

Special Guardianship Orders

'Special Guardianship' is a legal status introduced by the Adoption and Children Act 2002. A special Guardianship Order (SGO) fits broadly between a child arrangements order (previously known as a 'residence order') and an adoption order in terms of the carer taking responsibility for the child.

Special Guardianship offers permanency for the child and offers greater security than long-term fostering. It lasts until a child reaches 18 years of age. It does not require the legal severance from the birth family which is the result of an adoption order.

An SGO is an order appointing a person or persons to be a child's special guardian. Joint applicants do not need to be married. Special guardians must be aged 18 or over and the parents of a child may not become that child's special guardian.

The Court may make an SGO in any family proceedings concerning the welfare of a child if it considers that an order should be made. When considering whether to make an SGO, the welfare of the child is the Court's paramount consideration.

Any person who wishes to apply for an SGO must give 3 months' written notice to the local authority of their intention to apply. In some cases the person who wishes to apply needs to obtain leave from the court to be able to do so. On receipt of the written notice, the local authority must investigate and prepare a report to the court about the suitability of the applicant(s) to be special guardians and the report must include required detailed information.

If the SGO is granted by the Court, the special guardian will have parental responsibility (PR) for the child. The special guardian may exercise PR to the exclusion of all others with PR, apart from another special guardian. The intention is that they will have clear responsibility for all the day to day decisions about caring for the child and their upbringing.

Local Authorities are required to make arrangements for the provision of special guardianship support services. These 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.

One area where a SGO may be appropriate would be if a child's parents were unable to care for them and a Grandparent was able to do so. The SGO could provide security and support for both the child and the Grandparent, whilst still ensuring that the child's basic legal link with their birth parents was maintained.

For advice about family law matters please contact Heather Weavill at Alison Fielden & Co Solicitors on 01285 653261 or at www.alisonfielden.co.uk