



Special Guardianship Orders

What is a Special Guardianship Order?

A Special Guardianship Order is a way of providing a secure family life for children and young people. A Special Guardianship Order provides legal security for children who cannot be cared for by their birth parents for any reason and it is an alternative to other orders and arrangements such as: Adoption, Long Term Fostering or a Child Arrangement Order. A Special Guardianship Order lasts until a child is eighteen years old.

A Special Guardian shares parental responsibility for the child with the child's parents, but the Special Guardian is able to make day-to-day decisions about the child's care including where they will live or where they will go to school (as they can exercise their parental responsibility to the exclusion of parents).

As with an Adoption Order, Special Guardians have parental responsibility for the child, but unlike Adoption, the child retains a legal link to their birth parents.

If a child was 'Looked After' by the local authority before the order is made the Special Guardianship Order ends that arrangement. If a child is subject to a Care Order, the making of a Special Guardianship Order will discharge this and the child will no longer be in the care of the local authority.

Which Children could benefit from a Special Guardianship Order?

Children who could benefit from a Special Guardianship Order, include:

- Children and young people who are looked after by the local authority in longer term arrangements.
- Children and young people who are unable to return to their birth parents.
- Children and young people for whom Adoption or Child Arrangement Orders are not suitable.

Who can become a Special Guardian?

- A relative with whom the child has lived for a period of at least one year immediately preceding the application.
- A local authority foster carer with whom the child has lived for one year immediately preceding the application.
- Any person who is named in a Child Arrangement Order as a person with whom the child is to live.
- Any person with whom the child has lived for a period of at least three years (which need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application).
- Any person who has consent of each person named in a Child Arrangement Order as a person with whom the child is to live.
- Any person, where the child is in the care of the local authority, who has the consent of that authority.
- Any guardian of the child
- Any other person (other than a parent) who has obtained permission from the court to make the application.
- Special Guardians need to be at least eighteen years old. Individuals can apply alone or jointly with one or more other people. Couples do not need to be married. Birth parents cannot be Special Guardians.

You don't have to be a blood relative. You can be

- A family friend
- An unrelated foster carer
- A grandparent
- An aunt or uncle
- A brother or sister
- Another relative

What are the advantages of a Special Guardianship Order?

For a child and for the carer, a Special Guardianship Order makes the care arrangements more legally secure than a Child Arrangement Order and enables the child to maintain stronger links with their birth family than if they were adopted. It also allows carers to have more control over decisions about the child's care, although parents retain some limited rights and responsibilities.

For older children, Special Guardianship Orders can strike the balance between their need for a safe, stable, caring home throughout their childhood and maintaining links with their birth parents.

Special Guardianship is an option for existing foster carers, family and other connected people to offer long term care and commitment to children.

Decisions a Special Guardian cannot make without consulting the child's birth parents



- To remove the child from the UK for more than three months.
- To change a child's surname.

How is a Special Guardianship Order different to a Child Arrangement Order?

A Child Arrangement Order gives parental responsibility to the holder which is shared with others who have parental responsibility equally and others must be consulted when decisions are made about the child. The child will live with the holder of a child Arrangement Order.

Special Guardians use their parental responsibility for the child, subject to that Special Guardianship Order, to the exclusion of anyone else with parental responsibility.

This means they can make major decisions about a child, including:

- Where the child lives
- Where they go to school
- Giving consent for medical treatment.

Birth parents can apply to discharge a Child Arrangement Order at any time. However, birth parents have no automatic right to apply to vary or discharge a Special Guardianship Order. They would first need to ask the court for permission to apply and they would need to show there had been a significant change in their circumstances for this to be agreed.



How is Special Guardianship different from adoption?

Adoption ends the legal tie between a child and their birth parents and all parental responsibility is transferred to the adoptive parents. The child becomes a permanent member of their adoptive family.

- A Special Guardianship Order does not end the legal relationship between a child and their birth parents. Special Guardians can exercise parental responsibility to the exclusion of all others and they have the final say in most decisions about a child's upbringing.
- An Adoption Order cannot be reversed, but a Special Guardianship Order can be varied or discharged in certain circumstances. This means it does not give the same level of permanent security that an Adoption Order does.
- For some older children keeping a legal tie to their birth parents may be important, needing an adult to make decisions on their behalf but not wanting to end their relationship with their birth parents.

A Special Guardianship Order does not end the legal relationship between a child and their birth parents.

How are Special Guardianship Orders made?

Special Guardianship is a legal order agreed in court. The court's decision is based on the needs of the child and an assessment of the prospective Special Guardian's suitability.

Special Guardianship Orders can be made as a final outcome of care proceedings when social workers believe it is unsafe for a child to remain in their birth parent's care and seek the court's agreement to remove them.

They can also be made in private law proceedings when a prospective Special Guardian makes an application to the court.



How to become a Special Guardian?

If a child is 'Looked After' by the local authority a Special Guardianship Order is one of the ways of making sure they have a secure permanent home and a social worker may talk to you about this. However, it is up to the carer and/or family member to decide if this is something they want to consider.

If the idea comes from a carer or from a child, it will be important to talk to the local authority to find out what is involved and if the local authority will support the application.

Prospective Special Guardians need to give the local authority three months written notice of their intention to apply. If a child is looked after, the Notice of Intention should go to the child's local authority; otherwise it is the proposed Special Guardian's Local Authority that will need to be notified. This notice period is to allow the local authority time to investigate the suitability of the proposed Special Guardian and to prepare a written report for the court.

A Notice of Intention to apply is not needed when there are already family proceedings before the court, and the court considers that a Special Guardianship Order should be made. This is most likely during care proceedings, where there is already a strong pre-existing relationship between the child and the Special Guardian, where caring for the child is a tried and tested arrangement.



Assessing prospective Special Guardians

Information about the child needs to be presented to the court, so the court can understand the child's whole story, including:

- Their family composition.
- Social and educational development.
- Importantly for older children; their own wishes and feeling.

The court will also want information on the proposed Special Guardian including a thorough assessment of your ability to look after the child. A social worker will work with you to complete this and it can take around 12 weeks with regular assessment visits which will focus on your own personal history, relationships and parenting experience. This will include:

- Speaking with all family members and it is sometimes necessary to speak with previous partners.
- You will be required to evidence your financial position, income and expenses. Debt is not a barrier to becoming a special guardian, but how debt is managed is important.
- An important aspect of the assessment is your own experience of your parents and being a parent. It may be that you have never been a parent before and thinking about how you might prepare for caring for a child will be part of the assessment.
- The assessment will help you to understand the experiences of the child you are coming forward to care for. The child's experiences and the reasons that lead to them becoming looked after may be difficult to listen to and accept, but it is important that you understand the child's needs.
- During the course of the assessment you will be provided with more information about the reasons why the child's parents cannot care for them.

Arrangements for children to see their birth parents when they are no longer living with them is called contact. Arrangements for future contact will be discussed during the assessment and any support required will be addressed.

There are also a number of checks and references that the court will require to make a Special Guardianship Order. The social work team will process these as part of the assessment. They include:

- At least three referees who are prepared to meet with the assessing social worker
- Health checks – You will also need to undergo a medical with your GP
- Police checks are completed on all household members and very regular visitors aged 18 and over
- Disclosure and Barring Service (DBS) checks are completed on the SG carer(s) and any other adults living in the family home
- Checks with social services, your employer and your children's school (if applicable)

Assessing prospective Special Guardians can take up to 12 weeks

Support & Services Available under a Special Guardianship Order

The assessment will look at your support needs. A support plan will be prepared and agreed with you before the report is given to the court. This will include what support is available, duration and future review arrangements.

Durham is developing its support services for Special Guardians and now has a small team of Kinship Care Review Officers providing advice and support at both the initial stage of the Special Guardianship process and as part of the review process.

Support may be provided from both mainstream services including therapeutic support, training, mediation, access to Pupil Premium funding through a child's school (for previously Looked After Children), Early Help Service (One Point Service) and a wide range of services and support provided by the voluntary and community sector, funding initiatives, access to groups including Durham County Carers and Parent/Carer Forums, Kinship Support Groups and Rollercoaster.

Additional support may be accessed from 'Grandparents Plus', 'Family Lives' and 'Family & Childcare Trust' who can provide independent advice and advocacy, financial support, access to support networks and advice and information.

Financial Support

The support provided by the local authority may also include transitional financial support which is paid up to two years after the order is made, and would normally require a financial assessment, which will determine the amount of support, based on age-related fostering allowance. This is primarily paid as a lump sum though can be paid via instalments to help with initial expenses.

In certain limited circumstances, where there is likely to be recurring expenditure, an ongoing periodic payment may be agreed. Any financial support provided will be reviewed on an annual basis.

However, prior to any application for financial support, income must be first maximised by accessing all eligible benefits. A Special Guardian can claim Child Benefit and they may be eligible for Child Tax Credits/Universal Credit. For further information and assistance to access these benefits please contact Welfare Rights on 03000 268976 or alternatively contact the Kinship Care Review Officers using the contact details on the back page of this leaflet.

Where the local authority are supporting the application for a Special Guardianship Order, the authority will provide you with funding to cover the cost of one hour's worth of legal advice to enable you to discuss the options with a solicitor before the final hearing.

**You can claim for Child Benefit.
You may be eligible for Child Tax Credits/Working Tax Credits/
Universal Credit/Benefit Exemptions**



For further information in accessing support/services please contact the Kinship Care & Support Team

CYPSSGOReviewOfficers@durham.gov.uk

Your Kinship Care Review officer is:

You can contact them directly on:

Please ask us if you would like this document summarised in another language or format.



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Contact your review officer