

Special Guardianship Fact Sheet

Your questions answered inside!

What is a Special Guardianship Order?

A Special Guardianship Order (SGO)

is a way of providing stability for a child who cannot return to live with their birth parent and for whom adoption is not appropriate. It is a legal way of giving the person caring for the child, clear and long-term responsibilities for the child's upbringing. At the same time it preserves the legal link between the child and their birth parents.

In many cases the child will continue to have contact with their parents. Where appropriate the court may make a Contact Order at the same time as the SGO. Once a SGO has been made, the Special Guardian will normally be the permanent carer for the child until that child reaches the age of 18.

When may a Special Guardianship Order be suitable?

A Special Guardianship Order may be particularly suitable for:

- Children in long-term foster care
- Children who are cared for on a permanent basis by members of their wider family
- Older children who wish to retain a legal link with their birth family, but who would benefit from more permanent care arrangements

Who can apply for a Special Guardianship Order?

A Special Guardianship Order is made through a formal application to a court. You can apply to become a Special Guardian if you are over 18 and you are:

Any Guardian

any guardian of the child.

Local Authority

A Local Authority foster carer with whom the child has lived for one year immediately before the application is made.

A Relative

A relative of the child with whom the child has lived for one year before the application is made.

Anyone who holds a Residence Order or a Child Arrangement Order in respect of the child.

Residence/Child Order

3 out of last 5 years

Anyone with whom the child has lived with for three out of the last five years.

Anyone who has permission from; (a) The Local Authority (if the child has been 'looked after' under s31 for less than 12 months) or (b) All those with parental responsibility for the child or the court. Anyone not on the list above will require the permission of court before they can make an application.

Permission

What is the procedure for applying for a Special Guardianship Order?

If you intend

to apply for a SGO you must tell the Local Authority about this in writing at least three months beforehand. During this three month period the Local Authority will complete a report for the court.

This report assesses whether a SGO is the best way to meet the child's needs. It has to look at the child's needs and wishes; information about the prospective Special Guardian; the views of people involved in the child's life and what support services may be needed. This report must be completed whether or not the child has been looked after by the Local Authority.

Once the assessment is completed it is for the person who wishes to become a Special Guardian to decide whether to make a formal application to the court. You may wish to take legal advice about this.

What support is available?

The code of practice

on Special Guardianship in Wales (2019) places a new duty upon Local Authorities to make certain categories of people aware of their entitlement to request an assessment of their need for special guardianship support services. These include special guardians, prospective special guardians, children

subject to special guardianship arrangements, and children of special guardians. (See chapter 4).

The Special Guardianship (Wales) (Amendment) Regulations 2018 state that where a child was looked after immediately before a special guardianship order was made, the Local Authority which looked after the child will now remain responsible for meeting any special guardianship support needs for a period of three years after the order is made, regardless of where that child is living. The authority will also have to notify the authority for the area where the child is living of any continuing support needs as that period comes to a close. This does not apply to ongoing financial support which was agreed before the special guardianship order was made, which will remain the responsibility of the original Local Authority.

What support is available?

The regulations prescribe the specific support services which local authorities must make arrangements to provide to special guardians, children and other people involved in special guardianship arrangements. Local authorities do not have to provide these services direct, but can arrange for them to be delivered in partnership with other agencies, as appropriate. The prescribed services are:

Financial support

Peer support

Contact

Services for children

Mediation

If support is provided, the details will be written down in a Special Guardianship Support Services Plan. If, after the support is provided, the Special Guardian or Child no longer requires further intervention, the Childcare Social Worker will cease their involvement. However, the Special Guardian can continue to seek advice and Guidance from the designated support officer in the Family Placement Team.

Who has **parental responsibility** for the child?

Unlike an Adoption Order,

a SGO does not mean that parental responsibility stops for the birth parent, or anyone else who has parental responsibility. However a Special Guardianship Order gives the Special Guardian enhanced parental responsibility for the child.

This means that the Special Guardian has day-to-day responsibility for caring for the child and for making decisions about how they are brought up and can overrule the wishes of the birth parent if necessary.

What can a **Special Guardian** expect from the Local Authority?

Social Services will keep in contact with the Special Guardian to check that everything is going smoothly. The frequency of this contact is determined by your level of need, and how much contact you want with the department. If support services are being provided, contact is likely to be more frequent. If support services or financial assistance are provided, these will be reviewed at least once a year to ensure that they are continuing to meet the needs of the child. If you have concerns or queries you are welcome to contact us at any time.

What does the Local Authority expect from a Special Guardian?

Special Guardians have few formal responsibilities to the Local Authority. However by law you must inform the Local Authority if at any time:

Address

you change your address.

The child no longer has a home with you.

Home

Death

the child dies.

There is any change in your financial circumstances or the financial needs and resources of the child.

**Financial
changes**

Special Guardians who receive financial support must also provide the Local Authority with an annual written statement of circumstances. However if you need to discuss issues after the Order has been granted, you can contact us at any time.

How long does a **Special Guardianship Order** last?

A Special Guardianship Order

will normally last until the child reaches the age of 18. The court may agree to end ('discharge') or change ('vary') a Special Guardianship Order if certain people, such as the Special Guardian, someone with parental responsibility or the young person, make an application to the court. Birth parents can only apply to the

court for the order to be discharged if there are significant changes since the order was made.

For more **information**

If you need more information, or want to talk about applying for a Special Guardianship Order, please contact:

Family Placement Team
Torfaen County Borough Council
01495 766697

References

- Special Guardianship - Code of Practice on the exercise of social services functions in relation to special guardianship orders (2010). Welsh Assembly Government: Wales [online]. Available from: <http://senedd.assembly.wales/documents/s75227/SL5214%20-%20Code%20of%20Practice%20on%20the%20exercise%20of%20social%20services%20functions%20in%20relation%20to%20special%20guar.pdf>. Accessed on: 27/03/2020.
- The Special Guardianship (wales) Regulations 2005 [online]. Available from: <https://www.legislation.gov.uk/wsi/2005/1513/contents/made>. Accessed on 27/03/2020.
- The Special Guardianship (Wales) (Amendment) Regulations 2018 [online]. Available from: <http://www.legislation.gov.uk/wsi/2018/573/made>. Accessed on: 27/03/2020.
- Social Services and Well-being (Wales) Act 2014 [online]. Available from: <http://www.legislation.gov.uk/anaw/2014/4/contents>. Accessed on: 27/03/2020.