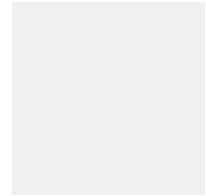


Appendix C: LBB SGO Policy

Applications for Special Guardianship Orders



Section 5, Permanency Planning Meeting, has been revised and updated to reflect the enhanced assessment and reporting requirements set out in the Special Guardianship (Amendment) Regulations 2016. In Barnet this applies to all special guardianship reports to be filed after 29 February 2016.

RELATED CHAPTER

This chapter should be read in conjunction with [Permanence Planning Guidance](#).

RELATED GUIDANCE AND DOCUMENTATION

North London Adoption and Fostering Consortium (NLAFC) Special Guardianship leaflet

Barnet Special Guardianship Preparation Workshop

Support Plan Template

Department of Education Financial Modelling Template

Schedule of NLAFC Training for Special Guardians

SGO Journey flowchart

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1. Introduction

Special Guardianship offers an option for children needing permanent care outside their birth family. It can offer greater security without absolute severance from the birth family as in adoption.

It will address the needs of a significant group of children, mainly older, who need a sense of stability and security but who do not wish to make the absolute legal break with their birth family that is associated with adoption.

It will also provide an alternative for achieving permanence in families where adoption, for cultural or religious reasons, is not an option.

A Special Guardianship Order offers greater stability and legal security to a placement than a **Child Arrangements Order**.

Special Guardians will have **Parental Responsibility** for the child and, whilst this will be shared with the child's parents, however, their ability to exercise Parental Responsibility is subject to the ability of the special guardian to exercise Parental Responsibility to the exclusion of any other person.

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.

For further details about the Special Guardianship as a permanence option for Looked After Children, see **Permanence Planning Guidance**.

2. Who may Apply?

Applications for Special Guardianship may be individual or joint. Joint applicants do not need to be married. Special Guardians must be 18 or over.

The following persons may apply without having to obtain the leave of the court:

- Any guardian of the child;
- Where the child is subject of a Care Order or an Interim Care Order, any person who has the consent of the Local Authority;
- A local authority foster carer who is a relative of the child or with whom the child has lived for one year immediately preceding the application (even if the Local Authority does not consent);
- Anyone who is named in a Child Arrangements Order as a person with whom the child is to live;
- Anyone who has the consent of each person 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, providing the child has not ceased to live with the proposed applicant more than 3 months before the making of the application;
- Anyone who has the consent of all those with Parental Responsibility for the child;
- Anyone, including the child, who has the leave of the court to apply.

The parents of a child may not apply to become their own child's Special Guardians.

3. Parental Responsibility

The Special Guardian will have Parental Responsibility for the child and will have clear responsibility for the day-to-day decisions about caring for the child to the exclusion of anyone else who might have Parental Responsibility (apart from another Special Guardian).

The child's parents will continue to hold Parental Responsibility but their exercise of it will be limited. The parents will, however, retain the right to consent or not to the child's adoption or placement for adoption

In addition there are certain steps in a child's life which require the consent of every-one with Parental Responsibility, for example:

- The change of name of the child;
- The removal of the child from the United Kingdom for longer than three months;
- The sterilisation of a child.

4. The Circumstances in which a Special Guardianship Order may be Made

The Court may make a Special Guardianship Order in any family proceedings concerning the welfare of the child. This applies even where no application has been made and includes adoption proceedings.

Any person making an application for a Special Guardianship Order must give 3 months' written notice to their local authority of their intention to apply. In relation to a Looked After Child, the notice will go to the local authority looking after the child. In all other cases, the notice will be sent to the local authority for the area where the applicant resides. The local authority receiving the notice will then have a duty to provide a report to the Court.

The only exception to the requirement for 3 months' notice is where the Court has granted leave to make an application and waived the notice period.

Where the local authority has received notice from an applicant or a request for a report from the Court, it should send written information about the steps it proposes to take in preparing the report to the prospective Special Guardian and the parents of the child in question. This should include information about Special Guardianship support services and how to request an assessment of needs for support.

5. Permanency Planning Meeting (PPM)

Once notice has been received that an application for Special Guardianship is to be made, the notice should be passed to the allocated social worker or, if the child is not previously known, arrangements must be made for the case to be allocated to a social worker.

The allocated social worker should arrange a planning meeting as soon as practicable (in conjunction with the Adoption and Permanency Team) after the notice is received. The planning meeting should clarify the steps to be taken, who will carry out the necessary assessments and who will contribute to the report for the Court. Court timescales will need to be clarified.

The social worker or social workers preparing the Court report should be suitably qualified and experienced. There are no specific requirements as to the level of qualification or experience required and it will be for the manager of the relevant social work team to ensure that the allocated worker is competent to write the report.

In all cases there will need to be:

- i. An assessment of the current and likely future needs of the child (including any harm the child has suffered and any risk of future harm posed by the child's parents, relatives or any other person the local authority considers relevant).

This will normally be undertaken by the Carer Recruitment and Assessment Team (CRAT).

An assessment of the prospective Special Guardian's parenting capacity including: ;

- i. their understanding of, and ability to meet the child's current and likely future needs, particularly, any needs the child may have arising from harm that the child has suffered;

- ii. their understanding of, and ability to protect the child from any current or future risk of harm posed by the child's parents, relatives or any other person the local authority consider relevant, particularly in relation to contact between any such person and the child;
- iii. their ability and suitability to bring up the child until the child reaches the age of eighteen;”.

The proposed contact arrangements and the support needs (See Section 11 Assessment for Support) (trix please link) of the child, parents and the prospective special guardian.

The assessment of the applicants should include their medical history, the references received and the Disclosure and Barring Service and other statutory checks undertaken for the assessment.

6. Approval of Special Guardianship for Looked After Children

If the child is **Looked After** and the application has been agreed as part of the child's **Permanence Plan**, the assessments will usually have been undertaken and the outcomes agreed as part of the permanence planning meeting for the child.

Special Guardianship as an outcome for a Looked After child must be approved by the **Designated Manager (Special Guardianship or appropriate Head of Service)**.

7. Report for the Court

The social worker or social workers preparing the Court report should be suitably qualified and experienced.

Once completed, the Court Report should be submitted by the author(s) to their line manager(s) for approval.

See **Court Reports in Adoption/Special Guardianship Guidance** for what is required to be included in the report.

The allocated social worker MUST ensure that the special guardianship support plan is signed by the prospective guardian and send a copy of the final plan to the person or people concerned.

8. Discharge of Special Guardianship Order

A Special Guardianship Order can be varied or discharged on the application of:

- The Special Guardian;
- The local authority in whose name a Care Order was in force before the Special Guardianship Order was made;
- Anyone named in a Child Arrangements Order as a person with whom the child was to live before the Special Guardianship Order was made;

or

- With the leave of the court:
 - 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).

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.

9. Special Guardianship Support

The local authority must make provision for a range of Special Guardianship support services.

Special Guardianship support services are defined as:

- Financial support (see [Section 14, Financial Support](#));
- Services to enable children, Special Guardians and parents to discuss matters relating to special guardianship;
- Assistance including mediation in relation to contact between the child and their parents, relatives or significant others;
- Therapeutic services for the child;
- Assistance to ensure continuance of the relationship between the child and the Special Guardian, including training to meet any special needs of the child, respite care, and mediation;
- Counselling, advice and information.

Special Guardianship Support will be subject to the approval of the Designated Manager (Special Guardianship Support or appropriate Head of Service).

The services described above may include cash assistance.

Support services should not be seen in isolation from mainstream services and it is important to ensure that families are assisted in accessing mainstream services and are aware of their entitlements to tax credits and social security benefits as well as CAMHS and other therapeutic services.

Where the child was previously Looked After, the local authority that looked after the child has responsibility for the assessment and for providing support (other than financial) for the first three years after the making of a

Special Guardianship Order. Financial Support is covered in section 14. Thereafter the local authority where the Special Guardian lives will be responsible for the assessment of and provision of any support required.

If a child is not Looked After, the local authority where the Special Guardian lives has the responsibility for Special Guardianship support.

Ongoing financial support, which has been agreed before the Special Guardianship Order is made, remains the responsibility of the local authority that agreed it so long as the family meet the criteria for payments.

10. Entitlement to Assessment for Special Guardianship Support

Where the child is Looked After or was Looked After immediately prior to the making of the Special Guardianship Order, the following people **MUST** receive an assessment at their request:

- The child;
- The Special Guardian or prospective Special Guardian;
- A parent (but only in relation to their need for support with contact and/or discussion groups);

Where the child is not Looked After or was not Looked After immediately prior to the making of the Special Guardianship Order, the following people **MAY** be offered an assessment of their need for Special Guardianship support services:

- The child;
- The Special Guardian or prospective Special Guardian;
- A parent.

In all cases, whether the Special Guardianship child is looked after or not, the following people also may be offered an assessment of their need for Special Guardianship support services:

- A child of the Special Guardian
- Any person with a significant ongoing relationship with the child

If a local authority decides not to assess in cases where they have discretion as above, they must notify the decision in writing, including reasons for the decision, to the person making the request. This should be done within 28 days of the decision being made and the appeal process should also be clearly identified and stated.

Further, all children who were a Looked after Child immediately prior to the making of a SGO or were at some point prior to the making of a SGO the child will still be eligible for Leaving Care services. These services include advice, assistance and support and can include cash sums where appropriate. The Leaving Care Act and Regulations can be found on the following websites:

Leaving Care Act 2000

<http://www.legislation.gov.uk/ukpga/2000/35/contents>

Leaving Care Regulations

http://www.legislation.gov.uk/uksi/2010/2571/pdfs/uksi_20102571_en.pdf

The Leaving Care Act 2000 is incorporated into the Children Act 1989 at s.24(1) CA 1989 and the duties and obligations of the Local Authority are clearly set out therein.

11. Assessment for Support

The assessment should be based on the Assessment Framework under Working Together and include the following:

- The developmental needs of the child;
- The parenting capacity of the Special Guardian or prospective Special Guardian to meet the child's needs;
- Family and environmental factors that have shaped the life of the child and the capacity of the Special Guardian or prospective Special Guardian to respond to those experiences;
- Comment on how life with the Special Guardian might be for the child;
- Any previous assessment of the child or Special Guardian that is relevant;
- The needs of the Special Guardian or prospective Special Guardian and their family;
- The impact of the Special Guardianship Order on the relationship between the child, parent and Special Guardian.

Special Guardianship Support will be subject to the approval of the Designated Manager (Special Guardianship Support). During the assessment all prospective Special Guardians must attend a workshop on preparing for Special Guardianship... This is managed jointly by the Special Guardianship Support and Carer Recruitment and Assessment Teams.

Once an order has been approved Special Guardians are offered the chance to attend a monthly, themed, Special Guardian Support Group where they will have opportunity to receive advice, guidance and support, as well as meet with other special guardians to share experiences and discuss some of the issues they may be facing.

At the end of the assessment and once the necessary approval has been obtained, the social worker must inform the person being assessed of:

- the outcome of the assessment and the reasons for the decision;

- Where it relates to financial support, the basis on which this is determined;
- Where it relates to therapeutic support, the basis on which this is determined;
- The services (if any) that the Local Authority proposes to provide to help meet the child's needs;
- If financial support is to be paid, the amount and conditions attached.

12. The Special Guardianship Support Plan

Where an assessment identifies the need for ongoing support services, a **Special Guardianship Support Plan** must be completed.

Other agencies, such as education and health, may need to be consulted about the contents of the Plan.

The Plan should be written in such a way that everyone affected can understand and set out:

1. The services to be provided;
2. The objectives and criteria for success;
3. Timescales for provision;
4. Procedures for review;
5. A named person to monitor the provision of services in accordance with the Plan.

Special Guardianship Support will be subject to the approval of the Designated Manager (Special Guardianship Support).

Once the necessary approval has been obtained, the social worker must send the proposed plan to the person requesting support, and allow 28 days for that person to make representations about the proposed plan. The social worker should also give information to the person concerned about who to contact to obtain independent advice and advocacy.

Where representations are received, they should be referred to the Designated Manager (Special Guardianship Support) to decide whether to amend or confirm the Plan.

13. Review of Special Guardianship Support Plans

Special Guardianship Support Plans must be reviewed taking into account the following:

- Any change of circumstances affecting the support;
- At whichever stage of implementation of the plan is considered most appropriate;

- In any event at least annually.

It is Barnet's expectation that all children are seen during the support reviews. In exceptional circumstances, i.e. where the special guardian and child lives outside of the UK, the reviews may be a paper exercise. If there is a substantial change of circumstances, e.g. a serious change in the behaviour of the child, it would normally be necessary to conduct a new assessment of needs.

Any change to the Special Guardianship Support Plan will be subject to the approval of the Designated Manager (Special Guardianship Support). Local arrangements will determine whether any additional approval is required for changes to financial support.

If the local authority decides to vary or terminate the provision of support after the review, notice in writing must be given and the person concerned should be given 28 days to make representations.

14. Financial Support

Financial support is payable to facilitate arrangements for a person to become a Special Guardian, and to support the continuation of such arrangements after the Order is made, where the local authority considers this to be beneficial to the child's welfare.

Financial support is generally not paid unless the child is (or was prior to the Order) a looked after child and, there is no assumption that all Special Guardians will receive financial support.

In accordance with Regulation 6 of The Special Guardianship Regulation 2005, the local authority must consider one or more of the following circumstances to exist for financial support to be payable:

- It is necessary to ensure that the carer can look after the child;
- The child needs special care which requires greater expenditure of resources because of illness, disability, emotional or behavioural difficulties, or the consequences of past abuse or neglect;
- It is appropriate to contribute to legal costs, including Court fees, for the making of a Special Guardianship Order or the discharge of such an order; or an application for an order under Section 8 of the Children Act 1989; or an order for financial provision to be made to or for the benefit of the child;
- Where the local authority considers it appropriate to contribute towards expenditure necessary for the purposes of accommodating and maintaining the child;

:Where financial support is to be considered, the prospective Guardian will be asked to complete a **Financial Assessment Form** and provide evidence of their financial resources and commitments. The Local Authority will also take into account any grant, maintenance payments, benefits, or resources the person will be entitled to as a result of becoming a special guardian of the child. The level of financial support will then be calculated by a Finance Officer using:

- The Department of Education means test 'Disposable Income' model
- The North London Consortium Adoption and Fostering Thresholds for Income and Savings
- **Government's National Minimum Fostering Allowances**

The prospective guardian will be informed of the outcome in writing and made aware of the conditions of support and cessation of support as listed in Regulation 10 of the Special Guardianship Regulations 2005:

- To notify the Local Authority immediately of any change in circumstances of either the child or guardian which may impact the level of financial support offered.
- To complete an annual statement providing evidence of their current financial position;
- To inform the Local Authority immediately of changes to their contact details;
- To inform the Local Authority immediately of any change which would trigger cessation of financial support (see below);
- To comply with any additional conditions, set by the Local Authority, regarding the purpose for which financial support should be utilized.

Financial support will cease to be payable to a Special Guardian if the child:

- Ceases to live with the Special Guardian or dies;
- Ceases full time education or training, and commences employment;
- Qualifies for Income Support, Job Seekers or Employment Support Allowance;
- Turns 18 years old.

The Guardian must agree to these conditions in writing before financial support can be paid. If the Guardian fails to comply with these conditions, the Local Authority may suspend or terminate financial support and take steps to recover payments from the date of change.

The Special Guardian allowance is linked to the [Government's National Minimum Fostering Allowances](#) and is based on the assessed needs of the child within the family. The allowance is inclusive of birthdays, festivals, holidays and school uniform and no additional payment in respect of these items will be made. Any variations to the standard allowances are discretionary and will only be made in exceptional circumstances with the authorisation of the Head of Service.

All Special Guardians (including foster carers who subsequently become guardians) will be required to apply for any benefits to which they are entitled to. This will usually include child benefit and child tax credits. These benefits will be deducted upfront from the allowance once the Order has been granted.

Financial support cannot normally include the payment of remuneration to the Special Guardian for care of the child. However, where the Special Guardian was previously the child's foster carer, and received an element of remuneration, the Local Authority may continue to pay that element for up to two years from the date of order. This is to enable the Guardian to transition to the new financial arrangement. Any decision to pay the remuneration beyond two years will be determined by an assessment of the child's needs and any such decision must be authorized by the Head of Service. No assumption can be made that for existing foster carers the amount previously paid as a foster carer will continue. This will be subject to annual review. This is in line with Regulation 7 of Special Guardianship regulations 2005.

Where the Special Guardian moves abroad from the UK, or is already living abroad when the child moves into their care, the level of financial support may be altered to take into account the comparative costs of living in the country of residence.

Where financial support is being considered for legal costs associated with the application of an order for a child that was previously looked after by the Local Authority, and the authority supports the making of the order, then the carers financial resources **will not be** means tested for financial support. The legal costs incurred will be

paid to the Special Guardian at the CLS 'Legal Help' rates. The following criteria must be satisfied to receive financial support for legal costs:

- The Local Authority supports the application of the Order
- The child is known to the Local Authority i.e. the child is Looked After, designated Child in Need or subject to Child Protection Plan
- The Local Authority considers that the carer or prospective Special Guardian requires legal advice about the different care arrangements and/or different types of Court Orders which could be made in respect of the subject child and supports the exploration of the child being placed or remaining in the prospective Special Guardian's care.
- The prospective Guardian is not eligible for free legal representation and does not have recourse to other financial assistance (e.g. under an insurance policy)
- The Local Authority considers that the prospective Special Guardian's financial circumstances are such that it would not be reasonable to expect him or her to pay their own legal fees.
- Legal fees for an initial consultation are payable up to the Local Authority's agreed limit of £350 (at July 2013). Itemised bills are to be submitted to the Local Authority. All legal expenditure must be approved by the local authority in advance.
- Court fees will be paid up to the Local Authority's agreed limit. Itemised bills are to be submitted to the Local Authority. All legal expenditure must be approved by the local authority in advance.
- Any solicitor instructed by the prospective Special Guardian should be a member of the Law Society's Children Panel, unless otherwise agreed by the local authority in advance of receiving such advice.

Where financial support is being considered for the following, the Local Authority can **disregard** the carer's financial resources, if deemed appropriate.

- Settling in grant
- Recurring costs for travel to facilitate contact
- A financial package for special care relating to illness, disability, abuse for any child that was previously looked after.

The Local Authority will undertake an annual review of all Special Guardians to confirm their ongoing eligibility for financial support and verify the child is still in their care. The review will involve the Guardian completing a financial assessment form and providing evidence of their financial resources. The Local Authority can provide help and assistance in completing the form as required. Based on the outcome of the review, the Local Authority can alter the level of support. If the carer's financial circumstances has changed then it is possible the level of financial support will change. If the outcome of the review is to reduce or terminate the support, the Local Authority will write to the Special Guardian informing them of the decision and allow a period of 28 days in which the Guardian may make representations, which will be considered by the Local Authority. A final decision will then be made and the Special Guardian informed in writing.

The Local Authority may also initiate an early review if:

- It becomes aware of any significant changes in the circumstances of the family or a breach of the conditions in Regulation 10 of the Special Guardianship Regulations 2005;
- The Special Guardian notifies the Local Authority of any significant changes or requests an early review because of a change in financial circumstances;
- At any stage in the implementation of the support plan that the Local Authority considers is appropriate.

Based on the outcome of the review, the Local Authority may alter the level of support.

If the Special Guardian fails to return their annual financial statement within the required timescale, the Local Authority will issue a reminder letter, giving 28 days' notice of the suspension of payments.

The provision of financial support, if any, will remain the responsibility of the Local Authority who originally agreed it, for as long as the family in question qualify for financial support and the Order remains in place.

15. Urgent Cases

Where a person has an urgent need of a service, the assessment process should not delay provision and arrangements can be made for support to be provided as a matter of urgency, on a without prejudice basis, in appropriate cases. The approval of the Assistant Director will still be required. The local authority will need to review the provision as soon as possible after the support has been provided in accordance with the procedures set out above.

16. Special Guardian Duty on the Death of the Child

If the child with respect to whom a **Special Guardianship Order** is in force dies, the Special Guardian must take reasonable steps to give notice of that fact to:

- Each parent of the child with **Parental Responsibility**; and
- Each guardian of the child.

17. Changes in circumstances

The Special Guardian must agree to and comply with the following conditions:

- I. That the Special Guardian will inform the local authority if he changes his address
- II. That the Special Guardian will inform the local authority if the child dies
- III. That the Special Guardian will inform the local authority if the child ceases to have a home with him, the child ceases full-time education or training and commences employment, the child qualifies for income support or jobseeker's allowance in his own right or the child attains the age of 18 unless he continues in full-time education or training, when it may continue until the end of the course or training that he is then undertaking.
- IV. That the Special Guardian will inform the local authority if there is a change in their financial circumstances or the financial needs or resources of the child which may affect the amount of financial support payable to him.
- V. That the Special Guardian will complete the yearly means assessment form

18. Complaints

Disagreements or concerns about the Special Guardian process should first be raised with the social worker or team manager with a view to resolving any issues. If the complainant does not feel that this resolves the concerns they can use the formal complaint process.

Formal complaints should be directed to the Family Services Complaints Officer via FSComplaints@barnet.gov.uk or 020 8359 7008.

If the complaint is related to decisions or actions taken by the Local Authority under the Children Act, the complaint will be processed under The Children Act 1989 Representations Procedure Regulations 2006.

All other complaints will be processed under the Council's Corporate Complaints Procedure.