



# **Special Guardianship**

## **Policy and Procedures**

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## HAVERING CHILDREN'S TRUST

### 1) BACKGROUND

Special guardianship is a legal status, introduced by the Adoption and Children Act 2002, which fits broadly between a residence order and an adoption order in terms of the carer taking responsibility for the child.

A "Special Guardianship Order" is an order appointing one or more individuals to be a child's guardian. A special guardian must be:

- i) aged 18+
- ii) must not be the parent of the child in question.

Special guardianship offers greater security than long-term fostering but does not require the absolute legal severance from the birth family that stems from an adoption order. Research has indicated that there is a significant group of older children who do not wish to make the absolute legal break with their birth family that is associated with adoption.

A Special Guardianship Order gives the special guardian parental responsibility for the child. Unlike adoption, under a Special Guardianship Order the birth parents remain the child's legal parents and retain parental responsibility, though their ability to exercise this is extremely limited. The intention is that the special guardian will have clear responsibility for all the day-to-day decision 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.

Prospective carers from minority ethnic groups may also wish to offer a child a permanent family but have religious and or cultural difficulties with adoption as it is set out in law. Unaccompanied asylum-seeking children also need secure, permanent homes, but have strong attachments to their families abroad. Special guardianship may assist children in these circumstances.

One major purpose of special guardianship is to meet the child's need for a legally secure relationship with their carer. To this end, **where a Special Guardianship Order is made, the child will no longer be considered to be looked after by a local authority.**

## 2) POLICY

Any approach of the Local Authority (Havering) to notifications from eligible carers that they may wish to apply for special guardianship orders must be viewed in the light of the welfare checklist in the Children Act 1989. The child's welfare shall be the paramount consideration. The views and wishes of the child, the views and wishes of the carers and their suitability, including whether they fully understand their roles as special guardians must always be fully considered. Every effort must 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 it must be clear that the applicants fully understand how they will take responsibility for the child's upbringing without the involvement of the local authority.

### **Operational Instruction:**

An application for a Special Guardianship Order is a permanency option for the child. All decisions to support in principle the application to court for a Special Guardianship Order in relation to a **looked after child** should be determined at a Permanency Planning Meeting (PPM), then endorsed at the child's statutory child care review and later recommended by the Adoption and Fostering Panel (the Panel).

Following the Adoption and Fostering Panel recommendation, the final decision to support an application for special guardianship and/or agree a maintenance allowance rests with the Agency Decision Maker, which in the London Borough of Havering is the Director.

In relation to any **child not looked after** or subject to private law proceedings the decision to support an application should be endorsed by the Head of Service.

The decision is then given to the applicants in writing.

NB. For further details of the application and assessment procedure see Section 4.

## 3) LEGAL PROVISIONS

### 3.1 Parental Responsibility

#### 3.1.1 Special Guardianship

The special guardian will have clear responsibility for all 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 or applicants acquire parental responsibility (PR) which is shared between the birth parents.

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 PR, apart from another special guardian. A special guardian can also appoint a guardian in the event of their death.

There are some limitations to the exercise of PR by Special Guardians. Special guardians cannot agree to change the child's surname or to take the child to live abroad for more than 3 months without the agreement of other people with parental responsibility or leave of the court. Special guardians cannot consent to the adoption of the child. However, the making of a care order does not bring special guardianship to an end.

### 3.1.2 Adoption

Where an adoption order is made, PR is given exclusively to the adopters. The child is treated in law as if he or she has been born to the adopters, and the adopters become responsible for maintaining the child.

## 3.2 Consequences for Birth Parents

### 3.2.1 Special Guardianship

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 parents. The special guardians would have to seek the agreement of the parents if they wish to change the child's surname or to live aboard 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 and may apply for contact with the child through the courts, or for a variation of the Special Guardianship Order.

### 3.2.2 Adoption

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.

## 3.3 Age Considerations

### 3.3.1 Special Guardianship

Special Guardianship Orders last until the child is 18. This should provide a strong foundation for a lifelong relationship between the child and their former special guardian so the child's needs at the time of making the order and in the future must be considered.

### 3.3.2 Adoption

Adoption orders last for life except in very exceptional circumstances.

## 3.4 Contact

### 3.4.1 Special Guardianship

For a child who is subject of a Special Guardianship Order it is likely that there will be more face to face contact with parents than where a child has been adopted. The child's parents are able if they wish to apply for a contact order from the Family Proceedings Court under Section 8 of the Children Act 1989, or for a variation of the Special Guardianship Order.

### 3.4.2 Adoption Order

The Court must consider arrangements for contact before making an adoption order. The court has power to make a contact order under section 8 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.

## 4) STATUTORY REQUIREMENTS GOVERNING APPLICATIONS

### 4.1 Eligibility

#### 4.1.1

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 or a child arrangement order with respect to the child, or who has the consent of all those in whose favour a residence order C.A.O is in force,
- 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.

#### 4.1.2

Applications may be made by an individual or jointly and by two or more people. Joint applicants need not be married.

#### 4.1.3

Applicants must be aged 18 years or over.

#### 4.1.4

A parent for a child may not become that child's special guardian.

### 4.2 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 adoptions 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.

### 4.3 Timescale

Within private law proceedings 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 three month notice period is disregarded to stop the competing Special Guardianship Order delayed the adoption order. The court will then consider both at the same time and decide what is the best option for the child.

#### 4.4 Reports to the Court

In that three 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.

There must be a report by the local authority for the court for both looked after and other children. A copy of the schedule (regulation 21) from the Special Guardianship Regulations 2005 is attached to this police 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.

#### 4.5 Variations 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. A list of both these groups is available in the Special Guardianship Guidance section 16 (see Appendix 2). 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. 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.

## **5) LOCAL GUIDANCE & PROCEDURE**

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

Decision regarding the recommendation for special guardianship must be viewed in the light of the welfare checklist at Section One of the Children Act 1989, so when determining any question with respect to the upbringing of a child under the provisions of Special Guardianship, the child's welfare shall be the paramount consideration.

In 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 guardian. Where the child will cease to be looked after as a result of the order being made how they 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 Head of Service (Care Resources and Head of Service ISS) and the Team Manager supervising the social worker who reports to the court.

### 5.2 Looked After Children: Permanency Planning

The Department's approach to any notification of intention to apply for a special guardianship order for any **looked after child** will be determined at a Permanency Planning Meeting, then endorsed in a child statutory review and later recommended by the Adoption and Fostering Panel (the Panel).

Every effort must be made to involve the prospective applicants and the child in the meeting and 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.

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 be completed by the Assessing Social Worker in the Fostering and Adoption Team. The Permanency Planning Meeting will include discussion of the following points:

- Background history
- Legal context
- Outcome of the core and other assessments
- The overarching plan as agreed by the last statutory review
- Developments since the last statutory review.
- Outcome of any family group conference/planning meeting
- 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

The Permanency planning meeting will make a recommendation to the child's statutory review so that if appropriate the care plan can be changed.

### 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 Local Authority's approach to any notification of intention to apply for a special guardianship order for any non-looked after child will be determined by a Senior Manager who will consider many of the points discussed above.

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 must be supervised by someone who has.

#### 5.4 Adoption and Fostering Panel

All decision to support, in principal, the application to court for a Special Guardianship Order in relation to a **looked after** child must be endorsed by the Adoption and Fostering Panel.

In those cases where the London Borough of Havering's plan for a looked after child is for the child to be made subject to a special guardianship order, the role of the Adoption and Fostering Panel will be to make recommendations to the Managing Director of the Local Authority (Children's Services) on:

- Whether special guardianship is the correct plan for the child;
- The suitability of the prospective special guardians;
- Where appropriate – the suitability of any change of plan for the child e.g. from adoption to special guardianship or from long-term foster care to special guardianship.

##### 5.4.1 Children who are **looked after**

Where the application is from the **foster carers** of a looked after child, the Panel must receive:

- A copy of the report submitted to court by the Child's Social Worker (see Appendix 1)
- An updated Form F (parts 1 and 2), including up to date references (2 independent referees plus 1 family member),
- A copy of the child's Care Plan,
- Full written medical assessments for the prospective guardians,
- Full written medical assessment for the child, and
- A linking report explaining why the application is supported, based on the matching criteria.

Any requests for a Special Guardianship Support Package, including payment of a special guardianship maintenance allowance should be presented to the Adoption and Fostering Panel and subsequently to the Children's Services Director or Deputy Director for a decision prior to the report being presented to Court (see also section 6.6 financial support).

Where the child is looked after but a **family member or friend** is applying to become a Special Guardian, the Panel must receive:

- A copy of the report submitted to court by the child's Social Worker (see Appendix 1),
- A copy of the child's Care Plan,

- Full written medical assessment for the prospective guardians,
- Full written medical assessment for the child, and
- A linking report explaining why the application is supported, based on the matching criteria.

Any requests for a Special Guardianship Support Package, including payment of a special guardianship maintenance allowance, should be presented to the Adoption and Fostering Panel and subsequently to the Children’s Services Director or Deputy Director for a decision prior to the report being presented at Court (see also section 6.6 financial support).

An assessment of the support needs of the child/family needs to be done in conjunction with the Adoption and Fostering Team who can advise the child’s social worker on what support services are available.

#### 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 and the Team Managers should discuss the case with their Senior Manager. The child’s social worker should complete the report for court (see Appendix 1).

An assessment of the support needs of the child/family needs to be done in conjunction with the Adoption and Permanence Team who can advise the child’s social worker on what support service are available.

Having Children’s Services will only consider the payment of a special guardianship maintenance allowance if the making of such an allowance would enable a child to cease being looked after. Therefore **if a child is not looked after at the time of the special guardian assessment**, the prospective special guardian will not be eligible to be considered for a special guardianship allowance (see also section 6.6 finance support).

## 6) LEGAL REQUIREMENTS FOR PROVIDING SUPPORT SERVICES

### 6.1 General

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

It is important that children who are not (or were not) looked after are not unfairly disadvantaged by this approach. In many cases the only reason that the child is not looked after is that relatives stepped in quickly to take on the responsibility for the child when a parent could no longer do so. In such cases they may be offered an assessment.

### 6.2 Comparisons with Adoption

Local authorities are required to make arrangements for the provision of adoption support services. All those affected by an adoption order are eligible for adoption support services.

### 6.3 Purpose

The purpose of special guardianship support services is to ensure the continuance of the relationship between the child and his 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. The London Borough of Havering will aim to ensure that the provision of support services is agreed and planned jointly between the agencies concerned.

### 6.4 Assessment and Planning

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

#### 6.4.1 Procedure for Assessment

Assessments for special guardianship support services will follow the guardian set out in, and use the domains of, the Assessment Framework for the Assessment of Children in Need and their Families. However, social workers will take into account that the context is different from that for birth families.

Assessments will consider:

- The developmental needs of the child.
- The parenting capacity of the prospective special guardian.
- The family and environmental factors which have shaped the life of the child.
- What the life of the child might be like with special guardian.
- Any previous assessment undertaken in respect of the child or the prospective special guardian.
- The needs of the prospective special guardian and their family.
- Where there appears that there is a pre-existing relationship between the prospective special guardian and the parents of the child, the likely impact of the special guardianship order on the relationship between that person, that child and that parent. Past assessments for a child who is a child in need or who is looked after will inform the assessment of special guardianship support needs. These should be updated as appropriate.

The Assessing Social Worker will consult the relevant health and education professionals during the course of the assessment, if needs identified relate to services provided by bodies other than social services, and it appears that there may be service implications for health or education services.

The social worker will interview that person who needs are being assessed unless the assessment relates only to information and advice or unless it is not appropriate to interview a child. In such cases, the child's prospective special guardian may be interviewed.

After an assessment has been undertaken, the child's social worker will prepare a written report of the assessment (see Appendix 1).

The Regulations also provide for the planning and review of support services.

#### 6.5 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 – 21, is eligible for leaving care support.

Other children who are under the age of 16 at the time the order is made are not eligible. This needs to be taken into account when an application for special guardianship is being considered.

#### 6.6 Financial Support

The provision of a maintenance allowance agreed before the Guardianship Order is made remains the responsibility of the authority who originally agreed it, regardless of where the family live.

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.

Havering Children's Services will only consider the payment of a special guardianship maintenance allowance if the making of such an allowance would enable a child to cease being looked after. Therefore if a child is not looked after at the time of the special guardian assessment, the prospective special guardian will not be eligible to be considered for a special guardianship allowance.

Entitlement to the payment of a regular maintenance allowance to special guardians will be determined by using the same financial assessment procedure as for residence order and adoption order allowances.

Special guardians will be required to agree to an annual review of their financial circumstances and to supply the local authority with an annual statement as to their financial situation, the financial needs and resources of the child, their address and to confirm that the child still has a home with them.

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 behavioral 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 and bedding. Eligibility for such payments must be assessed in relation to any entitlement to benefits, such as Disabled Living Allowance.

All cases will be assessed on an individual basis and, following presentation at the Adoption and Fostering Panel, the Managing Director will decide on the payment of special guardianship allowances.

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.

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.

In exceptional circumstances, at the discretion of Children's Services Director or Deputy Director and subject to a financial assessment completed by the child's social worker, assistance may be provided with the cost of any medical assessment to be submitted to the Adoption and Fostering Panel (see paragraph 5.4.1 above).

#### 6.6.1 Assessment for Financial Support

- Regulations provide that financial support is payable to facilities arrangements for a person to become the child's special guardian, where this is considered to be beneficial to the child's welfare, and to support the continuation of these arrangement after the order has been made.
- The assessing social worker will ensure that prospective special guardians are heled to access benefits to which they are entitled. The assessing social worker will ensure that the prospective special guardian is aware of and taking advantage of, all benefits and tax credits available to them.
- Under Regulations, any financial support paid to a special guardian cannot duplicate any other payment available to them. In determining the amount of any financial support, the London Borough of Havering must take account of any other grant, benefit, allowance or resource which is available to the person in respect of their needs as a result of becoming a special guardian of the child.
- When considering providing financial support, the Local Authority will consider the prospective special guardian's means. In accordance with Regulations, the following will be considered:
  - The prospective special guardian's financial resources (which will include significant income from any investments, but not their home) including any tax credit or benefit, which would be available to them if the child lived with them – **note:** *financial support for special guardians is disregarded for the purpose of calculating income related benefits and tax credits:*
  - The amount required by the prospective guardian in respect of their reasonable outgoings and commitments, e.g. housing and transport costs, and daily living expenses (but not outgoings in respect of the child):
  - The financial needs that relate to the child (e.g. because of special diet or need for replacement bedding) and the resources of the child (e.g. a trust fund).
- In determining the amount of any ongoing financial support, the London Borough of Havering will have regards to the amount of fostering allowance which would have been payable if the child were fostered. The Authority's maintenance allowance is the maximum payment the Authority is allowed to consider paying the family. Any means tests carried out as appropriate to the circumstances must use this maximum payment as a basis
- The London Borough of Havering will use the DfE's standard means test.
- The London Borough of Havering **may** disregard means where consideration is given to providing financial support in respect of:

- Where the Authority is considering including an element of remuneration in financial support payments to ex-foster carers – so that the ex-foster carers can continue to be paid at the same rate as they were, minus the child benefit, for the child(ren) for whom they have become a special guardian;
- A “settling-in grant” for a child who has been looked after by the Authority – **note: contributions to an adaptation to the home may be means tested;**
- Recurring costs in respect of travel for the purpose for visits between the child and a related person with who they have contact (or would have contact but for prohibitive travel costs e.g. with siblings).

#### 6.6.2 Legal Costs

Under Regulations, the London Borough of Havering **must** disregard means when consideration is given to providing financial support in respect of legal costs, including fees payable to a court. Legal costs will be met:

- Where a special guardianship order is applied for in respect of a child who is **looked after** by the London Borough of Havering and the Authority support the making of that order:

Or

- An application is made to vary or discharge a special guardianship order in respect of the child.

The London Borough of Havering will **not** meet the legal costs of a special guardianship order where the Authority **opposes an application** in respect of a looked-after child or in a **non looked-after** case. In these circumstances, the social worker will advise the prospective special guardian that they may be able to obtain help with legal costs from the Legal Services Commission (LSC), although this will be subject to a means and merits test laid down by the funding Code.

Social workers should advise prospective special guardians that they can obtain more details in the leaflet “A Practical Guide to Community Legal Services Funding” by the LSC [LSCLeaflets@ecgroup.uk.com](mailto:LSCLeaflets@ecgroup.uk.com) or fax 020 8867 3225.

#### 6.7 Looked After Children

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, as for adoption support services, 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.

As with adoption support services, a foster carer who becomes the special guardian for a child they were formerly fostering can receive an element of remuneration for up to two years after making the order, and for a longer period if assessed to be necessary.

Financial issues should not be the sole reason for a special guardianship arrangement failing to survive. This enables the authority to maintain payments to foster carers who become special guardians at the same rate as they received when they were fostering the child.

Where it is proposed the remuneration will continue, agreement for payment must be supported by Children's Services Director or Assistant Director.

## **7) REFERENCES**

The Adoption and Children Act 2002 inserts new sections into the Children Act 1989 and modifies some existing sections of the Children Act.

In relation to special guardianship, these are the relevant reference:

Section 115 of the Adoption and Children Act 2002 (insertions) Inserted Section 14 A-G of the Children Act 1989 Schedule 3 of the Adoption and Children Act 2002 (modifications). Special Guardianship and Regulations 2005, see [www.dfes.gov.uk/adoption](http://www.dfes.gov.uk/adoption).



## **APPENDIX 1**

### **Schedule to the Special Guardianship Regulations 2005**

#### **Regulation 21: Matter to be dealt with in the report for the court**

**The following matters are prescribed for the purpose 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 date 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 guardianship 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 descriptions of each parent;
  - (c) Nationality (and immigration status where appropriate) of each parent;
  - (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 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 they father has parental responsibility and, if so, how it was acquired;

- (h) If the identify or whereabouts of the father are not known, the information about him that has been ascertained and from whom, and the steps that has 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;
    - 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;
  - (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.
4. In respect of the prospective special guardian or, where two or more persons are joint prospective special guardians, each of them –
- (a) Name, date and place of birth and address including local authority areas;
  - (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 and 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;
- (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 that 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; 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;
  - (c) 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 from which those services are to be provided; and
  - (d) 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 relevant 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 2**

### **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 applications:

- 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 guardian,
- 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 the child who is subject to a special guardianship order, vary or discharge the order in the absence of an application.