



Special Guardianship

making Leeds a child friendly city

Special Guardianship

Information and advice for carers considering Special Guardianship for children and young people in Leeds.



Special Guardianship is a way of providing a secure family life for a child whilst they grow up. A Special Guardianship Order provides legal security for children who cannot be provided with long term care by their birth parents. It is an alternative to options such as: Adoption, Residence Orders, Child Arrangements Orders, or long term fostering of a child. Special Guardianship Orders are only available in England and Wales.

- A Special Guardian formally takes on the legal powers and responsibilities of parenting a child until their 18 birthday. A Special Guardian will make the majority of decisions related to the child's upbringing, such as deciding where the child lives and goes to school and what medical treatment they should receive.
- Special Guardians have parental responsibility for the child, but the child retains a legal link to their parents.
- If the child was looked after by Leeds City Council before a Special Guardianship Order is made, this care is ended by the order.
- If a child is subject to a Care Order, a Special Guardianship Order removes the Care Order.
- Special Guardians have the right to appoint a guardian for the child in the event of their death.
- When a court considers making a Special Guardianship Order, it must also consider whether orders for contact between the child and birth parents and/or other orders should be made.

For more information on Special Guardianship in Leeds please contact us, email: specialguardianship@leeds.gov.uk

How is Special Guardianship different from Adoption?

Adoption ends the legal tie between the child and their birth parents, and transfers all parental responsibility to their adoptive parents. The child's birth certificate is replaced by a certificate naming the adopters as the child's parents, and the child becomes a permanent part of the adoptive family. Adoption orders cannot be reversed and remain in effect permanently.



Special Guardianship does not end the legal relationship between the child and their parents. The Special Guardian/s exercise parental responsibility and are legally entitled to make the final decision about most aspects of the child's upbringing. However, the birth parents are not legally severed from the child and have to be consulted in specific situations. A Special Guardianship Order can be varied or discharged, so it does not give complete legal security to the child and the Special Guardianship family. Special Guardianship Orders end when the child reaches the age of 18.

Carers who are related to the child, i.e. kinship carers may prefer to preserve their relationship as a grandparent or sibling. Special Guardianship allows you to do this, whereas in an adoption the carer becomes the child's parent.

Special Guardianship orders cannot make any change to the child's nationality. //

Keeping a legal relationship with their birth parents may be important for some children, for example older children or asylum-seeking children who do not want to lose the parental relationship, but who need an adult who can make decisions on their behalf. For some children it can be beneficial to maintain informal parental contact.

For more information on Special Guardianship in Leeds please contact us, email: specialguardianship@leeds.gov.uk

Is Special Guardianship different from a Child Arrangements Order (previously known as a Residence Order)?

A **Child Arrangements Order** gives parental responsibility to the holder of the order shared with others with parental responsibility, and determines that the child is to live with the person ordered by the court. Parental responsibility is shared equally and anybody given parental responsibility must be consulted when decisions are made about the child.

Special Guardians can use their parental responsibility to the exclusion of others with parental responsibility on most issues. This means they make all major decisions about the child, such as where they live and where they go to school, and can give consent to medical treatment.

When there is a Child Arrangements Order, a birth parent can apply to the court at any time to remove it. When a Special Guardianship Order has been made, the birth parents have no legal entitlement to apply to change or remove the order. They would have to ask the court for permission to apply, and they have to demonstrate there have been significant changes in their circumstances since the Special Guardianship Order was made.

Leeds City Council does not have a legal duty to provide support to people with a Child Arrangements Order, although where it is considered that the child is “in need,” under Section 17 of the Children Act 1989, it may provide financial, practical and other support to families. The Council has a legal duty to assess the support needs of Special Guardianship families if the child was looked after by Leeds City Council before the order was granted. In situations where the child was not looked after, an assessment can be requested and consideration will be given as to whether services should be provided.

For more information on Special Guardianship in Leeds please contact us,
email: specialguardianship@leeds.gov.uk

Which decisions must the child's birth parents be consulted about?

There are some decisions about the child that cannot be taken without the consent of the parents or, (if the parent/s do not consent) without the permission of the court. These include:

- changing the child's surname
- removing the child from the UK for more than three months
- situations where the consent of everyone who holds parental responsibility is required by law, for example, consent to a child being sterilised or circumcision of a male child
- and giving consent to the child being placed for adoption or adopted.

What happens if birth parents do not agree with the Special Guardianship application?

The court will take into account the views of the parents. If it is satisfied that the child cannot be cared for in the long term by their parents and that a Special Guardianship Order is best suited to the child's needs, then the order can be made.

Who can apply to be a Special Guardian?

Special Guardians must be at least 18 years old.

People can apply as individuals or jointly, with two or more people. Couples do not need to be married or in a civil partnership. The child's parents cannot apply to be special guardians.



For more information on Special Guardianship in Leeds please contact us, email: specialguardianship@leeds.gov.uk

The following people can apply for a Special Guardianship Order:

- where the child is in the care of a local authority, anyone who has the consent of the local authority
- a foster carer with whom the child has lived for at least one year immediately preceding the application, whether they are supported by the Local Authority in making the application or not
- anyone who holds a Residence Order or a Child Arrangements Order for the child
- anyone who the child has lived with for three out of the last five years, so long as the child did not stop living with them more than three months before they make their application
- anyone who has the consent of all those with parental responsibility for the child
- A guardian of the child (for example, a guardian appointed after the death of one of the child's parents).

A foster carer can only apply for a Special Guardianship Order if the child has lived with them for at least a year, without the Local authority permission.

If the child has lived with the foster carer for less than a year the Local Authority must give permission for the carers to apply for a Special Guardianship and this needs to be a recommendation of the Looked After child's review.

If the carer is a relative of the child they can apply for a Special Guardianship Order once the child has resided with them for six months.

Anyone who does not meet the above criteria would have to apply to the court for permission. Carers can apply in their own right without a solicitor.



For more information on Special Guardianship in Leeds please contact us,
email: specialguardianship@leeds.gov.uk

Is Special Guardianship an option for step-parents?

Special Guardianship is not generally an appropriate order for a step-parent as it would mean that, as a Special Guardian, the step-parent could exercise their parental responsibility to the exclusion of the birth parents. However, it may be appropriate for a step-parent to apply to be a Special Guardian if the birth parent has died, or if the step-parent needs to take over the care of the child in other circumstances, for example, where the legal parent is seriously ill and cannot make decisions for the child.

Are the child's wishes taken into account?

The child's wishes and feelings are very important and will be taken into account as part of decisions made by the court, particularly where they have an understanding of Special Guardianship and how it will affect their daily lives. The court would also wish to know their view towards maintaining contact with their birth family.

How do I become a Special Guardian?

Give the local authority three months' notice

If the child is in the care of the local authority then Special Guardianship is an option for making sure the child has a permanent family. It is up to you as the child's carer, whether you are a foster carer or a family member, to decide whether you wish to apply for Special Guardianship. It is essential that you talk to the child's social worker about whether Leeds City Council will support your application. // If the child is a Looked After Child, the discussion, decision and recommendation should come from the child's Looked After Review.

All prospective Special Guardians must provide three months' written notice to Leeds City Council of their intention to apply to be a Special Guardian. The only exception to providing this notice would be when

For more information on Special Guardianship in Leeds please contact us, email: specialguardianship@leeds.gov.uk

another application in respect of the child is being heard in court and it is decided by the court that a Special Guardianship Order should be made instead.

Where an adoption application is being heard and the court allows a competing application for Special Guardianship, written notice is still needed, but the three-month period does not apply.

Applying to the court

You can apply to a court for a Special Guardianship Order after the three month notification period. If the child is already the subject of another order, for example, a Care Order, a Residence Order or a Child Arrangements Order, you must apply to the court that made the order. Otherwise, you can apply to any Magistrates Family Proceedings Court or County Court.

It is a good idea to discuss this with your social worker before making an application to court. You may wish to seek independent legal advice should no social worker be involved or if you disagree with the social worker's plans for the child.

The local authority investigates suitability

When you have given three months' notice and applied to the court, Leeds City Council Children and Young Peoples Social Work Service will prepare a report for the court; this will involve a number of meetings with a Social Worker who will discuss your application with you, looking at the reasons why you want to become a Special Guardian, what you are able to offer to the child in terms of good parenting and also whether the child wants the order to be made. Factors such as your health, relationship stability, family support and the needs of the child and your ability to meet them will be discussed with you.



For more information on Special Guardianship in Leeds please contact us,
email: specialguardianship@leeds.gov.uk

Court hearing and decision

The court reaches a decision after reading all the reports and hearing evidence from those involved. The court also considers whether any other orders should be made at the same time, such as a Contact Order which would set out the arrangements for the child's contact with their birth family or significant people, or a Supervision Order to befriend and assist the child. The court can also agree to a child's surname being changed or give permission for the child to be taken out of the country for more than three months if this is a requirement.

Who is entitled to special guardianship support?

If an application is made for a Special Guardianship Order of a child who is looked after by Leeds City Council, then the child, the birth parents and the prospective Special Guardian/s are entitled to an assessment, on request, of their support needs and a support plan is drawn up and agreed which is presented to the court at the time of the making of the order.

If Leeds City Council agrees to provide support, it is responsible for providing those services and reviewing them annually from the date when the Special Guardianship Order was made.

If you live outside of Leeds City Council boundaries, after three years from the date the order was made in court, you will need to ask your resident local authority for any support you may require. However, Leeds City Council will still be responsible for any regular financial support, as specified in the Support Plan agreed before the making of the Special Guardianship Order, for as long as the family qualifies for that support. //

If a child was not previously looked after by the council, then the Special Guardian is not automatically entitled to an assessment for support, though they may request an assessment. Children who were

For more information on Special Guardianship in Leeds please contact us, email: specialguardianship@leeds.gov.uk

not looked after should not be unfairly disadvantaged by Special Guardianship, particularly if they might have become looked after if relatives had not stepped in to care for them. You may be entitled to support following a “child in need” assessment – under the Children Act 1989, Section 17 and an assessment can be requested.

Once we have assessed the needs of the Special Guardian, child or birth relative, we will prepare the written plan, known as the Support Plan. If you disagree with the support that is offered to you, you can make representations to Leeds City Council, after which they will make a final decision.

Support available for Special Guardians in Leeds

Financial help

Special Guardians can claim Child Benefit and may be eligible for Child Tax Credits.

Financial support offered by Leeds City Council can range from a one-off payment to regular allowances.

Some families may require financial support in order to purchase essential equipment or furniture for the child’s room, or help with nursery or child-minding if the child is under school age and the carer is working. From September 2014, Special Guardians are entitled to 15 hours per week of free nursery provision where the child was previously looked after by the Local Authority.

Most payments will be means tested, and cannot duplicate other available benefits or Tax Credits which the Special Guardian or child are entitled to receive. Where carers are already in receipt of fostering or other allowances, these will continue for two years following the creation of the special guardianship order. Thereafter, an assessment will be undertaken to see if there is still need for financial support. The assessment will include a financial means test in most circumstances.

For more information on Special Guardianship in Leeds please contact us,
email: specialguardianship@leeds.gov.uk

We can help with the legal costs of an application relating to a looked after child or where the child may become looked after if a Special Guardianship order was not applied for. Welfare benefits advice is also available to Special Guardians through Leeds City Council. Leeds City Council may also be able to help with any legal costs at a future date if the birth parents of the child contest or ask for the Special Guardianship order to be revoked.

Support from the Kinship Care Support team

- All Special Guardians of previously looked after children will receive at least one year's support from Leeds City Council's Kinship care team. Sometimes this support will be provided by the supervising social worker you may have had when you were fostering. A support group is available to Special Guardians led by the Special Guardianship Officer eight times a year and, where there is a need, specific training may be made available.
- Advice on a range of issues, including the child's contact with the child's birth family is provided through the Kinship care support team via the Special Guardianship Officer.
- Advice for Special Guardians and signposting to other organisations who provide support to Special Guardians can be requested.

Therapeutic and other support

Leeds City Council provides access to a consultation service to carers from the Therapeutic Social Work team. Longer term therapeutic counselling for the child may be required and advice on how to access // such support will be given, although a referral for counselling is usually made via the General Practitioner.

Support for children and young people

A Supervision Order can be made is sometimes made when a Special Guardianship Order is granted. This is usually for one year but can be

For more information on Special Guardianship in Leeds please contact us, email: [*specialguardianship@leeds.gov.uk*](mailto:specialguardianship@leeds.gov.uk)

made for up to two years and it provides continued social work support for the child to befriend and assist the child and the family.

Children who are aged between 16 and 21 years and were looked after by Leeds City Council immediately before a Special Guardianship Order was made also qualify for the advice and assistance available to care leavers from Leeds City Council.

Can a Special Guardianship Order be changed or ended?

The following people can make an application to change or remove the Special Guardianship Order without first obtaining the permission of the court:

- the Special Guardian
- a local authority with a Care Order on the child granted after the Special Guardianship Order
- anyone who holds a Child Arrangements Order on the child granted after the Special Guardianship Order was made.

The following people can apply to change or remove the Special Guardianship Order but they would have to obtain the permission of the court, and would have to show a significant change in their circumstances

- the child's parents or guardians
- any stepparent who has parental responsibility
- and, anyone who had parental responsibility immediately before the Special Guardianship Order was made.

The child can apply to the court for leave to apply to change or to remove the Special Guardianship Order, but the court would need to be satisfied that the child had sufficient understanding of the situation to proceed with an application.

For more information on Special Guardianship in Leeds please contact us,
email: specialguardianship@leeds.gov.uk

Legal advice

If you need legal advice, you should contact a solicitor who specialises in child care law. Leeds City Council has an approved list of children's solicitors (please ask for a copy of the list) or ask your local Citizens Advice Bureau for a recommendation.

www.lawsociety.org.uk/choosingandusing/findasolicitor.law

Useful Organisations

BeGrand.net

www.begrand.net

A website offering information and advice to grandparents

Children's social work service Leeds - Children's social work service

Contact them for requests for services in relation to safeguarding and support for children in need.

Tel: 0113 222 4403 (8.30am – 5pm)

Family Information Service Leeds

www.familyinformationleeds.co.uk

This website provides information and advice for parents, carers, children and young people, with extensive links to useful support and other resources, as well as upcoming courses and community events. //

- Free phone: 0800 731 0640
 - Tel: 0113 247 4386
 - Email: family.info@leeds.gov.uk
-

For more information on Special Guardianship in Leeds please contact us, email: [*specialguardianship@leeds.gov.uk*](mailto:specialguardianship@leeds.gov.uk)

Family Rights Group
www.frg.org.uk

A charity that advises carers and parents whose children are involved with or need children's services because of welfare needs or concerns.

Tel: 020 7923 2628
Advice line: 0808 801 0366
E-mail: advice@frg.org.uk

Grandparents Plus
www.grandparentsplus.org.uk

Grandparents Plus is the national charity which champions the vital role of grandparents and the wider family in children's lives - especially when they take on the caring role in difficult family circumstances.

Tel: 020 8981 8001
Email: info@grandparentsplus.org.uk

Kinship Care Support Team

This is the team that can provide information, advice and support to kinship carers and Special Guardians.

Tel: 0113 378 3537
Tel: 0113 378 3665
Email kinshipdutyteam@leeds.gov.uk or
specialguardianship@leeds.gov.uk

Leeds City Council Welfare rights unit

Public phone: 0113 376 0452
Email: welfare.rights@leeds.gov.uk

For more information on Special Guardianship in Leeds please contact us,
email: specialguardianship@leeds.gov.uk

The Grandparents Association
www.grandparents-association.org.uk

The Grandparents Association is a national charity but has a local office in Leeds. The charity supports kinship carers through various ways including local support groups, welfare benefits advice, assistance for people on a low income to have a holiday and sometimes access to needed furniture or white goods. There is a dedicated welfare benefits advice line to assist people with maximising their entitlements.

Office: 0113 244 6111
Helpline: 0845 4349585
Welfare benefits: 0844 357 1033



For more information on Special Guardianship in Leeds please contact us,
email: specialguardianship@leeds.gov.uk

For more information on Special Guardianship in Leeds
email: specialguardianship@leeds.gov.uk
Date of document: August 2014
© Corporate Communications, Civic Hall

