able to get carer's allowance.

If you qualify for carer's allowance and you (and your partner) are not working (or working part-time under a certain number of hours), you may also be able to get income support. If you are already getting income support, housing benefit, council

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tax support, income-based ESA or JSA, pension credit or universal credit, you may be able to get an extra amount in these benefits, a carers premium, because you are a carer. Benefits for carers are complicated and you should get specialist advice. You could visit your local advice centre or you could contact Carers UK on 0808 808 777 or log on to <http://www.carersuk.org/>

## **Will my right to receive benefits be different if I have come from abroad?**

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If you have come from abroad to live in the UK, you should check that your immigration status does not prevent you from applying for benefit – and that any claim for benefit will not harm any application you are making to the Home Office to vary your immigration status.

You should get specialist advice from your immigration solicitor, if you have one, or an advice centre like a Citizens Advice Bureau (CAB) – contact details in part 5 of this advice sheet.

## **What benefits can young people get in their own right?**

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A young person may be able to claim benefits in their own right from age 16 (in fact, child benefit can be claimed by young parents at any age). If the young person is aged 16-17 and is looked-after, all they can claim is either Employment and Support Allowance if unfit for work (even if still in education in some cases) or income support if they are looking after a child. Once they are 18, they may be able to claim JSA and housing benefit to meet the 'rent' that you are charging them.

If they are NOT looked-after, they may be able to claim ESA or income support as above. But if they are in education, you need to check that the amount of benefit they claim is enough to make-up for the fact that you will lose any child benefit, child tax credit etc that you get for them. Speak to an advice agency and also see Catch22 National Care Advisory Service (NCAS) – [www.leavingcare.org](http://www.leavingcare.org), especially their booklet "Know Your Rights; Know Your Benefits"

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## PART 4: HELP WITH FURTHER AND HIGHER EDUCATION

### What help is available for further education?

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

There is a 'bursary' scheme (which replaced Education Maintenance Allowance) for 16-19 year olds who stay on in further education after GCSEs.

- If the child is not looked after by Children's Services, you can apply to the young person's school or college for the bursary but there is no right to it in most circumstances – it is administered by schools and colleges on a discretionary basis for students in non-advanced education (i.e. below degree level).
- Some young people have a right to £1200 per year payment however - this includes those who are disabled (getting both ESA *and* DLA); on income support (e.g. because they are living independently); 16-17 year olds in the care system, and 18-19 year old care-leavers. See [www.gov.uk/1619-bursary-fund](http://www.gov.uk/1619-bursary-fund) for more information.

### 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. For further information go to [www.gov.uk/browse/education](http://www.gov.uk/browse/education)

A student applying for university financial support is assessed on the basis of their own and their parents' household income.<sup>40</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 will 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>41</sup>

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- the young person is estranged from their parents (in the opinion of the Secretary of State), or
- the young person's parents have both died, or
- 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 Part 5 of this advice sheet. You can also get additional advice from the educational body the young person is applying to.

### **Support from Children's Services for some children under special guardianship orders for further/higher education**

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If a child, who is under a special guardianship order, was looked after by Children's Services before the order was made, they will also have a right (between the age of 16 and 21) 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.

## PART 5: WHERE TO GET FURTHER INFORMATION

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**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)

**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.

**Civil Legal Advice** is a free and confidential advice service paid for by legal aid. It provides information directly to the public on a range of common legal issues and helps people find legal help and information. 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  
[www.gov.uk/civil-legal-aid-means-testing](http://www.gov.uk/civil-legal-aid-means-testing)

Apply online:-

[emailhelp@civillegaladvice.org.uk](mailto:emailhelp@civillegaladvice.org.uk)

**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.

- Contact FRG's advice line for specific advice about your case on 0808 801 0366. It is open Monday-Friday 9.30am-3pm.

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- 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.

**Grandparents Association** is an organisation which provides advice and support to grandparents about caring for, or having contact with, their grandchildren. They can be contacted at:

Moot House, The Stow, Harlow, Essex CM20 3AG

Office: 01279 428040

Helpline: 0845 4349585

E-mail: [info@grandparents-association.org.uk](mailto:info@grandparents-association.org.uk)

<http://www.grandparents-association.org.uk/index.php>

### **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)  
***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)

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## Student Finance England

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)

## 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>
<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">https://www.education.gov.uk/publications/eOrderingDownload/Family%20and</a>

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	<a href="#">%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>
<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, 2013 HM Government <a href="http://www.education.gov.uk/aboutdfe/statutory/g00213160/working-together-to-safeguard-children">http://www.education.gov.uk/aboutdfe/statutory/g00213160/working-together-to-safeguard-children</a>
<b>WTC(EM)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>

Last updated 18<sup>th</sup> May 2015

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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>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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## Appendix 2: Benefits, tax credits and the implications of different legal arrangements and allowances

Type of care arrangement	Child Benefit (CB)	Child Tax Credit (CT)	Housing and Council Tax (HB and CTB)	Will any allowance I get be taken into account when any of my benefits are calculated
<b>Private arrangement and testamentary guardians</b>	You should be able to claim CB if the child you are looking after normally lives with you. Only one person can claim CB for the same child, so you will need to ensure that no one else is claiming CB for the child you are looking after.	You should be able to get CTC but the amount you get will depend on your income.	The child you are looking after is treated as part of your family or household. This means that you may be 'allowed' an extra bedroom (depending on age and sex of the child) when the council decide what size property they will pay HB for. The child is also included in the calculation of the HB/CTB itself but any CB or child support you receive for the child is ignored (CTC counts as income).	Any Section 17 Children Act 1989 payment you get from Children's Services will be ignored when your benefits and tax credits are worked out. (Ref: TC(DCI)R Reg 3; ISR Schedule 9 para 28(1)(a); JSAR Schedule 7 para 29(1)(a); ESAR Schedule 8 para 30(1)(a); HBR Schedule 5 para 28; CBTR Schedule 4 para.
<b>Residence Order/ Child arrangement order</b>	You should be able to claim CB. Only one person can claim CB for the same child, so you will need to make sure that no one else is claiming CB for the child you are looking after.	You should be able to get CTC but the amount of any CTC you get will depend on your income.	As above – and any allowance you receive from the local authority is ignored as income.	Any allowance you get is ignored when your CTC or other allowances or benefits are worked out but if you still get IS or income-based JSA which includes amounts for children, this could be affected (Ref: TC(DCI)R Reg 3; ISR Schedule 9 para 25(1)(c); JSAR Schedule 7 para 26(1)(c); ESAR Schedule 8 para 26(1)(b)).
<b>Special</b>	You should be able to	You should be able to	As above – and any	Any special guardianship payment

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<b>Guardianship Arrangement</b>	claim CB. Only one person can claim CB for the same child, so you will need to ensure that no one else is claiming CB for the child you are looking after.	get CTC - but the amount of CTC you get will depend on your income	special guardianship order allowance you receive from Children's Services is ignored as income.	you get is ignored when your CTC or other allowances or benefits are worked out but if you still get IS or income-based JSA which includes amounts for children, this could be affected. (Ref: TC(DCI)R Reg 3; ISR Schedule 9 para 25(1)(e); JSAR Schedule 7 para 26(1)(e); ESAR Schedule 8 para 26(1)(d)). HBR Schedule 5 para 25; CBTR Schedule 4 para 2.
<b>Temporary Arrangement</b>	In order to get CB, a child must 'normally reside' with you. You are therefore unlikely to qualify if the stay is a temporary arrangement.	You can only get CTC for a child who 'normally lives with you'. You are therefore unlikely to qualify if the stay is a temporary arrangement.	You will not be able to include the child in HB and CTB claims unless the child can be described as normally living with you. Any Section 17 money you receive from the local authority is ignored .	Any Section 17 Children Act 1989 payment you get from Children's Services will be ignored when your benefits are worked out. (Ref: TC(DCI)R Reg 3; ISR Schedule 9 para 28(1)(a); JSAR Schedule 7 para 29(1)(a); ESAR Schedule 8 para 30(1)(a); HBR Schedule 5 para 28; CBTR Schedule 4 para 29).
<b>Fostering</b>	You will not be able to claim CB for any child you are fostering. (Ref: CBR Reg 16(3)) You can claim CB for your own children who live with you.	You will not be able to get CTC for any child you are fostering. You can claim CTC for your own children who live with you. (Foster care counts as self-employed work for WTC, so you may qualify for this, especially if you have	A fostered child does not count as part of your family or household. This may mean that your HB could be restricted because only one bedroom you need for foster children 'counts' when the HB Service decide how many rooms you need for a family of your size. A room used solely by a second	Any fostering allowance you get is ignored for child tax credits. For working tax credits, it will only be your 'profit' from fostering that counts – and you don't have a profit if your income from fostering is less than £10,000 a year, plus £200 a week for each child under 11, and £250 a week for each child aged 11 and over. (Ref: TC(DCI)R Reg 19 Table 6 para 9). Fostering allowance is also ignored when claiming income

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		no or little other income.) However, some foster carers are better-off getting income support instead of WTC – get advice if you are not otherwise employed and are also foster caring.	foster child would be deemed to be a 'spare bedroom'	support, pension credit, jobseeker's allowance, employment and support allowance or carers' allowance (Ref: ISR Schedule 9 para 26; SPCR Reg 15; JSAR Schedule 7 para 27; ESAR Schedule 8 para 28; SSB(CE)R Schedule 1 para 6.)
<b>Adoption placement The child you are raising has been placed with you for adoption</b>	You can get CB if you are a prospective adopter and you are not getting any fostering allowance from the local authority. (Ref: CBR Reg 16(3). You can still get child benefit if Children's Services are paying you an adoption allowance. Only one person can claim CB for the same child, so you will need to ensure that no one else is claiming CB for the child you are looking after.	You may get CTC from the time of the adoption placement if you are not getting an allowance from the local authority for looking after the child. The amount of CTC you get will depend on your income.	The child you are adopting or have adopted is treated as part of your family or household. This means that you may be 'allowed' an extra bedroom (depending on age and sex of the child) when the council decide what size property they will pay HB for. The child is also included in the calculation of the HB/CTB itself but any adoption allowance, CB or child support you receive for the child is ignored (CTC counts as income)	Any adoption allowance you get is ignored when any tax credits you get are worked out. If you still get IS or income-based JSA which includes amounts for children, this could be affected. (Ref: TC(DCI)R Reg 19 Table 6 para 11(a); ISR Schedule 9 para 25(1)(a) and (1A); JSAR Schedule 7 para 26(1)(a) and (1A); ESAR Schedule 8 para 26(1)(a) and (2); HBR Schedule para 25(1)(a), (2) and (3); CBTR Schedule 4 para 26(1)(a), (2) and (3).

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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> 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>6</sup> paras 2.12, 4.2 & 4.6 FFSG
- <sup>7</sup> Para 2.19 FFSG
- <sup>8</sup> Chapter 5 FFSG
- <sup>9</sup> s.7 LASSA 1970
- <sup>10</sup> s.17(10) CA
- <sup>11</sup> Para 3.6 FFSG
- <sup>12</sup> Working Together to Safeguard Children 2013 para 58 page 23
- <sup>13</sup> Para 62 & 63 Working Together to Safeguard Children 2013
- <sup>14</sup> Para 3.7 FFSG
- <sup>15</sup> Working Together to Safeguard Children 2013 para 49 page 22
- <sup>16</sup> Para 3.6 FFSG
- <sup>17</sup> s.17(6) CA
- <sup>18</sup> Sch 1 para 15 CA
- <sup>19</sup> R (H) v Essex CC(2009) 2 FLR 91; EWHC 353 (Admin)
- <sup>20</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>21</sup> S,17 CA
- <sup>22</sup> Regs 3 and 13 SGR
- <sup>23</sup> Guidance para 65 and R(B)v Lewisham LBC (2008) EWHC 738 and
- <sup>24</sup> Regs 3 and Guidance para 24
- <sup>25</sup> Reg3(3) SGR
- <sup>26</sup> s.24 (1)A CA and Regulation 22. See also Advice sheet 21A (addendum)
- <sup>27</sup> s.14F and Regulation 11 SGR
- <sup>28</sup> s.14F and Regulation 11 SGR
- <sup>29</sup> s.14F and Regulation 11 SGR
- <sup>30</sup> Para 62 & 63 Working Together to Safeguard Children 2013
- <sup>31</sup> Regulation 14 and 15 SGR
- <sup>32</sup> s. 14F(5) CA and Regulation 15 SGR
- <sup>33</sup> s.22C CA as amended by CYPA 2008
- <sup>34</sup> s.22B & s.22C (10) CA (as amended by CYPA). Manchester City Council – V – F(2002) 1FLR 43; R (on the application of X) v London Borough of Tower Hamlets [2013] EWHC 480 (Admin)
- <sup>35</sup> <http://www.education.gov.uk/childrenandyoungpeople/families/fostercare/b0071246/infoforcarers/nma>
- <sup>36</sup> Reg 9 and sched 2 CPPCRR
- <sup>37</sup> D-v- Southwark LBC [2007] EWCA Civ 182; R (SA) v Kent County Council [2011] EWCA Civ 1303
- <sup>38</sup> Part IX SSCBA
- <sup>39</sup> CBA
- <sup>40</sup> The Education (Student Support) Regulations 2011 (for those starting education after Sept 2012)
- <sup>41</sup> sch 4 para 3
- <sup>41</sup> ESSR 2011 Sch4 para2