

Information and guidance on Special Guardianship



- Every child needs to be loved and valued to enable them to feel a sense of attachment and belonging.
- Every child needs to be cared for and have a stable and secure upbringing where their needs are met from morning to night so that they are able to thrive to their full potential.
- Every child needs to feel safe and protected from harm by the adults looking after them.



If parents cannot meet their children's needs and keep them safe they may be at risk of suffering significant harm.

If a child is at immediate risk of harm they are removed from the care of their parents by either;

- *The Police* -under -Police Protection
- *The court*- under an Emergency Protection Order- Section 44 of the children Act 1989
- *The Local Authority* -Voluntary accommodation- Section 20 of the children Act 1989. This is an agreement between the Local Authority and the parents. The child is placed in foster care or with a family member until final decisions are made about their future. Under section 20, parents retain full parental responsibility for the child.

If the Local Authority does not think it is safe for a child to return home, they may make an application to the court for an Interim Care Order.

Parents will be assessed to determine their capacity to meet their child/children's needs long-term and their ability to keep them safe; this may include a parenting assessment or psychological/psychiatric assessments.

Parents will also be expected to engage in services and support offered which may include attending domestic violence or substance misuse services and make the necessary changes within a timeframe that considers the child's needs.

If in the event parents are unable to achieve this, there needs to be a plan in place for the child's future so that he/she can be placed with a permanent family without delay. This is called Parallel Planning and prevents any unnecessary anxiety or uncertainty for the child.

The Local Authority will help parents to identify possible family member or significant persons who can care for the child/ren long term if they cannot return home. This can be done through the process of a Family Group Conference.

The child may be placed with a family member or friend under

- **Special Guardianship- See below**
- Residence Order-child has to reside with the person who has the order and parental responsibility is equally shared between the person with Residence Order and the birth parent
- Connected Person - this is an arrangement whereby the local authority has legal responsibility for a child who is living with a family member or friend who becomes their private foster carer.

If there are no suitable family members, the child may be placed in long-term foster care or adopted.

It is important to note that not all children under Special Guardianship have been in care or "looked after" by the Local Authority or under

Social Services. A parent may allow a child to live with a family member /friend under Special Guardianship for a number of reasons.

For example

They have not bonded with the child.

They have to work abroad and do not want to disrupt the child education etc.

What is Special Guardianship?

Special Guardianship came into force on 30th December 2005, as part of the Adoption and Children Act 2002, Section 115. It offers a real alternative to long-term foster placements or adoption for those children who, for whatever, reason cannot live with their birth parents.

Special Guardianship allows children to remain within the family unit or other significant person. It allows children to have a sense of normality especially for those young people who may resent social workers or the stigma of being 'in care' .

The real emphasis behind Special Guardianship is to foster a lifelong relationship between the child, the Guardian and the Special Guardian's family.



Expectations of the Special Guardian

A Special Guardian is someone who legally commits to raising a child or young person until at least they reach 18 years old and who fulfils the responsibilities of a parent.

The Special Guardian is responsible for making the day-to-day decisions for the child and ensuring the child's needs are met including taking them to school and to health appointments. Special Guardians are also responsible for supervising Contact between the child and their birth families.

Who can apply to be a Special Guardian?

Anyone over the age of 18 who is significant in the child's life for example: Grandparents, Aunt/uncle or Brother/sister or a family friend. It cannot be the child's parent. It can also be a foster carer, with whom the child has lived for a period of at least one year immediately preceding the application. A joint application can be made by couples and they do not have to be married.

When making an application for a Special Guardianship Order consent is needed from the person with parental responsibility which may be

- The parent
- A person with a Residence Order
- The Local Authority, when the child is 'looked after'
- or each of those who have parental responsibility.

If consent is not given the court can accept the application and grant a Special Guardianship Order, if deemed in the child's best interest.



The Local Authority cannot make an application for a Special Guardianship Order but will support an application if it is seen to be in the child's best interest. The Local Authority will fund the cost of two hours free legal advice for the prospective Special Guardian.

Parental responsibility

Upon the making of the Special Guardianship Order a Special Guardian acquires Parental Responsibility, (PR) and is entitled to exercise PR to the exclusion of any other person holding it except another Special Guardian. Parents retain some parental responsibility, but would only need to be consulted when major decisions had to be made, for, example changing the child's religion. This is, of course, different from Adoption where the birth parents lose parental responsibility entirely.

The Special Guardian cannot change the child's surname or remove the child from the country for longer than three months without the written consent of all those with parental responsibility or an order of the court. This can be made at the same time as the Special Guardianship Order and would apply if the child was going to live abroad with the Special Guardians.

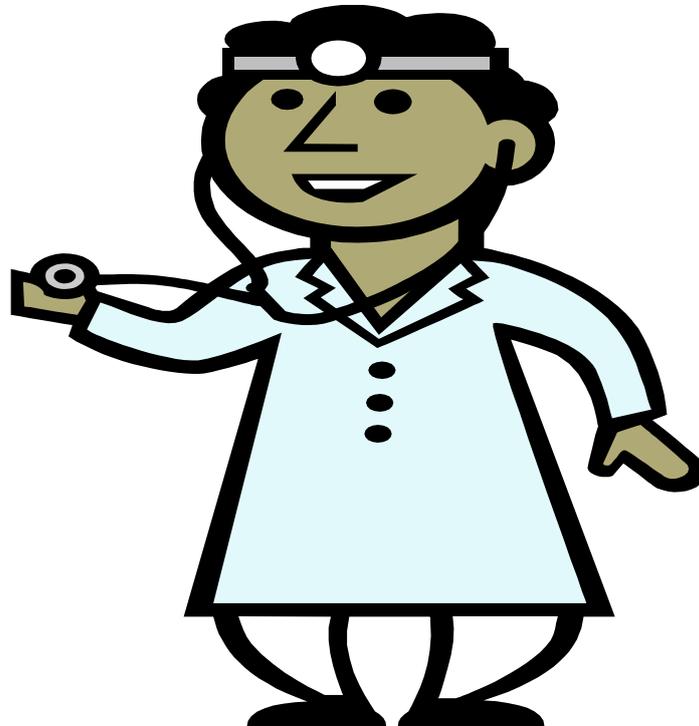
Special Guardianship Assessment

To ensure a person is suitable to be a Special Guardian they will need to be assessed. The Special Guardianship assessment is similar to that of the parenting assessment and will determine if you have the capacity to meet the long term needs of the child and keep them safe. The assessment is undertaken by either the child's social worker or an independent social worker.

Medical

The assessing social worker will provide the partly completed Medical forms which will need to be taken to the GP who will undertake the

medical. The GP will then send back the medical assessment to Children's Services.



Disclosure and Barring Services (DBS), checks will need to be done, (Formerly known as CRB checks). This will be completed with the prospective Special Guardian by the social worker.

References

You will need to provide details of two people who have known you for a substantial length of time and who are willing to give you a character reference. This may be your GP, church minister or friend. It is preferred that one reference is from a professional person, but it is not essential.

Once the Special Guardianship assessment is completed it will be sent to the court along with all other information, assessments, reports and

statements. The court/ judge will read and listen to all the evidence presented, and after taking into consideration the wishes and feelings of the child/children will make a final decision.



When a Special Guardianship Order is granted the child will then be placed with the Special Guardianship family, (if not living there already). The child no longer requires a social worker as their needs will be met within the placement. However, the Special Guardian may receive a Special Guardianship support package from the local authority.

Special Guardianship Support Package

Prior to the Special Guardianship Order being made a social worker will visit your home to undertake the assessment for the support package. It

will identify any support that is needed, including financial, respite and support with managing contact with birth relatives. The court will not grant the order without having sight of the Special Guardianship support package which should have the agreed Special Guardianship Allowance figure. It is therefore essential that all relevant information is provided as soon as possible to prevent delay in this process.

Financial assessment

A financial assessment is undertaken to see if you are entitled to a Special Guardian allowance. This is means tested and considers the ongoing needs of the child. A financial assessment form (which the social worker will provide) has to be completed and return with the Prospective Special Guardian's along with the last three months bank statements and three months wage slips (if working). Whatever information is on the form MUST be backed up in the documentation and must be easily identifiable from bank statements otherwise you will need to provide supporting documentation. Partners of prospective Special Guardian and any adults living in the home need to be included in the financial assessment.

The Special Guardianship allowance will be paid once a fortnight directly into the Special Guardian's bank account. The allowance will help manage the day to day expenses of caring for the child. It is expected to cover any additional expenses incurred for equipment, activities and travel expenses for contact and other relevant costs associated with raising the child. The Special Guardianship allowance should remain in place until the child is 18 years old and will be reviewed annually. However, if financial circumstances change the Special Guardian will need to notify the Local Authority as soon as possible and this will be reassessed.



Settling in payment

The Special Guardian may need equipment or furniture for the child for when they move in. This may include a bed, wardrobe etc and will need to be discussed and agreed as part of the special guardianship support package.

As part of the support package the Adoption Team will provide support, guidance, information and advice relating to Special Guardianship and with any difficulties the Special Guardian may experience in future in relation to caring for the child. This may include identifying and referring to appropriate services. If the child requires any therapeutic needs which were not identified when the Special Guardianship support package was made, the Special Guardian will be expected to initially make contact with Child and Adolescence Mental Health Service, (CAMHS) to explore whether these resources are appropriate. If a service could not be offered, the Adoption Service would consider sourcing alternative provision.

The Adoption Team will provide assistance for the purpose of ensuring the continuance of the relationship between the Special Guardian and

the child including arranging training for the Special Guardian if needed.

The Adoption Team will also provide assistance to find respite outside the family if needed, but this would have to be financed out of the Special Guardian's allowance.

Contact with birth parents/family

It is important for children to have contact with birth parents and family as it allows them to maintain a relationship and have a sense of identity. It should be a positive experience but there are occasions when it is not seen as in the child's best interest. This may be because the child presents with emotional or behavioural difficulties before, during or after contact. It could also be because the parent says things which may upset the child or there are occasions when child will simply refuse to go. The level of contact with the birth family will be something that the Social Worker will discuss with the prospective Special Guardian as part of the support package as they will be responsible to arrange and supervise the contact.

If direct contact cannot take place then letterbox or telephone contact may be an alternative. While it is important for Special Guardians to promote and encourage contact they cannot force a child to attend.

Recommendations for contact with birth parents/family will be made by the Local Authority,

For example:

Mother will have contact six times a year for two hours to be supervised by the special Guardian and held within the community.

The child's parent may not agree with the level of contact recommended and this is generally negotiated in court. Parents can also make an application for a Contact Order and if granted contact cannot be changed without going back to court. The local authority are not in favour of a Contact Order (unless in special circumstances) as it prevents the Special Guardian from varying the contact arrangements to suit the ongoing needs of the child. However, the Special Guardian can terminate the contact session if the child becomes distressed or is unsafe.

If no Contact Order is in place and the Special Guardian is considering making major changes to the contact arrangements, such as allowing it to become unsupervised, it is advised that they first seek advice from the local authority. The Special Guardianship Consultant or Adoption Team will give ongoing support and advice on contact issues which may include arranging mediation between the special guardians and birth parents or providing training.



Finally, 3 years after the Special Guardianship Order has been granted if the Special Guardianship family live out of the borough it will be the responsibility of the Local Authority in which they reside (unless

the child is formally “looked after”) to provide ongoing support although the financial allowance and contact support will remain the responsibility of the placing authority.

Leaving care services for children under special guardianship order

If a young person aged 16-21 has been ‘looked after’ by the Local Authority prior to the making of a Special Guardianship Order they will be entitled to Assistance and advice from the Leaving Care Service. This may include help with employment, education and training.

References

The Children Act 1989, “Section 24

Reg 3 of Care Leavers Regulations 2010

