

Children & Young People
222 Upper Street
London N1 1XR

Report of: Corporate Director of Children & Young People

Meeting of: Children and Young People Scrutiny Committee

Date: 25th November 2024

Ward(s): All

Subject: Special Guardianship Orders

1. Synopsis

- 1.1. This report was requested to provide further information on Special Guardianship Orders in general and, more specifically, Islington Council's support offer to special guardians.
- 1.2. The report covers the following:
 - i. A summary on what a Special Guardianship Order (SGO) is
 - ii. Who can apply for an SGO
 - iii. How to apply for an SGO
 - iv. The support package offered by Islington Council to special guardians
 - v. Leaving Care rights for children under an SGO when they reach 18 years of age
- 1.3. No decision is being sought from the committee.

2. What is a Special Guardianship Order?

- 2.1. Special Guardianship Orders were introduced as an alternative legal status for children that offered greater security than long-term fostering, but without the absolute legal severance from the birth family that stems from an adoption order.
- 2.2. A Special Guardianship Order is an order appointing a person, or persons, to be a child's special guardian whilst preserving the basic link between the child and their birth family. It secures a child's long-term home with someone who is not their parent and lasts until the child turns 18.

- 2.3. The effect of such an order is to give the special guardian an enhanced form of parental responsibility for the child and responsibility for all day-to-day decisions about caring for a child and their upbringing.
- 2.4. Unlike adoption, the order retains the basic legal link with the parents – they remain legally the child's parents, though their ability to exercise their parental responsibility is limited to consenting to the child's adoption, changing the child's surname, and removing the child from the UK for longer than three months. All other decisions can be made by the special guardian without consent from others.

3. Who can apply for an SGO?

- 3.1. A court may make a Special Guardianship Order in respect of the child on:
 - a) Any guardian of the child
 - b) Any individual who is named in a Child Arrangements Order
 - c) A local authority foster carer, relative or other connected person with whom the child has lived for a period of at least one year immediately before the application is made
 - d) Any person with whom the child has lived for three out of the last five years
 - e) Any person who has the consent of the local authority (where the child is looked after)
 - f) Anyone who has the concern of all those with parental responsibility for the child
- 3.2. Applications can be made by an individual, or jointly by two or more people, to become special guardians. Joint applicants do not need to be married. Special guardians must be aged 18 or over.

4. How to apply for an SGO

- 4.1. Any person who wishes to apply for an SGO must give three months' written notice to the local authority of their intention to apply.
- 4.2. The local authority must then assess and prepare a report to the court about the suitability of the applicant/s to be special guardians.
- 4.3. Where a child is already looked after, the local authority applies to discharge the care order and replace with a special guardianship order.
- 4.4. Where a child is not already looked after, the applicants approach a solicitor for support with applying for an SGO.

5. Support for special guardians

- 5.1. It is widely acknowledged that special guardians often have not prepared to care for the child in advance and therefore may not have made provision within their lives, emotionally, practically, or financially to care for the child before it became necessary.
- 5.2. Local authorities are required to make arrangements for the provision of special guardianship support services as prescribed in the Special Guardianship Regulations 2005. Special guardianship support services are defined as:
 - g) Financial support
 - h) Support groups
 - i) Assistance, including mediation services, in relation to contact between the child and their parents or relatives or any other person with whom the child has a relationship that the local authority considers beneficial to the welfare of the child.
 - j) Therapeutic services for the child
 - k) Training for special guardians to meet the needs of the child
 - l) Respite care (this would require the child being looked after for the period of respite and being cared for by an approved foster carer).
- 5.3. The local authority where the special guardian lives is responsible for undertaking an assessment of need and provision of any special guardianship support services in response to that assessment. The only exception to this is where a child was looked after before the SGO was made, in which case the responsibility lies with the child's placing authority for three years after an SGO is granted and then transfers to the local authority where the special guardian lives. The only element of support that remains with the child's placing authority, is financial support, no matter how long after the SGO is granted or where the child lives.
- 5.4. Statutory guidance makes clear that financial issues should not be the sole reason for a special guardianship arrangement failing to survive and that no child should have to become looked after in the care system for want of appropriate support. The central principle is that financial support should be payable to facilitate arrangements for a person to become a child's special guardian, or to support the continuation of a special guardianship arrangement after the order has been made.
- 5.5. Financial support may include the following:
 - a) For children who have been previously looked after, consideration may be given by the local authority to offer the equivalent of a fostering allowance for 2 years post-order, or longer if deemed necessary, to make it possible for the special guardian to care for a child in the longer term.

- b) One-off expenditure, such as school uniforms or bedroom furniture, or to support the carer to take time off work for an agreed period of time to settle the child into their home.
- c) Ad hoc expenditure, such as giving a special guardian the funds to pay a babysitter to have a break for the evening or to cover petrol costs where a contact visit has been arranged.
- d) Support via a grant or loan to adapt the SGO's property to enable them to care for the child in the longer term.

5.6. Regulation 9 provides that financial support ceases to be payable to a special guardian if:

- The child ceases to have a home with them
- The child ceases full time education or training and commences employment
- The child qualifies for Incomes Support or Jobseeker's Allowance in their own right, or
- The child reaches 18, unless they remain in fulltime education or training, when it may continue until the end of the course or training they are undertaking.

5.7. In determining the amount of any financial support where children have previously been looked after, the local authority should have regard to the amount of fostering allowance which would have been payable if the child were fostered. To this end, Islington offer a financial support commitment to special guardians who have been temporary or Family and Friends foster carers to the child/ren in their care with the sole purpose of ensuring that Islington offer a 'no detriment' commitment to the payments they receive, matching their current fostering allowance, to ensure that the carers do not receive less financial support under an SGO than they would as foster carers.

5.8. All special guardians are entitled to apply for any state benefits and allowances, such as child benefit and child tax credit and should be supported to apply for any discretionary financial support which may be available.

5.9. Since April 2016, the Adoption Support Fund offer was extended to cover the funding of therapeutic support for children, living in England, who were previously in care immediately before the making of an SGO. This offer is not available to children under an SGO living outside of England.

5.10. Wherever possible, local policies should help ensure that housing and social care services work in partnership and special guardians living in social housing should be given appropriate priority to move to more suitable accommodation.

5.11. The Permanency Team are the social work team who work with all kinship carers. They are a team of 4 social workers who assess all special guardians and kinship

foster carers, and 3 social workers who offer support to special guardians post-order. As a small team, special guardians are not allocated a named social worker but for short periods of time, where special guardians need support with specific challenges, a worker can be allocated for this purpose.

- 5.12. Islington offer all special guardians access to the full training package offered to foster carers to support them care for children who have experienced trauma. These courses cover a wide variety of areas, from child sexual exploitation to working with children with disabilities and can be tailored to fit the needs of specific families.
- 5.13. The training package includes training in PACE for Parenting to enhance the special guardian's reparative, therapeutic parenting of children who have experienced trauma in early care arrangements.
- 5.14. Parenting using the principals of PACE (Playfulness, Aceptance, Curiosity and Empathy) offers a Dyadic Developmental Psychotherapeutic approach to parenting that helps the carer understand the meaning of the child's behaviour and stay calm and emotionally regulated as they talk with the child, even at very difficult times. This, in turn, helps the child calm and helps the carer remain emotionally available to the child. The PACE approach suggests a range of parenting strategies which help the carer show the child that they are doing their best to understand them and, work out with them, better ways for the child to understand and manage their own emotions, thoughts and behaviours. It also enhances trust in the relationship.
- 5.15. The PACE training is led by two Social Workers in the Permanency Team on a rolling rota basis and the feedback received by the special guardians is consistently positive.
- 5.16. There is a monthly support group for Islington's special guardians, which is held in the Elwood Street office, and run by social workers in the Permanency Team.
- 5.17. There is a Social Worker from the Permanency Team on duty Monday – Friday should a special guardian need to contact someone urgently.
- 5.18. Islington, as part of the North London Fostering and Permanency Consortium, have a contract with PAC UK, a specialist organisation offering advice, therapy, counselling, mediation, advice and training for all families affected by adoption or special guardianship.
- 5.19. All special guardians are given the contact details of Kinship (formerly Grandparents Plus), a national charity who offer peer support to Special Guardians and their families.
- 5.20. Education is a priority area of support for children with SGOs in place. They receive the following:

- The role of the Virtual School Heads was expanded in 2021 to provide advice and information, on request, to all kinship carers with Special Guardianship Orders as part of their non-statutory role.
- Children who have left local authority care through a Special Guardianship Order receive pupil premium plus funding, to the same level as that which is offered to children who are currently looked after.
- Children in Special Guardianship or Child Arrangements Order kinship care arrangements are eligible for school admissions through the Fair Access Protocol. This enables some children in kinship care to secure an in-year school placement when they are unable get a place via other means.

6. Leaving Care rights for children under an SGO

- 6.1. Children who were looked after by a local authority immediately before the making of an SGO are considered *qualifying* for advice and assistance providing the child:
 - i) Has reached the age of 16, but not the age of 21
 - ii) Has had an SGO in place before reaching the age of 18.
- 6.2. *Qualifying* children are entitled to advice and assistance to ensure they have support to achieve independence. They are not entitled to full leaving care rights as they have a guardian who can offer the additional support offered to children leaving care who have not had the opportunity to be cared for by family members outside of the care system.
- 6.3. There are no requirements for children who were not looked after before an SGO was granted to receive the additional support offered to children leaving the care system in recognition of the fact that they have support from a permanent guardian and do not need an additional worker from a Leaving Care social work team.

Report Author: Róisín Hegarty-Tait, Service Manager for Fostering and Permanency
Tel: 020 7527 2783
Email: roisin.hegartytait@islington.gov.uk