

**Information about Special Guardianship Orders**

**For a potential Special Guardian**

The purpose of this guide is to give a potential Special Guardian information about what a Special Guardianship Order is and what this will mean for you.

**Some facts about a Special Guardianship Order**

* A Special Guardian is an adult who cares for a child or young person in their home when it is not possible for the child to stay with their parent or carer.
* If the Order is made, it is a long-term commitment to that child or young person.
* Only a Court can make a Special Guardianship Order.
* If things change, then it is only the Court who can end a Special Guardianship Order.
* The child’s parents will still have a legal link to their child if an order is made as they will keep their Parental Responsibly.
* The Special Guardianship Order lasts until the child reaches 18 years of age.
* To become a Special Guardian, you will need to be assessed as suitable to care for a specific child until the child reaches 18 years of age; this assessment will be undertaken by a Local Authority Social Worker.
* Children and or young people who can have a Special Guardianship Order made are aged from just a few weeks old to just before their 18th birthday.

**Which children could benefit from a Special Guardianship Order?**

There are a lot of reasons why children and young people cannot live with their parents. For example:

* When the Local Authority has made an application to the Court and have concerns about how a parent has been looking after their child.
* If there are concerns about a parent’s care of their child, then the Court may have made ‘Findings’ and a Judgement made setting out the facts that have been found to be true about that parent. This is often the reason why a child cannot go back to live with their parents. The ‘findings’ are a legal decision and must be taken very seriously by everyone.
* Children who are Looked After by the Local Authority and who cannot go back to live with their parents.
* When adoption is not the right plan for the child or young person.
* Where a parent’s died.
* Some minority ethnic communities have religious and cultural reasons for not agreeing with adoption.
* Unaccompanied asylum seeking children may also need a safe forever home but have strong attachments or relationships to their families abroad. Special Guardianship offers a stable relationship in a way where their religious and cultural needs are also thought about and met.

**What are the benefits of a Special Guardianship Order for a child?**

* **Stability and security**

A child or young person will have the security of knowing that they will stay in the care of their Special Guardian until they reach 18 years of age, and possibly beyond the age of 18. The Special Guardian will have the security of knowing that they will be able to care for the child and make all the day to day decisions in regards to the welfare of the child, until the child reaches 18 years of age.

* **Identity and relationships**

A Special Guardianship Order lets the child or young person live with a family member or carer and for the child to have happy and positive relationship with them. There will need to be an assessment by the Social Worker of you and the child you want to care for to see if this is the right plan for them. The child or young person might still have contact with their parents, other family member or anyone who they had a close relationship with. It will be for the Social Worker to assess if this is safe for the child.

* **Belonging and normality**

A Special Guardianship Order provides a sense of belonging and ‘’normality’’ for a child. If previously Looked After by a Local Authority, their involvement will end upon the granting of the Order and the child will no longer have a Social Worker, unless they need one. All statutory visits such as Looked After Reviews and Personal Education Plans will cease.

**Who can apply to be a Special Guardian?**

* Special Guardians must be at least 18 years of age.
* Special Guardians don’t need to be in a relationship or as a couple. They can ask to be looked at on their own. If they are in a relationship, then both adults would be looked at and assessed.
* Couples do not need to be married to be assessed.
* Same sex couples can also be assessed.
* If your child has been the care of a Local Authority, anyone who has the agreement of that Local Authority.
* A Local Authority Foster Carer who your child has lived with for at least one year before the application is made. The Foster carers can make this application even if the Local Authority do not agree with it.
* Anyone who has a Residence Order or Child Arrangement Order for your child, or who has agreement from anyone who has a Residence Order or Child Arrangement Order for your child.
* Anyone who your child has lived with for three out of the last five years, as long as they have been living with them for more than three months before they make their application.
* Anyone who has agreement from everyone who has parental responsibility for your child; this could include parents, step parents or a guardian appointed if one of their parents has died.
* Step parents might want to think about other options and Order; a Child Arrangement Order might be a better plan. This would still give them shared Parental Responsibility for your child and detail in the Order where your child will live. Further information and advice can be gained from your Local Authority or getting your own legal advice.

**Being assessed to become a Special Guardian**

Any person who wants to apply for a Special Guardianship Order must give three month’s written notice to the Local Authority. The times this might happen is:

* If a person becomes aware of a child who can no longer live with their parent or family and they want to care for that child, they must contact their Local Authority.
* If the child is Looked After by a Local Authority, then written notice must be given to that Local Authority.
* If the case is before the Court, then they can make the Local Authority, the parents’ Solicitors or access their own Solicitors to make the Court aware of their wish to be assessed as a Special Guardian.

Once an application has been made for a Special Guardianship Order, or if the Court directs an assessment, the Local Authority must undertake an assessment and write a report to the Court about your suitability to be Special Guardians.

During the assessment, you are not expected to know all the answers to the questions but you will be expected to be honest about what information, understanding and knowledge you have.

The assessment will start with a viability assessment, which will include basic information being gathered about you. The outcome of the viability assessment will be either positive or negative. If it is positive, the Social Worker will say that it should move to work on a full Special Guardianship Order report. If it is a negative assessment, then the Social Worker will say there should be no more work with you. If the assessment is negative, you can take independent legal advice and have the right to challenge this decision. The Judge or Magistrates will then decide if more work should be done with you.

**Some of the information to be included in the full Special Guardianship report is:**

* Background information will be requested from the Local Authority and Police Forces where you have lived.
* The same information will be needed for any other adults living in your home.
* You will need to have a medical assessment by a GP to assess their suitability to care for the child or young person.
* You will be asked to give names of people who can give you references. The people giving the reference will need to say what they think about you and your suitability to look after the child or young person until they become grown-ups.
* The wishes and feelings of the child or your person they want to care for will be talked about.
* A Social Worker will meet with the child or young person to talk about this.
* If you have children living with you, their wishes, feelings and thoughts about the child or young person you want to care for will be talked about. A Social Worker will meet with your children to talk about this.

**Within the assessment by the Social Worker with you, the following areas will also be talked about:**

* Information about the child or young person you want to look after. This includes what the child or young person needs each day, their future needs and how you would look after the child or young person to make sure all of their needs are met.
* What you expect of the child or young person you want to look after. How you think the child or young person should behave and how they might feel about what is happening to them.
* What you know about why the child or young person cannot live with their parents.
* What harm the child or young person has suffered, by who and what you think this means for the child or young person and you.
* Information about the child or young person and their family.
* If workers think that the parents are a risk to the child or young person and how you will keep the child or young person safe.
* If workers think that any of the child or young person’s family is a risk to the child or young person and how you will keep them safe.
* Information about you and your family, including your background, how you have lived your lives and things that have happened to you, both good and bad things.
* Information about your relationship with the child or young person, and their family members.
* Your own children’s thoughts about the plan for the child or young person you want to look after.
* Your thoughts about the child or young person having ongoing contact with their parents and family.
* There will be an assessment of your ability to support and supervise these contacts.

If at any stage in the assessment you are having worries or are not sure this is right for you and your family, please talk about this with the Social Worker.

You can decide at any time that you don’t want to be assessed anymore. If you start to think this, then it is much better that you say before the child or young person is living with you.

**What can a Special Guardian do?**

A Special Guardian will make the most of the important decisions for the child or young person; these will be detailed in your written Special Guardianship support plan. The support plan will look at all areas for the child or young person, for you and the child’s parents’ lives at the time the Order is being made and into the child or young person’s life until they become a grown-up. It will include the expectations on you.

You will be expected to talk with the child or young person’s parents about important decisions you are making for their child. These are things like: if you want to take the child or young person out of the UK on holiday, move to live in another part of the country, if your child becomes seriously ill, and change of school. It is important that parents understand that the Special Guardian can use their parental responsibility to the exclusion of all others with parental responsibility, apart from another Special Guardian. This means that if the parents do not agree a decision you make for the child or young person, then you can still make their decision because you have the final say.

When the child or young person is living with you, if there are problems in how you are feeling or looking after the child or young person, you are asked to tell the Social Worker team. They would then look at what the problems are, look at the Special Guardianship Order support plan and see if there are other services to help them make things better.

It is very important that you do not let the child or young person go back to live with their parents or let the child or young person live with someone else who has not been assessed by the Local Authority. This would be a serious concern.

**What a Special Guardian cannot do**

Here are some of the things a Special Guardian is not allowed to do:

* Changing the child or young person’s name unless their parents or the Court gives permission.
* Take the child or young person from the UK for more than three months, without permission from the Court.
* There are some situations where the consent of everyone who holds parental responsibility is required by law, eg certain medical procedures.
* If the child or young person dies, you will need to try your very best to let the parents know. You must tell the Social Work team.

**Role of the Court**

As explained earlier, only a Court can make a Special Guardianship Order. The hearings are private, which means only people agreed by the Court can go into the Court room. You are likely to be a ‘non-party’ and the Court ask that you come to some of the hearings. The people who are party to the proceedings are the child’s parents, Social Worker, Children’s Guardian, from CAFCASS (Children and Family Court Advisory and Support Service).

**The Courts that hear these types of cases are;**

* Magistrates Court, for less complicated cases. In these Courts it will be Magistrates who will make the decisions and they will have a trained Solicitor who will help them with the Law.
* County Court, Combined Court or High Court for more complicated cases. In these Courts it will be Judges who will make the decisions.

**What happens with your Special Guardianship Report?**

Once the report has been completed by the Social Worker, it will be filed as evidence within the proceedings, along with your references, your medical report and your Special Guardianship Order support plan.

All those who are party will receive a copy of these documents; this includes the parents and any other family member who has been made party to the proceedings. They will be asked to give a view on the assessment and recommendations. They have the right to challenge this. This could result in the Court holding a ‘contested hearing’ and you may be directed to attend such a hearing and have to give evidence. If this happens, you will be asked questions by all of the Solicitors and the Judge or Magistrates. You have the right to get your own legal advice in this situation and may have to self-fund this. If the Court directs you to attend a hearing, it is very important that that you do.

It is only the Court who will make the decision if there are disagreements about what is best for the child.

Older children will be assessed by their Children’s Guardian and Child’s Solicitor about them being able to give their own instructions and their views will also be gained for the assessment outcome and recommendations. This is further covered in the next section.

If there is agreement between the parents and professionals that the child or young person should be placed with you, then there will be a hearing held to formally make the Order. The Court like to meet the people who are making this life changing commitment to the child or young person. You will be invited to attend this hearing. The Judge may ask if you have any comments to make and this is your chance to say what you think.

If there is a positive assessment but the child or young person has not been living with you or not for very long, or further work with you is needed, the Court will think about making a final Order. If this happened, then it is likely that the Court will make a Care Order. This will detail that the child or young person is under the care of the Local Authority and can be placed with you. In this case the Local Authority and the child or young person’s parents will share Parental Responsibility, with the Local Authority having the overriding decision making.

Once the Order has been made, the Local Authority will work with you and the child or young person to make sure that things are going well for all of you. When everyone is happy that the placement is right the Local Authority will make a further application to the Court to end the Care Order and apply for a Special Guardianship Order. It is usually the same Court, Solicitors and Children’s Guardian that would deal with this.

The Court will also think about if any other Orders should be made at the same time, like a Child Arrangements Order saying what contact can happen with the child or young person and their parents. A ‘No Contact’ Order can be made if it is not safe for the child or young person to have contact with their parents.

Once the Special Guardianship Order is made, this will be the final hearing and the end of the Court’s involvement. It is also the end of the Children’s Guardian and Child’s Solicitors involvement.

**Does the child have a say?**

In all cases where Special Guardianship Orders are being thought about, it is important that the child or young person’s wishes and feelings are known and shared with the Court. This will be through work done by the Social Worker, Independent Reviewing officer and Children’s Guardian.

**Can a Special Guardianship Order be changed or ended?**

Special Guardianship Orders can be changed or discharged; this can only be done by the Court on the application of:

* The Special Guardian.
* The Local Authority who had a Care Order for the child or young person before the Special Guardianship Order was made.
* Anyone with a Residence Order or Child Arrangements Order for the child or young person before the Special Guardianship Order was made.

With the leave of the Court, this means writing and asking the Court if they can apply:

* The child or young person’s parents or a guardian appointed after the death of one of the child or young person’s parents.
* Any step parent who has parental responsibility.
* Anyone who had parental responsibility just before the Special Guardianship Order was made.
* The child (if the court is happy that the child has sufficient understanding).

**What support is available?**

Local Authorities to have a plan of support for the child or young people and you; they are asked to do this for every child by the Government. This is called the Special Guardianship Order Support Plan and you will see a copy of this. The plan will have lots of information and things to think about. It is very important that you read this and say if there is anything you don’t understand or don’t agree with.

**Getting the Support**

The Support Plan will be reviewed for three years from the date when the Special Guardianship Order was made. Once the three years have ended, any requests for support need to be made to the Local Authority where you are living.

The original Local Authority would still be responsible for any regular financial support agreed before the making of the Special Guardianship Order. The Support Plan will say what the amount is and how long this will be paid for. It is important that if your circumstances change or there are changes to work or benefits, then you need to tell the Local Authority who is paying you.

If the child was not Looked After by the Local Authority, then the Special Guardian is not entitled to an assessment for support, but they may request an assessment from the Local Authority where they live. If the Local Authority refuses to do an assessment for support, you have 28 days to ask for this decision to be reconsidered.

Please speak to your Local Authority who will be able to advise you as to the support available in your local area and provide more information on how to access that support. They may also have a leaflet in respect to the specific services available in your local area and so ask for a copy of this.

**About Financial Support**

A Special Guardian can claim Child Benefit and may be eligible for Child Tax Credits.

The financial support offered by a Local Authority can range from one off payments to regular ongoing payments known as an allowance. These payments will be means tested and cannot duplicate other available benefits or tax credits to which the Special Guardian or child are entitled.

The Local Authority can also help with the legal costs of the application relating to a Looked After child or a ‘settling in grant’ to cover any extra furniture or equipment. These payments would not be means tested.

If a foster carer who becomes a Special Guardian for a child they were fostering, and were given a fee or wages in addition to their fostering allowance, they can receive that payment for up to two years after the Special Guardianship Order is made, and for a longer period in exceptional circumstances, the Local Authority would look at if they would keep making the payments.

Please speak further to your Local Authority who will be able to provide you with more information regarding the above. They may also have a leaflet about their financial policy which they work to. You can ask for a copy of this.

**About Life Story Work**

It is important for children and young people to understand what has happened to them and how decisions have been made for them. The child or young person will have a life story book to help to explain this. It gives them more information about their family and the decisions that have been made for them.

As their Special Guardian, you will be expected to show them their life story book and talk about things in their book with them. This can be upsetting for the child or young person and they might ask questions you don’t have answers for. It is still important that the life story book is talked about so that it becomes normal for them. You will be expected to add to the book with memories for the children and young people while they are with you.

The Social Worker can do work with you about how to share the book, where to keep it, how to answer questions. If you are not sure about any of this, please ask for help.

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| Space for notes |

**Useful websites / Information**

The Special Guardianship (Amendment) Regulations 2016

(<http://www.legislaion.gov.uk/uksi/2016/111/made>)

Explanatory Memorandum and the Amendment Regulations

(<http://www.legislaion.gov.uk/id/uksi/2016/111>)

**Useful Contacts**

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| Details of the assessing social worker:  Name:  Telephone:  Address:  Email:  Details of the Independent Reviewing Officer involved:  Name:  Telephone:  Address:  Email:  Details of the Children’s Guardian (CAFCASS) involved is:  Name:  Telephone:  Address:  Email: |

**Other useful contact numbers:**

The address of your local Team who can provide advice and guidance about things to do with Special Guardianship Orders is:

Post Order Team

Kenworthy House

98 – 104 George Street

Hull

HU1 3DT

Telephone: 01482 612800

Tell us what you think

We always welcome feedback from people in respect to the service we provide. If you have any positive feedback to give or would like to make any comments as to how we can make our service better, then please do not hesitate to contact the Service Manager at the above address.