

Special Guardianship: Policy and Procedure

Version 3.0
January 2016

Document name & file location	Special Guardianship Children's Social Care Policy Library	
Document Author	Sarah Roberts, Policy & Commissioning Officer, Children's Social Care Bracknell Forest Borough Council Time Square, Market Street, Bracknell, Berkshire RG12 1JD Telephone: 01344 351283 Email sarah.roberts@bracknell-forest.gov.uk	
Document Owner	Peter Hodges, Head of Service for Looked After Children Children's Social Care Bracknell Forest Borough Council Time Square, Market Street, Bracknell, Berkshire RG12 1JD	
Review date	This document is to be reviewed a minimum of every 5 years after its approval date, the next review to occur no later than May 2012. Incremental reviews may take place as required.	
Accessibility	This document can be made available in hard and electronic formats. No copies in other languages are currently available.	
Destruction date	Details of destruction dates	
How this document was created	Version 1	Author and Team
	Version 2	Team / Line Manager
	Version 3	CSMT
	Version 4	DMT/Portfolio Holder
	Version 5	Public document or Pre-print Design Circulation
Circulation restrictions	Public Policy Document at Version 4.0	
Version	Detail of change	Name & Date
1.0	Document created	ChrisMi, Jan 2006
2.0		December 2015
3.0	CSCMT	January 2016

Accessibility

This document can be made available in large print, Braille, audio or in electronic format.

Copies in alternative languages may also be obtained.

Please contact:

The Policy and Commissioning Officer

Children's Social Care

Bracknell Forest Borough Council

Time Square

Market Street

Bracknell

Berkshire RG12 1JD

Email: childrens.services@bracknell-forest.gov.uk

Telephone: 01344 352020

Fax: 01344 351521

Minicom: 01344 352045

Table of Contents

1	Introduction	2
2	The Legal Framework and Statutory Requirements for Special Guardianship.....	2
2.1	Parental Responsibility.....	4
2.2	Variation to Special Guardianship Orders	4
2.3	Support Services.....	5
2.4	Eligibility of Applications.....	6
3	Child Arrangements Order, Special Guardianship Order, Adoption Order - The Differences in These Orders	7
3.1	Child Arrangements Order	7
3.2	Special Guardianship Order.....	7
3.3	Adoption	8
4	Policy	8
5	Local Guidance and Procedure	9
5.1	Recommending a Special Guardianship Order: the Child's Interest	9
5.2	Looked After Children: Permanency Planning.....	9
5.3	Children who are not Looked After.....	10
5.4	Foster Panel	
6	Legal Requirements for Providing Support Services.....	11
6.1	General.....	
6.2	Purpose	11
6.3	Assessment and Planning.....	11
6.4	Leaving Care Support	Error! Bookmark not defined.
6.5	Financial support.....	12
6.6	Looked After Children	Error! Bookmark not defined.
7	References.....	13
	Appendix A	14
	Schedule to the Special Guardianship Regulations 2005	14
	Appendix B	18
	Regulations determining which persons require the leave of the court to apply for the variation of a Special Guardianship Order.....	18
	APPENDIX C.....	

1 Introduction

Special guardianship is a legal status introduced by the Adoption and Children Act 2002 which, in terms of the carer taking responsibility for the child, fits broadly between a Child Arrangement Order and an Adoption Order. One major purpose of special guardianship is to meet the child's need for a legally secure relationship with their carer. To this end, a Special Guardianship Order made in relation to a Looked After Child will replace the Care Order and the Local Authority will no longer have Parental Responsibility. A Care Order, however, will not automatically revoke a Special Guardianship Order although the Special Guardian's exercise of Parental Responsibility will be restricted as the Local Authority will have primary responsibility for decision-making under the Care Order.

Special guardianship offers greater security than a long-term foster care arrangement as it gives the special guardian parental responsibility for the child, but it does not require the legal severance from the birth family that is the result of an Adoption Order. Under a Special Guardianship Order (SGO) the birth parents remain the child's legal parents and retain parental responsibility, though their ability to exercise this is extremely limited.

The intention of an SGO is that the special guardian will have clear responsibility for all the day-to-day decisions about caring for the child or young person and for taking any other decisions about their upbringing, for example their education. A special guardian may exercise parental responsibility to the exclusion of others with parental responsibility, such as the parents, and without needing to consult them in all but a few circumstances.

The following are the most likely examples of when Special Guardianship would be considered appropriate for a child.

- Pre-school child cared for by a relative/friend where the alternative would be adoption outside of the family.
- A child of any age whose parents cannot effectively exercise parental responsibility due to learning disability, long term history of substance abuse, mental illness, domestic violence or they live permanently abroad.
- Foster carers wishing to achieve permanency for a child in placement where Children's Social Care is in agreement that this plan is in the best interests of the child.
- A case in which there are cultural or religious objections to adoption.
- An older child who is wishing to retain legal links with his or her birth parents and does not wish to be adopted but would like security.
- A child whose parents are abroad who wishes to retain legal links with them, but for practical purposes it is appropriate that parental responsibility is with a Special Guardian e.g. an unaccompanied child seeking asylum.

2 The Legal Framework and Statutory Requirements for Special Guardianship

The Adoption & Children Act 2002 provides the legal framework for Special Guardianship. Section 115 (1) of the 2002 Act inserts new sections 14 A - F into the Children Act 1989. The new sections provide:

- Who may apply for a Special Guardianship Order;

Special Guardianship Policy and Procedure

- The circumstances in which a Special Guardianship Order may be made;
- The nature and effect of Special Guardianship orders;
- Support services for those affected by Special Guardianship.

A Special Guardianship Order is an order appointing a person or persons to be a child's Special Guardian. Applications to become Special Guardians may be made by an individual or jointly by two or more people. Joint applicants do not need to be married. Special Guardians must be aged 18 or over. The parents of a child may not become that child's Special Guardian.

A court may make a Special Guardianship order in respect of a child on the application of:

- Any guardian of the child;
- A local authority foster carer with whom the child has lived for at least one year immediately preceding the application;
- Anyone who is named in a Child Arrangements Order as a person with whom the child is to live;
- Anyone with whom the child has lived for three out of the last five years;
- Where the child is in the care of a local authority, any person who has the consent of the local authority;
- Anyone who has the consent of all those with parental responsibility for the child;
- Any person, including the child, who has the leave of the court to apply.

The court may also make a Special Guardianship order in any family proceedings concerning the welfare of a child if it considers that an order should be made. This applies even where no application has been made and includes adoption proceedings. When considering whether to make a Special Guardianship order, the welfare of the child is the court's paramount consideration and the Welfare Checklist in section 1 of the Children Act 1989 applies.

Any person who wishes to apply for a Special Guardianship order must give three months' written notice to the local authority of their intention to apply. The only exception to this is where a person has the leave of the court to make a competing application for a Special Guardianship order where an application for an adoption order has already been made. This is in order to prevent the competing application delaying the adoption order hearing.

On receipt of notice of an application, or if the court makes a request, the local authority must investigate and prepare a report to the court about the suitability of the applicants to be Special Guardians. This requirement applies to both Looked After and other children. The information to be included in the report to the court is set out in regulation 21 of the Special Guardianship Regulation 2005, and the schedule thereto (see Appendix 2: Schedule to the Special Guardianship Regulations 2005). The local authority may arrange for someone else to carry out the investigation or prepare the report on their behalf. The court may not make a Special Guardianship order unless it has received the report covering the suitability of the applicants.

The court still needs a report in relation to Special Guardianship when in other proceedings where Special Guardianship is being considered. However, if reports have already been filed in the other proceedings it is possible to file a shorter Special

Special Guardianship Policy and Procedure

Guardianship report dealing with any matters set out in the schedule which have not already been covered.

In order to ensure that the service complies with the standards of good practice set out in the statutory guidance, the social worker who prepares the report to the court should be suitably qualified and experienced. However, where this cannot be achieved, social workers who do not have suitable experience will be supervised by someone who has.

Before making a Special Guardianship order, the court must consider whether to vary or discharge any other existing order made under Section 8 of the Children Act 1989. The court should also consider whether a Contact Order should be made at the same time as the Special Guardianship order. A contact order may be made, for example, to require continued contact with the child's birth parents.

At the same time as making a Special Guardianship order, the court may also give leave for the child to be known by a new surname and give permission for the child to be taken out of the UK for periods longer than three months.

2.1 Parental Responsibility

The Special Guardian will have parental responsibility for the child and may exercise [Parental Responsibility](#) to the exclusion of all others with parental responsibility, apart from another Special Guardian. A special guardian can also appoint a guardian for the child in the event of the special guardian's death. The intention is that the Special Guardian will have clear responsibility for all the day to day decisions about caring for the child or young person and his upbringing.

There are some limitations to the exercise of PR by Special Guardians. Special Guardians cannot, without the agreement of other people with parental responsibility, or leave of the court

- agree to change the child's surname
- consent to the adoption of the child.
- take the child to live abroad for more than three months.

A further exception applies in circumstances where the law provides that the consent of more than one person with parental responsibility is required (for example, the sterilisation of a child).

Unlike adoption the order preserves the child's basic legal link with its birth parents. They remain legally the child's parents, but their ability to exercise their parental responsibility is limited. The Special Guardian must also take reasonable steps to inform the parents if the child dies.

2.2 Variation to Special Guardianship Orders

Some people need leave of the court to apply to vary or terminate a Special Guardianship Order, and others do not. For a list of both these groups (See Appendix B)

Where the applicant is not the child and the leave of the court is required, the court may only grant leave if there has been a significant change in circumstances since the order was made.

Special Guardianship Policy and Procedure

In the case of a child applying, the court may only grant leave if it is satisfied that the child has sufficient understanding to make the proposed application. The court in any family proceedings can vary or discharge the order.

2.3 Support Services

Local authorities are required to provide for the assessment of needs for Special Guardianship support services, and the planning and the reviewing of those support services. Special Guardianship Support services may include counselling, advice, information and such other services (including financial support) as are prescribed in the Regulations. The social worker will need to prepare a Special Guardianship Support Plan which will be presented at court.

2.3.1 Care Leavers

Children who were [Looked After](#) by a local authority immediately before the making of a Special Guardianship order may qualify for advice and assistance under the Children Act 1989, as amended by the Children (Leaving Care) Act 2000 and the Adoption and Children Act 2002. In the context of Special Guardianship, to qualify for advice and assistance, section 24(1A) of the Children Act 1989 provides that the child must:

- Have reached the age of 16, but not the age of 21;
- If less than eighteen years old, have a Special Guardianship order in force;
- If eighteen years old or above, have had a Special Guardianship order in force when they reached that age; and
- Have been looked after by a local authority immediately before the making of the Special Guardianship order.

2.3.2 Looked After Child

Where it is intended that a looked after child will become subject to a Special Guardianship Order, those who must receive an assessment for special guardianship support services at their request include:

- The child
- The special guardian or prospective special guardian
- The child's parent
- A foster carer who has cared for the child for a prescribed period (at least a year, or for over three years in total over the past four years)

For [Looked After](#) children, as for adoption support services, the local authority who last looked after them retains responsibility for the assessment and provision of Special Guardianship support services for three years from the date of the making of the order. It also retains responsibility indefinitely for regular financial support agreed before the making of the Special Guardianship Order. In all other situations, including where the initial three year period has expired, responsibility for assessing and providing support services is with the local authority where the Special Guardian lives.

2.4 Eligibility of Applications

Before the local authority takes any steps to support an application for Special Guardianship, they must first ensure that the person(s) wishing to become Special Guardian(s) are eligible. A court may make a Special Guardianship Order in respect of a child on the application of the following persons:

- *Any guardian of the child,*
- *A local authority foster carer with whom the child has lived for one year immediately preceding the application,*
- *Anyone who holds a residence order with respect to the child, or who has the consent of all those in whose favour a residence order is in force,*
- *Where the child is in the care of a local authority, any person who has the consent of the local authority,*
- *Anyone who has the consent of all those with parental responsibility for the child*
- *Any person, including the child, who has the leave of the court to apply.*
- *A relative of the child if the child has lived with the relative for a year preceding the application. [A relative is a child's grand parent, brother, sister, uncle or aunt (by full or half blood) or by marriage or civil registration or a step parent].*

2.4.1 Provisions Relating to Family Proceedings

It is important to note that the court may make a Special Guardianship Order in any family proceedings concerning the welfare of the child if they consider an order should be made. This applies even when no application has been made and includes adoption proceedings. In all circumstances the local authority will need to provide a report for the court. The court and local authority must consider the whole range of options available.

2.4.2 Timescale

An applicant must give three months notice to the local authority of their intention to apply for a Special Guardianship Order.

The only exception to the three month notice period is where someone has already applied for an adoption order. The court may then give leave for someone else to apply for an order for special guardianship, although this will only occur in very exceptional circumstances. In these cases the 3 month notice period is disregarded to stop the competing Special Guardianship Order delaying the adoption order. The court will then consider both at the same time and decide what is the best option for the child.

2.4.3 Reports to the Court

In that 3 month period the local authority must complete a report in accordance with the schedule or arrange for someone else to do this on its behalf. The schedule to the Special Guardianship Regulations details what the report should cover. Before making the Special Guardianship Order, the court must consider whether to vary or discharge any other existing order made under Section 8 of the Children Act 1989. A Section 8 contact order can be made at the same time as a Special Guardianship Order.

Special Guardianship Policy and Procedure

For both looked after and other children there must be a report by the local authority for the court. A copy of the relevant schedule from the Special Guardianship Regulations 2005 is attached to this policy, see Appendix One. The report covers all the necessary information about the child, the child's family, the wishes and feelings of the child, the prospective special guardian, information about the local authority that completed the report and recommendations about whether an order should be made and contact arrangements.

In order to ensure that the service complies with the standards of good practice set out in the statutory guidance, the social worker who prepares the report to the court should be suitably qualified and experienced. However, where this cannot be achieved, social workers who do not have suitable experience will be supervised by someone who has.

2.4.4 Disclosure and Barring Service Checks

An enhanced disclosure will be requested for all persons applying to be special guardians.

3 Child Arrangements Order, Special Guardianship Order, Adoption Order - The Differences in These Orders

A Special Guardianship order gives the Special Guardian more responsibility than they would have if the child was subject to a Child Arrangements Order but less responsibility than an adoption order.

3.1 Child Arrangements Order

The holder of a Child Arrangements Order exercises parental responsibility jointly with other people who have parental responsibility (for example the birth parents). In a Child Arrangements Order, Parental Responsibility is extended to the holder of the order. On the making of a Child Arrangements Order a care order comes to an end and therefore the child ceases to be looked after.

In a Child Arrangements Order the child's birth parents retain parental responsibility and they also retain the right to consent or not to adoption. The child's birth parents can also apply through the courts for contact with the child or a variation of the Child Arrangements Order.

Child Arrangements Orders usually expire when the child reaches 16. However, in exceptional circumstances the Child Arrangements Order can continue until the child is 18 years old. The family may have regular and frequent contact with their child.

A Child Arrangements Order specifies where the child should live.

Financial Support is discretionary.

3.2 Special Guardianship Order

The Special Guardian will have clear responsibility for the day to day decisions about caring for the child or young person and his or her upbringing. In all cases where a Special Guardianship Order is made, the applicant acquires parental responsibility. Any child previously looked after will cease to be looked after on the making of this order. A Special Guardian may exercise PR to the exclusion of all others with parental responsibility apart from another Special Guardian. A Special Guardian can also appoint a guardian in the event of their death.

Special Guardianship Policy and Procedure

Special Guardians cannot change the child's surname or move to live abroad for more than 3 months without the agreement of all others with parental responsibility or leave of the court. Special Guardians cannot consent to the adoption of the child.

Under a Special Guardianship order the child's birth parents retain Parental Responsibility. Their exercise of this will be very limited because the Special Guardian will also have parental responsibility which they can exercise to the exclusion of the parental responsibility held by the birth parents. The Special Guardians would have to seek the agreement of the parents if they wished to change the child's surname or live abroad for more than 3 months but they also have the option of applying to the court for permission if the parents do not consent. The parents also retain the right to consent or not to adoption.

For a child who is subject a Special Guardianship Order it is likely that there will be more face to face contact than where a child has been adopted and parents may apply through the courts for contact with the child or for a variation of the Special Guardianship order.

Special Guardianship orders last until the child is 18. The child's needs at the time of the making of the order and in the future must be considered. For a child who is subject to a Special Guardianship order it is likely that there will be more face to face contact than where a child has been adopted. The child's parents are able to apply for a contact order under Section 8 of the Children Act 1989.

There is no requirement that the child must live with the Special Guardians.

Special Guardianship support services must be in place.

3.3 Adoption

Where an adoption order is made, parental responsibility is given exclusively to the adopters and the adopters become responsible for maintaining the child.

Under an adoption order the child's birth parents lose all parental responsibility. The adoptive parents are treated in law as if the child had been born to them.

Adoption orders last for life except in very exceptional circumstances.

The court must consider arrangements for contact before making an adoption order. The court has power to make a Contact Order under Section 8 of the Children Act 1989 but it is unusual for this to happen against the adopters wishes. More often arrangements for contact, whether direct or indirect, are made with the help of the agency before the adoption order is made.

Adoption Support Services must be in place.

4 Policy

Any approach to Children's Social Care from eligible carers notifying that they wish to apply for special guardianship will be considered against the welfare checklist in the Children Act 1989. The child's welfare shall be the paramount consideration. The views and wishes of the child and the views, wishes of the carers and their suitability, including whether they fully understand their roles as special guardians will be fully appraised. Every effort will be made to fully involve the prospective applicants and the child in the process. Where a child will cease to be looked after as a result of the order being made the applicants must demonstrate that they fully understand that they will take responsibility for the child's upbringing without the involvement of the local authority.

Special Guardianship Policy and Procedure

An application for a Special Guardianship Order is a permanency option for the child. The plan, report and support plan must be agreed and signed by the Head of Service for Looked After Children.

NB. For further details of the application and assessment procedure see Section 5.

5 Local Guidance and Procedure

5.1 Recommending a Special Guardianship Order: the Child's Interest

It is expected that the option of special guardianship will be discussed at all statutory child care reviews.

Recommendation for special guardianship must be based on the welfare checklist at Section One of the Children Act 1989, so that the child's welfare is the paramount consideration in respect to the upbringing of a child under the provisions of Special Guardianship.

When determining whether a Special Guardianship Order is in the child's interest, the following issues must always be considered.

- The views and wishes of the child, whether they fully understand the nature of a Special Guardianship order and why this may be the preferred permanency option for them.
- The views, wishes of the carers and their suitability, including whether they fully understand their roles as special guardians.
- Where the child will cease to be looked after as a result of the order being made how the prospective special guardian(s) view taking responsibility for making decisions about the child's upbringing without the involvement of the local authority.
- The suitability of plans for future contact between the child and their birth parents. It should be noted that in reporting to the court the local authority is required to recommend appropriate contact arrangements in all cases.

Any decision about recommending special guardianship must be discussed fully with the Team Manager supervising the social worker who reports to the court.

5.2 Looked After Children

For any looked after child a Permanency Planning Meeting, as detailed in the Policy and Procedure for Permanency Planning for Looked After Children, will be the forum which determines the Department's approach to any notification of intention to apply for a special guardianship order.

Every effort must be made to involve the prospective applicants and the child in the planning process and to consider fully with them the reasons for making an application, and whether it is advisable to do so. The prospective applicants must be advised of the role of the local authority in reporting and making recommendations to the court, including their duty to consider and report on what other options the court may wish to consider.

Special Guardianship Policy and Procedure

An application for a Special Guardianship Order is a permanency option for the child and must be evaluated with the same thoroughness as any other permanency plan. The social worker completing the report for the court will normally be the social worker for the child concerned and a social worker from the Family Placement Team appointed to work with the carers. The Permanency Planning Meeting will include discussion of the following points:

- Background history
- Legal context
- Outcome of any and all assessments
- The overarching plan as agreed by the last statutory review
- Developments since the last statutory review
- Outcome of any family group conference
- The child's needs
- Child/young person's wishes and feelings
- Wishes and feelings of the child's carers
- Parent's wishes and feelings
- Wishes and feelings of significant others
- Views of the child's social worker and their supervisor

5.3 Children who are not Looked After

Where the child is not looked after, the local authority has the same responsibility for reporting to the court and carefully assessing the recommendations. As for a looked after child, every effort will be made to consider fully with the prospective applicants and the child the reasons for making an application, whether it is advisable to do so, and what the other options might be. The prospective applicants must be advised of the role of the local authority in reporting and making recommendations to the court, including their duty to consider and report on what other options the court may wish to consider.

The allocation of the case will need to take into account the circumstances of the case, whether there is a social worker already involved, and the expectation of the statutory guidance that the social worker should be suitably qualified and experienced. Where this cannot be achieved, social workers who do not have suitable experience will be supervised by someone who has.

5.4 Decision Making

All decisions to support in principle the application to court for a Special Guardianship Order in relation to a looked after child, or any child not looked after but for whom a maintenance allowance will be sought from the Council, must be endorsed by the Head of Service for Looked After children.

5.4.1 Children looked after

Where the application is from the foster carers of a looked after child, the Head of Service must receive the Special Guardianship report, including up to date references (a minimum of 2 independent referees plus 1 family member), a current report from the Agency Medical Advisor for the prospective guardian and the child.

5.4.2 Children who are not looked after

Where the child is not looked after, a full assessment of the prospective guardians and the child must also be completed. The Head of Service for Looked After Children must receive the Special Guardianship report, including up to date references (a minimum of 2 independent referees plus 1 family member), a current report from the Agency Medical Advisor for the prospective guardian and the child.

6 Provision of Support Services

6.1 Purpose

The purpose of special guardianship support services is to support, and promote the continuance of, the relationship between the child and their special guardian or the prospective special guardian.

The child's parents are likely to remain involved where a Special Guardianship Order has been made, so it will be important to assess the likely impact of the Special Guardianship Order on the relationship between the parent, the child and the special guardian. This may well be more of an issue in the case of special guardianship than in adoption cases, because it is more likely that the child will have a continuing relationship with their parent(s).

It is important to emphasise that special guardianship support services should not be seen in isolation from mainstream services. Bracknell Forest Children's Social Care will aim to ensure that the provision of support services is agreed and planned jointly between the agencies concerned.

6.2 Assessment and Planning

The policy and procedure for the assessment, planning, provision and review of special guardianship support services is almost identical to the policy for adoption support services, with the exception of additional leaving care provision.

6.2.1 Leaving Care Support

A child who was looked after immediately before the making of a Special Guardianship Order, and who was then between the ages of 16-18, is eligible for leaving care support.

This includes a £2000 higher Education bursary as a one off payment for the first year of the course for all for **'former relevant'** young people who attend higher education.

Other children who are under the age of 16 at the time the order is made are not eligible.

Young people under a Special Guardianship Order are not eligible for Staying Put provision, however any discretionary allowance may continue until they are 19 years if they are in full time education.

This needs to be taken into account when an application for special guardianship is being considered.

6.3 Financial support

The regulations state that financial support should be provided where this is necessary to ensure that the arrangements for a Special Guardianship Order can be secured. Financial support should not be the sole reason for a special guardianship arrangement failing to survive. This applies to both looked and non-looked after children.

It is important that Special Guardians are helped to access benefits to which they are entitled. Financial support paid by the local authority cannot duplicate any other payment available to the (prospective) special guardian.

The requirement for carers to complete and supply the local authority with an annual statement of their financial circumstances, the financial needs and resources of the child, their address and whether the child still has a home with him will apply in all cases.

6.3.1 Determining Eligibility

Eligibility for the payment of regular allowances to special guardians is determined using the SGO financial assessment procedure and payment scale detailed in the Special Guardian Allowances Financial Assessment Guidance Notes, appended to this document.

6.3.2 Children with Special Needs

In exceptional cases payments may be made where the child needs special care as a result of long term and serious illness, disability, or severe emotional and behavioural difficulties. It must be demonstrated that the actual costs of providing the special care are above those applicable to a child who does not suffer from the condition. Examples are the need for special diets, clothing or bedding. Eligibility for such payments must be assessed in relation to any entitlement to benefits, such as Disability Living Allowance. Any payment agreed may be paid as an enhancement to a regular allowance.

6.3.3 Former Foster Carers who become Special Guardians

Where an assessment indicates that the child's needs are being met by their current foster carer(s) and that the best way of securing permanence for the child is with the foster carer, a discretionary Special Guardianship allowance can be paid at the fostering rates for up to two years, in order to secure the placement. The purpose of this transition period is to allow the family time to adjust to their new circumstances.

This discretionary allowance can, in exceptional circumstances continue at the fostering rates until the child reaches the age of 18 years. This can only be agreed by the Director (CYP&L) or the Chief Officer in their absence on an individual basis and in order to achieve permanency for that child. In making the decision to continue payments the Director would take into account:

- The permanency planning process and family finding undertaken on behalf of the child.
- The child has been in placement with the foster carer for over one year.
- The child's relationship with the foster carer(s) and the carer's ability to provide permanency for the child throughout their childhood.

Special Guardianship Policy and Procedure

- An assessment of the foster carers' financial circumstances.

These exceptional cases would be limited to children who have or previously had a plan of Adoption and may include 'hard to place' children i.e. sibling groups, children over the age of five years; with a disability or other special needs. The expectation would be that the department has actively sought an adoptive family for six months or more and all other measures have been exhausted.

6.3.4 Legal Costs.

Assistance may also be provided with legal costs, both at the time of the application and subsequently. Assistance may be given where this is deemed necessary for the order to be made or to continue, where the application or the continuation of the order is assessed by the local authority as being in the child's best interest. Cases will be assessed individually and agreement for payment must be supported by the Head of Service.

6.3.5 Contact Expenses.

Assistance may also be provided with travelling expenses to facilitate contact between the child and their relatives or others with whom the child is considered by the local authority to have a beneficial relationship. Cases will be assessed individually and agreement for payment must be supported by the Head of Service.

6.3.6 Authority Responsible for Post Order Support.

For looked after children, the local authority who last looked after them retains responsibility for the assessment and provision of special guardianship support services for three years from the date of the making of the Order.

The provision of an allowance agreed before the Special Guardianship Order remains the responsibility of the authority who originally agreed it, regardless of where the family live.

In all other situations, including where the initial three year period has expired, responsibility for assessing and providing support services is with the local authority where the special guardian lives.

7 References

Special Guardianship Guidance and Regulations 2005,
<https://www.gov.uk/government/publications/special-guardianship-guidance>
Bracknell Forest Adoption Support Services Policy and Procedure

Bracknell Forest Special Guardianship Allowances: Assessment Guidance.

Appendix A

Schedule to the Special Guardianship Regulations 2005

Regulation 21: Matters to be dealt with in the report for the court

The following matters are prescribed for the purposes of section 14A (8)(b) of the Act.

1. In respect of the child –

- (a) name, sex, date and place of birth and address including local authority area;
- (b) a photograph and physical description;
- (c) nationality (and immigration status where appropriate);
- (d) racial origin and cultural and linguistic background;
- (e) religious persuasion (including details of baptism, confirmation or equivalent ceremonies);
- (f) details of any siblings including their dates of birth;
- (g) the extent of the child's contact with his relatives and any other person the local authority consider relevant;
- (h) whether the child is or has been looked after by a local authority or is or has been provided with accommodation by a voluntary organisation and details (including dates) of placements by the authority or organisation;
- (i) whether the prospective special guardian is a local authority foster parent of the child;
- (j) a description of the child's personality, his social development and his emotional and behavioural development and any related needs;
- (k) details of the child's interests, likes and dislikes;
- (l) a health history and a description of the state of the child's health which shall include any treatment the child is receiving;
- (m) names, addresses and types of nurseries or schools attended with dates;
- (n) the child's educational attainments;
- (o) whether the child is subject to a statement of special educational needs under the Education Act 1996^[5]; and
- (p) details of any order made by a court with respect to the child under the Act including -
 - (i) the name of the court;
 - (ii) the order made; and
 - (iii) the date on which the order was made.

2. In respect of the child's family –

- (a) name, date and place of birth and address (and the date on which their last address was confirmed) including local authority area of each parent of the child and his siblings under the age of 18;
- (b) a photograph, if available, and physical description of each parent;
- (c) nationality (and immigration status where appropriate) of each parent;

Special Guardianship Policy and Procedure

- (d) racial origin and cultural and linguistic background of each parent;
- (e) whether the child's parents were married to each other at the time of the child's birth or have subsequently married and whether they are divorced or separated;
- (f) where the child's parents have been previously married or formed a civil partnership, the date of the marriage or civil partnership;
- (g) where the child's parents are not married, whether the father has parental responsibility and, if so, how it was acquired;
- (h) if the identity or whereabouts of the father are not known, the information about him that has been ascertained and from whom, and the steps that have been taken to establish paternity;
- (i) the past and present relationship of the child's parents;
- (j) where available, the following information in respect of each parent -
 - (i) health history, including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
 - (ii) religious persuasion;
 - (iii) educational history;
 - (iv) employment history;
 - (v) personality and interests;
- (k) in respect of the child's siblings under the age of 18 -
 - (i) the person with whom the sibling is living;
 - (ii) whether the sibling is looked after by a local authority or provided with accommodation by a voluntary organisation; and
 - (iii) details of any court order made with respect to the sibling under the Act, including the name of the court, the order made and the date on which the order was made.

3. In respect of the wishes and feelings of the child and others –

- (a) an assessment of the child's wishes and feelings (considered in light of his age and understanding) regarding -
 - (i) special guardianship;
 - (ii) his religious and cultural upbringing; and
 - (iii) contact with his relatives and any other person the local authority consider relevant,
 - (iv) and the date on which the child's wishes and feelings were last ascertained.
- (b) the wishes and feelings of each parent regarding -
 - (i) special guardianship;
 - (ii) the child's religious and cultural upbringing; and
 - (iii) contact with the child,
 - (iv) and the date on which the wishes and feelings of each parent were last ascertained; and
- (c) the wishes and feelings of any of the child's relatives, or any other person the local authority consider relevant regarding the child and the dates on which those wishes and feelings were last ascertained.

Special Guardianship Policy and Procedure

4. In respect of the prospective special guardian or, where two or more persons are jointly prospective special guardians, each of them –

- (a) name, date and place of birth and address including local authority area;
- (b) a photograph and physical description;
- (c) nationality (and immigration status where appropriate);
- (d) racial origin and cultural and linguistic background;
- (e) if the prospective special guardian is -
 - (i) married, the date and place of marriage;
 - (ii) has formed a civil partnership, the date and place of registration of the civil partnership; or
 - (iii) has a partner, details of that relationship;
- (f) details of any previous marriage, civil partnership, or relationship;
- (g) where the prospective special guardians wish to apply jointly, the nature of their relationship and an assessment of the stability of that relationship;
- (h) if the prospective special guardian is a member of a couple and is applying alone for a special guardianship order, the reasons for this;
- (i) whether the prospective special guardian is a relative of the child;
- (j) prospective special guardian's relationship with the child;
- (k) a health history of the prospective special guardian including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
- (l) a description of how the prospective special guardian relates to adults and children;
- (m) previous experience of caring for children;
- (n) parenting capacity, to include an assessment of the prospective special guardian's ability and suitability to bring up the child;
- (o) where there have been any past assessments as a prospective adopter, foster parent or special guardian, relevant details as appropriate;
- (p) details of income and expenditure;
- (q) information about the prospective special guardian's home and the neighbourhood in which he lives;
- (r) details of other members of the household and details of any children of the prospective special guardian even if not resident in the household;
- (s) details of the parents and any siblings of the prospective special guardian, with their ages or ages at death;
- (t) the following information -
 - (i) religious persuasion;
 - (ii) educational history;
 - (iii) employment history; and
 - (iv) personality and interests;
- (u) details of any previous family court proceedings in which the prospective special guardian has been involved (which have not been referred to elsewhere in this report);
- (v) a report of each of the interviews with the three persons nominated by the prospective special guardian to provide personal references for him;
- (w) whether the prospective special guardian is willing to follow any wishes of the child or his parents in respect of the child's religious and cultural upbringing;

Special Guardianship Policy and Procedure

- (x) the views of other members of the prospective special guardian's household and wider family in relation to the proposed special guardianship order;
- (y) an assessment of the child's current and future relationship with the family of the prospective special guardian;
- (z) reasons for applying for a special guardianship order and extent of understanding of the nature and effect of special guardianship and whether the prospective special guardian has discussed special guardianship with the child;
- (aa) any hopes and expectations the prospective special guardian has for the child's future; and
- (bb) the prospective special guardian's wishes and feelings in relation to contact between the child and his relatives or any other person the local authority considers relevant.

5. In respect of the local authority which completed the report –

- (a) name and address;
- (b) details of any past involvement of the local authority with the prospective special guardian, including any past preparation for that person to be a local authority foster parent or adoptive parent or special guardian;
- (c) where section 14A(7)(a) of the Act applies and the prospective special guardian lives in the area of another local authority, details of the local authority's enquiries of that other local authority about the prospective special guardian;
- (d) a summary of any special guardianship support services provided by the authority for the prospective special guardian, the child or the child's parent and the period for which those services are to be provided; and
- (e) where the local authority has decided not to provide special guardianship support services, the reasons why.

6. A summary prepared by the medical professional who provided the information referred to in paragraphs 1(l) and 4(k).

7. The implications of the making of a special guardianship order for –

- (a) the child;
- (b) the child's parent;
- (c) the prospective special guardian and his family; and
- (d) any other person the local authority considers relevant.

8. The relative merits of special guardianship and other orders which may be made under the Act or the Adoption and Children Act 2002 with an assessment of whether the child's long term interests would be best met by a special guardianship order.

9. A recommendation as to whether or not the special guardianship order sought should be made in respect of the child and, if not, any alternative proposal in respect of the child.

10. A recommendation as to what arrangements there should be for contact between the child and his relatives or any person the local authority consider relevant.

Appendix B

Regulations determining which persons require the leave of the court to apply for the variation of a Special Guardianship Order

Special Guardianship Orders can be varied or discharged on the application of the following persons, who do not require the leave of the court to make application:

- *the special guardian,*
- *the local authority in whose name a care order was in force with respect to the child before the special guardianship order was made,*
- *anyone with a residence order in respect of the child before the special guardianship order was made.*

The following persons do require the leave of the court to make application for the variation of a Special Guardianship Order

- *the child's parents or guardians,*
- *any 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).*

NB. Where the applicant is not the child and the leave of the court is required, the court may only grant leave if there has been a significant change in circumstances since the special guardianship order was made.

The court may, during any family proceedings in which a question arises about the welfare of a child who is subject to a special guardianship order, vary or discharge the order in the absence of an application.

Special Guardianship Policy and Procedure