

## **Special Guardianship Order**

### **What is a Special Guardianship Order?**

A special Guardianship Order is an order appointing one or more individuals to be a child's "Special Guardian" It is a private law order made under the Children Act 1989 and is intended for those children who cannot live with their birth parents and who would benefit from a legally secure placement. It is a more secure order than a Residence Order because a parent cannot apply to discharge it unless they have the permission of the court to do so, however, it is less secure than an Adoption Order because it does not end the legal relationship between the child and his/her birth parents.

### **Who can be a Special Guardian?**

The following people may apply to be Special Guardians:-

- Any Guardian of the child.
- Any individual who has a Residence Order or any person where a Residence Order is in force and who has the consent of the person whose favour the Residence Order is made.
- Anyone with whom the child has lived for at least 3 years out of the 5 years.
- Anyone with the consent of the local authority if the child is in care.
- A local authority foster parent with whom the child has lived for at least 1 year preceding the application.
- Anyone who has the consent of those with Parental Responsibility.
- Anyone who has the leave of the court.

*You must be over 18 years of age and you can apply on your own or jointly with another person.*

### **Who can't be a Special Guardian?**

- A parent of a child may not be appointed as the child's Special Guardian.

### **The Court's Decision**

The court **must** decide that a Special Guardianship Order is the most appropriate order to make in the best interests of the child. The court must consider whether, in

addition to making of a Special Guardianship Order, a Contact Order should be made and whether any existing Section 8 Orders should be varied or discharged.

The court must have the benefit of the local authority report dealing with the suitability of the applicant and any other matters that the local authority consider relevant before it can make an order (Children Act 1989, section 14A(8), (9)).

*An applicant for Special Guardianship is required to give 3 months written notice of his/her intention to apply for such an order to the responsible local authority or the local authority in whose area the child resides (Children Act 1989, section 14A (7)).*

### **The Local Authority's Role**

The regulations say that the local authority report should include certain key information about the child such as:

- Whether the child has brothers and sisters and details of both parents.
- The relationship has with other family members and the arrangements for the child to see or keep in touch with different family members.
- Details of the child's relationship with his/her parents.
- The parent/s and the child's wishes and feelings.
- The prospective Guardians family composition and circumstances.
- Parenting capacity.
- Medical information on the child, prospective Special Guardian and the birth parents/s.
- An assessment of how Special Guardianship Order would meet a child's long term interests as compared with other types of order.

### **Effects of a Special Guardianship Order, what are they?**

This order discharges any existing Care Order or related section 34 Contact Order.

This order confers Parental Responsibility, which can be exercised to the exclusion of any other person with Parental Responsibility apart from another Special Guardian.

The Special Guardian has a responsibility for day to day decisions relating to a child's care and upbringing.

This Order allows a Special Guardian to remove a child from the UK for up to 3 months without consent of others with Parental Responsibility or the leave of a court.

The court can give permission for the child to be taken out of the jurisdiction for longer than 3 months.

On making a Special Guardianship order the court may give leave for the child to be known by a new surname.

### **Support Services**

Each local authority must make arrangements for the provision of Special Guardianship support services which *may* include:

- Financial assistance (means tested).
- Assistance with the arrangements for contact between a child, his/her parents and any relatives that the local authority consider to be beneficial. This assistance can include cash to help with the cost of travel, entertainment, and mediation to help resolve difficulties on contact.
- Respite care.
- Counselling, advice, information and other support services.
- Services to enable children, parents and Special Guardians to discuss matters, this might include setting up a support group.
- Therapeutic services for the child.