

Your guide to Special Guardianship a new option for children needing permanent families



department for
education and skills



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 own birth family. But where that's not an option, social services may need to step in – it's their job to make sure that all children are well 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. And that means strong attachments to adults who are committed to them long-term, who support their development and who guide them through childhood to adulthood. Most children who are looked after by the state eventually return home. Almost one in three returns home within eight weeks. But for children who can't go back home quickly, decisions need to be made as soon as possible about where they will live in the future. Any delays can have a severe impact on a child's health and development. Up until now, children have been offered permanent homes with adoptive parents, foster parents, their extended family or friends. Now there's also the new option of **Special Guardianship**.

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



What about adoption?

Adoption offers the child a legally permanent new family, which they belong to all their lives. But it's not right for all children who can't return to their parents. For example:

- Some older children want to keep the legal link to their birth family – but an adoption order would permanently remove that.
- For some children who are being cared for permanently by their extended family or friends, an adoption order could have a significant impact on their relationships. For instance, taking away the legal link between a parent and their child can cause conflict and tension, especially if the adoptive parent is related to the birth parent, which can be damaging for the child.
- Some minority ethnic communities have religious and cultural difficulties with the legal side of adoption. Islam, for example, prevents a person from calling someone else's child their own.
- Unaccompanied asylum-seeking children may need secure, permanent homes but have strong attachments to their families abroad.

Special Guardians

Bearing in mind that children need long-term security, and since adoption isn't always suitable, **Special Guardianship** offers another solution. It's a way of providing a firm foundation for a lifelong permanent relationship between the child and their carer. It's legally secure and it 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, in the driving seat for almost all the major decisions about their upbringing - e.g. Where the child lives or goes to school, authorising 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's a range of help and support for Special Guardians, including financial support.

Who can apply for Special Guardianship?

You can apply to be a Special Guardian either individually or jointly with someone else - or several others. 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're 18 or over.
- You're the child's guardian.
- You're a local authority foster carer and the child's lived with you for a year immediately before the application.
- You have a residence order relating to the child, or the consent of everyone a residence order relates to.
- The child's 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.

Parents and Special Guardians

- The Special Guardian has clear responsibility for all day-to-day decisions about caring for the child and their upbringing.
- The parents are still legally the child's parents but their parental responsibility is limited.
- Parents still retain the right to consent or not to the child's adoption or placement for adoption.
- 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:
 - Known by a different surname.
 - Removed from the UK for more than three months.

Varying or ending the Special Guardianship order

Unlike adoption orders, Special Guardianship orders can be varied or ended if circumstances change a lot. People who can apply to the court to do this include:

- The Special Guardian.
- The local authority named in a care order relating to the child.

- Anyone with a residence order which relates to the child before the Special Guardianship order was made.
- With the court's permission:
 - The child's parents or guardians.
 - A step-parent who has parental responsibility.
 - Anyone who had parental responsibility immediately before the Special Guardianship order was made.
 - 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 really significantly since the Special Guardianship order was made. The court has to decide how things must change before a Special Guardianship order is altered in any way. It's not a decision that's taken lightly – or frequently.

Just as a court can make a Special Guardianship order during family proceedings about the child's welfare, it can also vary or end the order then.

Help and support for Special Guardians

There's plenty of help and support for everyone involved in Special Guardianship, provided by your local authority. They're required by law to provide Special Guardianship support services in their area to help everyone involved. These include:

- Counselling, advice and information.
- Financial support.
- Support groups for children, parents and Special Guardians or people thinking about becoming one, 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.
- Therapy services for the child.

- Help to maintain the child's relationship with the Special Guardian, including:
 - Training for the Special Guardian - or prospective Special Guardian - to meet any special needs of the child.
 - Respite care.
 - Mediation for matters relating to Special Guardianship orders.

How to apply for a Special Guardianship order

If you want to apply for a Special Guardianship order, you need to notify the local authority in writing three months in advance. The only exception to this is if you have the court's permission to make an application when there's already an application for an adoption order. That's to make sure your competing application doesn't delay the adoption order hearing.



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 because someone else is already applying to adopt the child.)
2. The local authority investigates 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 to the court has to include:

- Information about the child who's 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.

The court can't make a Special Guardianship order unless it's received this report covering the suitability of the applicants.

Special Guardianship orders are available from 30 December 2005, when the Adoption and Children Act 2002 comes into force.

For further information please visit
www.direct.gov.uk/Parents/AdoptionAndFostering

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