

What is Special Guardianship?



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The importance of a permanent home

All children deserve to grow up as part of a loving family who can help them flourish during childhood and beyond.

The vast majority of children in this country are safe and secure in the care of their parents. And it's best for them, whenever possible, to be brought up by their birth parents.



But where that's not possible, Children's Services may need to become involved – it's their job to make sure that all children are looked after by adults who can give them safe and nurturing care throughout their childhood.



Feeling safe and secure

Every child needs to feel secure and settled in a family that loves and values them. This means building strong attachments to adults who are committed to them long-term, who support their development and who guide them through childhood to adulthood.

Sometimes it becomes necessary for children to be looked after by Children's Social Care. Sometimes children are not able to return to the care of their birth parents and in these cases decisions should be made as soon as possible about where they will live in the future.

Previously, children were offered permanent homes with adoptive parents or foster parents. Since 2005 **Special Guardianship** orders were introduced to enable children to have a permanent home with a family member or friend as an alternative to adoption or long term fostering.

Different ways of providing a permanent home

Permanent arrangements for children in care can take several forms:

- 🦋 Children may return to their parents with help and support
- 🦋 The extended family or friends may take on responsibility for their care
- 🦋 They may be fostered long term
- 🦋 They may be adopted
- 🦋 They may have one or more Special Guardians



Special Guardians

Special Guardianship offers long term security and provides a permanent legal relationship between the child and their carer throughout their childhood, and also preserves the basic link between the child and their family.

How Special Guardianship works

A **Special Guardianship** order appoints one or more people to be a child's Special Guardian.

-  As a Special Guardian, you have responsibility for all aspects of caring for the child, for almost all of the major decisions about their upbringing e.g. where the child lives or goes to school and authorising general medical treatment.
-  As with an adoption order, Special Guardians have parental responsibility for the child. But unlike an adoption order, the child keeps the legal link to their parents.
-  If the child was looked after by the local authority before the Special Guardianship order was made, that tie ends - the local authority no longer has any parental responsibility, so the Special Guardian has no need to get them involved at all.
-  There is a range of help and support for Special Guardians and the child cared for under a Special Guardianship Order, including financial support.
-  While a Special Guardianship order is in force, there needs to be written consent of every person who has parental responsibility for the child, or the court's permission for the child to:
 -  Be legally given a different name
 -  Take the child out of the UK for more than three months
 -  For certain medical procedures i.e sterilisation

Who can apply for Special Guardianship?

You can apply to be a Special Guardian either individually or jointly with someone else. If two of you apply, you don't need to be married. A child's parent can't be made that child's Special Guardian.

You can apply to the court for Special Guardianship if:

- 🦋 You are 18 or over
- 🦋 You are the child's guardian
- 🦋 You are a local authority foster carer and the child has lived with you for a year immediately before the application
- 🦋 You have a Residence Order or a Child Arrangement Order relating to the child, or the consent of everyone a Residence Order or Child Arrangement order relates to
- 🦋 The child has lived with you for three out of the last five years
- 🦋 You have the local authority's consent if the child is in local authority care
- 🦋 You have the consent of everyone with parental responsibility for the child.
- 🦋 You have the court's permission to apply



A court can also make a Special Guardianship order during family proceedings about a child's welfare if they think that's the best solution - the child always comes first.

Varying or ending the Special Guardianship

Unlike adoption orders, Special Guardianship orders can be varied or ended under special circumstances. People who can apply to the court to do this include:

-  The Special Guardian
-  The local authority named in a care order in relation to the child
-  The court during family proceedings about the child's welfare
-  Or, with the court's permission, either of the following:
 -  Anyone who had parental responsibility immediately before the Special Guardianship order was made including a Residence Order/Child Arrangement Order, the child's parents or guardians or a step parent who has parental responsibility
 -  The child (if the court is satisfied that the child has sufficient understanding)

If you're not the child and the court's permission is needed, they may only give their permission if circumstances have changed significantly since the Special Guardianship order was made. The court has to decide if any changes would be in the child's best interests. It's not a decision that's taken lightly - or frequently.

Help and support for Special Guardians

There is help and support for everyone (parents, child and Special Guardians) involved in Special Guardianship, provided by your local authority. All local authorities are required by law to provide Special Guardianship support services in their area to help everyone involved, subject to an assessment of need. These may include:

-  Counselling, advice and information
-  Financial support - following the outcome of an assessment of need
-  Support groups for Special Guardians for them to discuss issues relating to Special Guardianship
-  Help with contact between the child and their parents or relatives - or anyone else the child has a relationship with that the local authority considers to be beneficial to the child's welfare

-  Therapeutic support
-  Training for the Special Guardian - or prospective Special Guardian - to meet any special needs of the child
-  Mediation for matters relating to Special Guardianship orders

Applying for Special Guardianship - step by step

1. Give the local authority three months' written notice of your intention to apply to the court. (Unless you have the court's permission to apply right away)
2. The local authority assesses your suitability to become the child's Special Guardian
3. An application is made to the court
4. The local authority submits a report on your suitability
5. The court considers your application and the local authority's report and makes a decision

Local authority report

When they get the written notice of an application, or if the court makes a request, the local authority has to investigate and prepare a report to the court about the suitability of the people applying to be Special Guardians.

The report has to include:

-  Information about the child who is the subject of the application
-  Information about the child's family
-  The wishes and feelings of the child and others
-  Information about the prospective Special Guardian
-  Information about the local authority that compiled the report
-  A summary prepared by a medical professional
-  The implications of making a Special Guardianship order for the people involved
-  The relative merits of Special Guardianship and other orders
-  A recommendation regarding Special Guardianship
-  A recommendation regarding contact

Other Services You May Find Useful

Kinship Carers www.kinshipcarers.co.uk

Grandparents Association www.grandparents-association.org.uk

Grandparents Legal Centre www.grandparentslegalcentre.com

Child Law Advice Line 0800 020 008

Citizens Advice Bureau www.citizensadvice.org.uk



Family Rights Group

www.frg.org.uk

Grandparents Plus

www.grandparentsplus.org.uk

CORAM Childrens Legal Centre

www.childrenslegalcentre.com

Corambaaf

www.corambaaf.org.uk

HM Courts & Tribunals Service

CB4 Special Guardianship – A guide for court users

www.hmcourts-service.gov.uk

For further information...

Please contact the Adoption and Fostering Team

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