

## **THE ASSESSMENT OF SPECIAL GUARDIANS AS THE PREFERRED PERMANENCE OPTION FOR CHILDREN IN CARE PROCEEDINGS APPLICATIONS**

Intended audience: Local authorities, Cafcass, judiciary, HMCTS, LSCB's

1. Since their introduction, Special Guardianship Orders have been made in a wide variety of situations – much wider than the original legislation anticipated. The rate of increase in their use has accelerated in the past year, especially for infants. Many practitioners have expressed concern about the impact on the processes used and the future outcomes for children.
2. Whilst Special Guardianship is a positive option for many children, we are writing this note out of concern about a number of cases where we believe children have been placed at risk through a Special Guardianship Order being made without sufficient consideration of the placement's long-term viability. Many of these placements have been arranged at a late stage in care proceedings without adequate time to carry out a suitability report to safe minimum standards. Sometimes it is clear the Special Guardianship Order process and sign off has been undertaken to ensure the case is completed within the statutory 26 week timescale. Our note is borne out of concern that this type of placement is not taking into sufficient account the requisite long-term viability for the child and, as a direct result, avoidably increases the risk of placement breakdown or the risk of immediate and significant harm.
3. Our guidance is written for learning and prevention purposes. It is clear that many Special Guardianship Orders are being made positively as a result of intensive family finding within the child's kinship care network. When Local Authorities have been able to carry out a thorough analysis of the strengths within a family prior to or in the early stages of care proceedings, a Special Guardianship Order can be a positive permanence option. However, for reasons of risk and speed, or simply as a result of an inability to engage effectively with a family network, it is not always possible to explore this option to the right depth and at the right time. It is our view that Special Guardianship remains an important permanence option that can be a creative way of resolving a wide range of needs but the basic safeguards routinely applied to other forms of permanence should be followed with every Special Guardianship assessment and court process.
4. Where an SGO is being considered at a late stage in proceedings, care must be taken to ensure that minimum standards are complied with and that the suitability report covers the issues sufficiently. This is just as crucial if professional concerns relate to the long term capacity of the proposed special guardians to parent well, as it is if the child has neither lived with the proposed special guardian/s nor has a relationship with or attachment to the proposed special guardian.

5. If such a late assessment means that the 26 week limit cannot be complied with, this should be clearly presented to the court as a legitimate reason for assigning the case to the non-standard track.
6. All assessments/suitability reports, whether started and finished pre-proceedings or whether started and finished during proceedings, should comply with the Schedule set out in Regulation 21 of the Special Guardianship Regulations 2005 (2005 No.1109). The threshold for a Special Guardianship Order in social work terms is that there is an evidence base that neither a co-parenting agreement, nor a s8 Order under the Child Arrangements Programme, will guarantee the child sufficient security and stability throughout their childhood. Conversely, the social work assessment and the children's guardian's analysis must demonstrate that the special guardian can meet the needs of the child in question including, where appropriate, recovery from the trauma associated with severe abuse or neglect if that has been the child's prior lived experience.
7. It is important not to regard a Special Guardianship Order as a default option because of the higher hurdle of an adoption recommendation – 'the nothing else will do' test, or 'last resort' concept. Care must be taken to provide a balanced assessment of the special guardian, rather than over-emphasising untested positives.
8. In short, Special Guardianship Orders should neither be recommended nor endorsed nor determined expediently where the test and bar for a carer to pass is lower than that for a permanent placement outside the family, whatever the proposed legal framework for that placement. A Special Guardianship Order is a valid and compelling permanence option for many children but fundamentally the principles underpinning a Special Guardianship assessment and care plan should be no less than the test and standards for other forms of permanence outside the child's immediate family. If practitioners are unable to complete assessment to the standard demanded by both the regulations and the complexity of the case within the timescale proposed by the courts, this point should be clearly made. Social workers, children's guardians and lawyers must assert themselves before the court if they believe that extra time is needed to complete an assessment so the child in question can be properly safeguarded.
9. No child should be placed in the care of a Special Guardian without DBS and other necessary checks being carried out.
10. Our note applies to all practitioners in the case. We are not singling any profession or agency out for criticism over and above any other but this has become a real problem and a real risk for the children concerned.

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