

SPECIAL GUARDIANSHIP ORDER

Information for Parents



Some facts about a Special Guardianship Order

The purpose of this guide is to give you, as a parent information about what a Special Guardianship Order is and what this will mean for you and your child.

- A Special Guardian is an adult who cares for a child in their home when it is not possible for the child to stay with you, their parent or current carer.
- If the Order is made, the Special Guardian will be expected to make a long-term commitment to your child.
- 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.
- You will still have a legal link to your child if this Order is made. As a parent, you will keep your Parental Responsibility for your child.
- The Special Guardianship Order lasts until your child reaches 18 years of age.
- To become a Special Guardian, the person will need to be assessed by a Social Worker as suitable to care for your child until they reach 18 years of age.

What will change for you as the parent?

When the Public Law Outline (PLO) process is started **or** if the Local Authority issues Public Law proceedings and the Local Authority asks the court for permission to immediately remove your child/children from your care, you will be expected to provide your Solicitor or the Social Worker with the names, addresses and telephone numbers of the people you think would be able to look after your children if you were unable to.

Assessments of the people can sometimes take several weeks to complete. This might be at the same time as the Social Worker is undertaking an assessment with you. To stop delay in decisions being made about your children, the Judge or Magistrates will want all the assessments to be completed as soon as possible. There can be a lot of people being assessed at the same time.

Although parents love their children, for many reasons some parents are unable to give their children the kind of care they need. When this happens the Judge or Magistrates will look at the assessments that have been done on your family and friends.

If this happens, then the Court will consider if a Special Guardianship Order is the right Order for your children and the person who wants to care for your child. If the Order is made, then this will mean that the 'Special Guardian' will have the responsibility for caring for your child until they are at least 18 years old. You will not be responsible for making day to day decisions about your child. This will be the Special Guardian's responsibility. This booklet will hopefully help you understand more about Special Guardianship Orders and what it will mean for you and your children.

Role of the Court

Only a Court can make a Special Guardianship Order. The hearings are private, which means only people agreed by the Court and parties can go into the Court room. Special Guardians are likely to be referred to in court as a 'non-party' and the Court can be asked to let the possible Special Guardian's go into Court room for part of the hearings. The people who are referred to in court as a 'party' to the proceedings are the child's parents, Social Worker, Children's Guardian from CAFCASS (Children and Family Court Advisory and Support Service) and Solicitors.

When there are many complex things to consider, a District Judge or Circuit Judge in a Family Court will make the decisions. When the things that need to be looked at by the Court are not as complex the Magistrates (people who have other jobs), who are advised by a Legal Advisor who is a trained Solicitor, will make decisions.

Parents have the right to 'contest' a plan for their child to live with someone else under a Special Guardianship Order. You will need to speak to your solicitor if you do not agree with the plan for your child to live with someone else. If this is contested, then the Court will hold a hearing where you, the Special Guardians, Social Worker and Children's Guardian will give evidence to the Court and be asked questions by all the solicitors.

If there is agreement between the parents and professionals that the child should live with the possible Special Guardian, then there will be a hearing for the Judge or Magistrates to make the final decision.

Children who could benefit from a Special Guardianship Order?

- 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. Children might be settled in a foster home, and want to stay there.
- When adoption is not a plan for the child.
- Where parents have died.

What are the good things for a child if a Special Guardianship Order is made?

- **Stability and security**

Your child will have the security of knowing that they will stay in the care of their Special Guardian until they are at least 18 years old, and possibly over this age. The Special Guardian will have the security of knowing that they will be able to care for your child and make the day to day decisions until your child reaches 18 years of age.

- **Identity and relationships**

A Special Guardianship Order lets your child live with a family member or carer and for your child to have happy and positive relationships with them. Your child might still have contact with you, other family members 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 your child is Looked After by a Local Authority, this involvement will stop when the Special Guardianship Order is made. Your 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 end.

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 and can be single. If they are in a relationship, then both adults would be assessed.
- Couples do not need to be married to be assessed.
- Same sex couples can be assessed.
- If your child has been in 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; they can make this application even if the Local Authority do not agree.
- 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, if 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 Orders; 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 by getting your own legal advice.

Assessment Arrangements for Special Guardians

A Special Guardianship Assessment will be completed by a Social Worker. The aim is to make sure that the proposed Special Guardian will take good care of your child. The assessment will include:

- How the possible Special Guardian would look after your child to make sure all their needs are met.
- Their expectations of your child. How they think your child should behave and how they might feel about what is happening to them.
- What they know about why your child cannot live with you.
- What harm your child has suffered, by who and what they think this means for your child and you.
- Information about you and your family.
- If workers think that you are a risk to your child and how your child would need to be safe.
- If workers think that any of your family is a risk to your child and how your child would need to be safe.
- Information about themselves, including their background, how they have lived their lives and things that have happened to them, both good and bad.
- Information about their relationship with your child, your child's family members.
- Their own children's thoughts about your child living with them.
- The possible Special Guardian's thoughts about your child having ongoing contact with you.
- There will be an assessment of their ability to support and supervise contacts.

Contact Arrangements

- If your child lives with a Special Guardian, often arrangements can continue for you to spend time with your child.
- The Social Worker will make recommendations within their assessment about contact. Contact is something that is thought about very carefully. There will be a lot of information and the adults will try to make sure that all the 'what if's' have been thought about for contact with your child. Workers understand that this might be the most important part of the Special Guardianship Order report for you.
- It is important that you talk to workers about how you think contact should be planned so that everyone's thoughts about this are considered and if you don't understand the plans, please tell someone.
- Every family's situation is different and the level of contact a parent has with their child when they are looked after by a Special Guardian is different. It will be about what is right for your child.
- In the future, the needs of your child may change, or the Special Guardian's circumstances or your circumstances may change. It may mean that you don't agree about the contact plan, how much time you have with your child and when and where this happens. Mediation services could be used to help work through the problems with the Special Guardian, you and or family members.

People who will work with your child

A person called an Independent Reviewing Officer will be allocated if your child is being Looked After by the Local Authority, in foster care, or at home with you when an Interim Care Order has been made and the Judge or Magistrates says that your children can still stay with you while further assessments take place. An Independent Reviewing Officer must look at and think about your child's day to day care needs. You will get to meet them at Child Looked After Reviews. They do not go to Court hearings. Children's Guardians will ask them about their views about the plans the Social Worker has made for your child.

Other Orders

When a child has not lived with the possible Special Guardians or has not lived with them for very long time, other Orders might be made before a Special Guardianship Order. This is because the Court do not know how things will work out and the placement has not been 'tested.' If this happens, it is most likely that the Court will make a Care Order. After the Care Order is made, it is the Social Worker's responsibility to make sure that your child will get to know the Special Guardians until they are all ready for your child to move in with them.

This means that the Local Authority will share Parental Responsibility for your children with you and make sure that plans happen for your child. The Local Authority can make decisions that you might not be happy with. If this happens, it is important that you talk to the Social Worker, Independent Reviewing Officer and you could talk to a Solicitor.

Once everyone is happy that your child is safe and settled with their Special Guardians, the Social Worker will support the carers to make an application to the Court for a Special Guardianship Order. You will be told about this by the Social Worker and your Solicitor. It is usually the same Court, Solicitors and Children's Guardian who will work with your child again to consider if this is the right Order for your child.

Once the Special Guardianship Order is made, this will be the final hearing and the end of the Court looking at your child and your life. It is also the end of the Children's Guardian and Child's Solicitors involvement.

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 if there is an application by:

- The Special Guardian.
- The Local Authority in who were working with your child before the Special Guardianship Order was made.
- Anyone with a Residence Order or Child Arrangements Order for your child before the Special Guardianship Order was made.
- Any parent of a child
- The child

The parent and child would first need permission from the Court to make such an application.

What can a Special Guardian do?

A Special Guardian will be your child's carer and will have parental responsibility, so they will make decisions about your child. These will be detailed in their written Special Guardianship Order support plan; parents will get to see this plan and their Solicitor will explain this to them and what the plan means for you.

If you and the Special Guardian can talk to each other in a kind way and there is no anger or conflict between you, then the Special Guardian will be expected to talk to you about big decisions about your child. This includes things like: if they want to take your child out of the UK on holiday, move to live in another part of the country, or if your child becomes seriously ill. 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 you do not agree to a decision of the Special Guardian, then the Special Guardian can still make their decision because they have the final say.

Special Guardians are asked not to let your child come back to live with you if they are having problems or if your child asks to come back to live with you. They are also asked not to let your child go to live with someone else who has not been assessed as a safe person by the Local Authority.

If parents find out that the Special Guardians cannot look after their child anymore, then they are asked to tell the Social Worker or their Solicitor straight away. This will make sure that the Social Worker knows everything they can and that they can see your child and find out what is going on for them.

What a Special Guardian cannot do

There are some things that a Special Guardian is not allowed to do and these include:

- Changing the child's name unless their parents or the Court gives permission.
- Take your child 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 needed by law. This can be certain medical procedures.

What support is available?

Local Authorities must have a plan of support for your child and their Special Guardians; This is called the Special Guardianship Order Support Plan and you will see a copy of this. The plan will have lots of information to think about.

Independent and confidential support is available for you as a birth parent of children whose plan is Special Guardianship. The independent support worker is based in the Children and Families Support Team. This means that they are not involved in court proceedings relating to the special guardianship of your child. They can:

- ✓ offer birth parents a safe place to talk about what special guardianship means for you and your child or children.
- ✓ listen to your feelings about special guardianship face to face.

Special Guardianship and placement breakdown

If the Special Guardians find that they are not able to keep looking after your child or are finding it hard to look after your child, then the Special Guardian needs to contact their Local Authority. Support would be offered in addition to the Special Guardianship Order support plan. It is hoped that with more support being put in place that the Special Guardians could get through the problems they were having and that your child could stay in their care.

If the Special Guardians are not able to keep caring for your child, then you would be told about this by the Social Worker and the Social Worker will tell you about the plan for your child as soon as possible.

Space for Notes



Useful Contacts



Details of the 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:

Useful Reading:

Department for Education Special Guardianship: Statutory Guidance for Local Authorities on the Special Guardianship Regulations 2005 (as amended by the Special guardianship (Amendment) Regulations 2016).

Other useful contact numbers;

Contact details for the Child and Family Support Team who can provide advice and guidance about things to do with Special Guardianship Orders is:

Children and Families Support Team (CFST)

Email: Children.families.support.team@leicester.gov.uk

Telephone: 0116 545 6540

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 Manager at the above address.

