



Department
for Education

Consultation response form

Consultation closing date: 18 September 2015

Your comments must reach us by that date

Special guardianship review

If you would prefer to respond online to this consultation please use the following link: <https://www.education.gov.uk/consultations>

Special Guardianship was introduced in 2005 as a new permanence option for children. At this time, it was considered that it should meet the needs of a significant group of children; these included mainly older children who had become separated from their birth family children already living with a relative or foster carer, and groups such as unaccompanied asylum-seeking children who may need a secure legal basis without breaking the strong attachment they may have with their family abroad. However, the use of special guardianship has changed and local authorities and others have told us that it is now being used for younger children - data shows a significant increase in the number of children aged under one being given a special guardian – and that the assessment process is not always sufficiently robust. The call for views will look at these issues and gather views on how to address concerns.

We invite your views on:

- how the use of special guardianship has changed, since its introduction in 2005
- the assessment process
- the advice and support for special guardians
- examples of best practice

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

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majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.	<input type="checkbox"/>
Reason for confidentiality:	

Name: Nushra Mansuri	
Please tick if you are responding on behalf of your organisation.	<input checked="" type="checkbox"/>
Name of organisation (if applicable): British Association of Social Workers (BASW)	
Address: BASW Head Office 16 Kent Street Birmingham B5 6RD	

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by email: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the Department's ['Contact us'](#) page.

Please tick the box that best describes you as a respondent.

<input type="checkbox"/> Local authority	<input type="checkbox"/> Special guardian	<input type="checkbox"/> Young person
<input type="checkbox"/> Lawyer	<input type="checkbox"/> Director of Children's Services	<input type="checkbox"/> Academic
<input type="checkbox"/> Parent/Grandparent or other relation	<input checked="" type="checkbox"/> Social work practitioner	<input type="checkbox"/> Member of judiciary

Please specify:

BASW is the UK professional association for social work, led by and accountable to a growing population of well over 18,500 social worker members. Our members work in frontline, management, research and academic positions in all social work settings across the UK. BASW members share a collective commitment to those values and principles that will secure the best possible outcomes for children and young people, adults, families and communities.

When special guardianship is right for children: the legal and practice framework

Why are we asking questions about the legal and practice framework?

The law is clear that a special guardianship order (SGO) should be made where it is in the best interests of the child, taking into account the welfare checklists in The Children [1989] and Adoption and Children [2002] Acts.

SGOs can be (and are) made in respect of children in very different circumstances. For example, SGOs are made in respect of children subject to care proceedings, or for whom the alternative may be to enter care proceedings, and in these cases the Order often leads to a change in where children live and who cares for them. SGOs are also made in respect of children where the local authority has not been previously involved, or who are settled in a kinship or foster care placement for a long period of time, and can involve no change in a child's home or primary carers – the child continues to live with the people they have lived with for some time, but with a change in legal status. SGOs can also be made in respect of children up to 18.

These situations are very different, and all require careful consideration - with the child, and their welfare both now and in the future, at the heart of decisions. The legal framework is, however, the same. We are interested to hear your views on whether there are any changes needed to the legal and/or practice framework in which special guardianship decisions are made, or whether the current framework works well.

1 Does the legislation, regulations and/or statutory guidance relating to special guardianship need to be changed? If so, how?

Comments:

In practice, SGOs are being used for groups of children other than those for whom it was devised: it is addressing needs other than those intended and therefore, may have limited use as intended. If special guardianship is being used to address the needs of younger children, then any guidance will need to draw attention to any particular issues (risks) for this group. Guidance may also need to draw attention to the original intention - addressing the needs of older children who need permanence but whose relationship with their birth family is and remains important. This latter guidance should not be filed under "special guardianship" - it needs to trigger the concept of SG where it is not currently part of planning, so it should be in the guidance on care planning.

Guidance and regulation places severe time constraints and pressures on care proceedings and permanency planning and assessments are often done very quickly i.e. within 26 weeks of a care case – we do not consider 13 weeks to be long enough to complete the assessments and many in reality, are often shorter than that. Unless the child has already been in the placement, this does not really give long enough. Sometimes this might be addressed via a Supervision Order post final hearing, but it is not really appropriate to use a public law order in this way. We need to ask when is SG appropriate as against other options - and what is the range of other options available? Would a different outcome be in the child's best interest for example a Child Arrangements Order be a direct alternative in some cases?

The financial assessment requires review and needs to be standardised across the country as often the Local Authority will only provide financial support for a limited period of time. Such regional variation is deeply worrying and unhelpful. BASW members tell us that in some cases, no financial support is provided. In addition parental leave enshrined in law for maternity and adoption has not been ratified by parliament so many employers including local authorities are not complying with the spirit of the law. This means children who have experienced trauma in their birth family are then at risk of suffering financial hardship if special guardians take time to help them settle by leaving work or taking unpaid leave or having to go straight into childcare arrangements as soon as they arrive. There should be no postcode lottery but finance is often the final arbiter instead of good practice. Post special guardianship

support needs to be made mandatory for Local Authorities to ensure that people continue to get appropriate support with children beyond the making of the order.

The framework needs to continue to recognise SGO's beyond those aged 18 years as this would particularly assist those who parent children with SEN or Learning Disability.

Key Concerns:

- Special Guardians do not currently have the same level of selection, assessment, training and support that Foster / Adoptive carers have.
- DBS checks are only advisory in applications for a SGO - it is possible for none to be undertaken at all. This potentially leaves a child very vulnerable to further harm.
- Children in care prior to a SGO lose their entitlement to after care from the LA.
- Children in care lose the support from their social worker - in some situations LA ending their involvement at the point a SGO is made.
- Children ~~can~~ are being placed ~~-placed~~ with family members where there has been no prior relationship.
- There is no automatic residency period for a child prior to a SGO application. In Northern Ireland there is - 12 weeks.
- The child does not have an independent advocate / voice in the court process. For children in care - they will have a Children's Guardian up to the point of the SGO application.
- It raises the question / potential for the child to be 'invisible' in this process - not withstanding the paramountcy principle. Recent court judgements are conspicuous in focusing on the adults and the voice of the child is lost.
- For the special guardian - what is the extent / limit of their Parental Responsibility. For children in care there are schedules of delegated authority to foster carers. Can SG's overrule the birth parents wishers re: education, religion, health, contact etc.,?
- Viability assessments do not currently exist in the regulations and yet each LA is using them as a screening tool. Each LA has it's own viability assessment tool.
- Court and social work practice has regional differences and in some LA's / Court areas - expediency has taken over - with pressure being placed on LA's to 'cut' corners in their assessments to enable the Court to make a SGO. Some LA's are deliberately not assessing the SG's history - views of education etc., focusing only on safeguarding - thereby leaving out crucial information about a SG's views on promoting education etc.,
- The SG Support plan - is this detailed enough to ensure a child is safe - promoting positive outcomes (education + health) - access to ongoing support - finance - contact with birth family - and crucially a contingency plan if there are difficulties?
- Children subject to a SGO are no longer subject to a review process - where progress against the support plan can be measured.
- Currently SG's do not have access to the Adoption Support Fund - post 3 years of statutory support.

- There is a perceived lower threshold to be achieved than in Public law - making it easier to make a SGO than a Placement / Adoption Order. This is in spite of the guidance saying the Welfare Checklist from the 1989 and 2004 Acts should be used.

Proposed solutions

- Consider moving SGO's from Private Law to Public Law - with the increased use of SGO's as a direct alternative to adoption and the children whether in care or not prior to a SGO have very considerable needs which need to be safeguarded both in the short and long term. This is directly linked to the SG's and child's access to support services post Order.
- Viability assessments should be formalised and standardised. Family Rights Group is leading a Working group on this.
- Enhanced DBS checks - should be mandatory. It should not be forgotten that many grandparents have / have had very significant personal issues which have directly influenced / impacted on their own children's capacity of being a parent - such as alcohol / drug use. There are examples of Judges ignoring these concerns and placed a child with an abusive or inadequate grandparent.
- Formalising and ensure adequacy of the support available to SG's and children so that the current inconsistency is removed. SG's having access to legal Aid - which they are currently denied.
- Access to the Adoption Support Fund - for post Order support
- Clarification of the PR issues for SG's and their impact on the child
- Introduction of a mandatory period (10 weeks) of residency for a child with the SG's prior to any application of a SGO being made. This would make it consistent with adoption.
- The 26 week timeframe - needs to be more flexible to enable placements to be tested prior to a SGO being made.
- Ensuring the child is at the centre of any plans and has a 'voice' which is heard in Court about proposals as to where and with whom they will live.
- Ensuring the child has an automatic right to a Guardian under regulations 16.4
- Ensuring children / young people are not disadvantaged by moving from a care status to a non-care status.
- Serious consideration should be given to making it mandatory that ALL children who have a plan of permanence away from their family have life story work and a life story book to support them in understanding their journey. And provide adequate funding for the delivery of this service
- There needs to be mandatory requirement for Local Authorities to facilitate legal advice (possibly utilising the same route as PLO) to enable those considering caring for a child to have all the options explained to them. Most people cannot afford legal advice or are not aware of the options therefore this needs to be facilitated to ensure that they fully understand the implications in respect of contact and the opportunity for this to be challenged in the future.

2 In your experience, are practitioners clear and consistent about the factors to take into account when considering whether an SGO is the most appropriate order for which to apply?

Comments:

This question is not broad enough as it only focuses on the responsibility of individual practitioners. It should be re-phrased to ask how local authorities, courts and Cafcass are making appropriate use of Special Guardianship Orders. As already stated they are being used very differently from how they were originally intended which is borne out in Jim Wade's iWade, J. (2015) Special guardianship, *Research in Practice Strategic Briefing*, Research in Practice, Totnes.

[s is a concern for social workers.](#)

In principle, BASW England is supportive of the concept of an order that enables children to stay within [their](#) families or to be placed with those they have a connection to and have a similar level of security. However, many of our members report that unfortunately, in their experience, they are being used inappropriately; for example, to keep children within the extended family where the placements are not viable due to the complexities of coping with difficult relationships with the birth parents, having a poor understanding of the child's needs and/or limited ability to meet the needs of a child especially taking into account—that child is already traumatised. Concerns have been raised that local authorities are not robust enough in carrying out assessments of family members as in some situations, decision-making is predicated on saving money and meeting performance indicators as opposed to meeting the needs of the child.

Conversely, one senior leader informed us that SGO's were being granted by the courts to family members who the local authority had ruled out and argued that there was a risk of a culture of 'over optimism' minimising historical failures to protect and complex destructive family dynamics. In some of these cases, the local authority has seen breakdowns where SGO to family members were made despite local authority concerns. Whilst we accept that any placement can break down and this has significant consequences, the delay and damage in these cases can result in other permanency options no longer being viable, which makes it even more tragic. Some of these family members have been through the connected fostering assessment process unsuccessfully, yet an ISW or local authority worker is then faced with timescales much shorter than the guidance suggests to reassess and make life changing recommendations-. BASW England believes that there is a direct correlation between these outcomes and the tighter timescales that have been introduced to care proceedings, which impacts on quality and can increase an overly positive (face value) perspective of extended family networks.

~~A number of Another our BASW England~~ members asserts that there are also some indications that courts are granting SGOs on the basis of a lower threshold of assessment and evidence. Typically the work is undertaken by children and families' teams working to the tight 26 week timetable of care proceedings rather than by specialist permanency workers. ~~(not sure what the difference is here as all have the same timescales?)~~

The government has also not provided sufficient resource to local authorities to manage the short, medium or long term financial and/or support implications. Local authorities are working under severe financial constraints. Over the past few years the social care sector has seen an unprecedented focus on the cost of services provided to children in care. This has led to children and young people at times being placed in placements that fit with the priorities of the placing local authority, rather than the child's own needs. Subsequently, we are being told that some stable placements have been threatened with disruption for financial reasons. The misuse of special guardianship is a genuine concern. Placement choice to meet individual need remains the guiding principle when it comes to permanency. Special Guardianship Orders sit alongside adoption and permanent long-term fostering in permanency planning. They are a distinctive, valuable option and the original intentions behind the creation of SGOs are valid today.

Members shared their experiences of SGOs where the applicant is a foster carer. One social worker stated that generally SGOs are discussed with foster carers of children under 10 in long term placements and the stated aims are to provide more security to the child and remove the necessity for social work visits and reviews. However, many of our members feel that the financial imperative is the key driver: BASW received many comments on this SGO consultation, and with an unusual consistent message these are a few examples

"with an SGO, there are no IFA or fostering fees to be paid and the support for the child simply disappears, and nobody discusses which support will the child and the carer be offered when the child turns 18. It is like asking a foster carer to continue doing their job, for far less money and without any support. In one case the carers I worked with were told the child would be removed unless they took an SGO. They accepted the financial loss and remained committed to the child."

"Some local authorities put unfair pressure on foster parents to become special guardians when the foster parents want to care for a child long term. This is not how special guardianship was intended, and appears to be a cynical move to reduce the LA's workload, disguised as 'this is what you would want if you were really committed...'"

"Carers are being told that the child or young person in their care will be moved from a settled placement if they do not take out an SGO. This also applies in some cases if they refuse to adopt a child in their care. These threats are made quite openly and explicitly. I frequently hear carers describe this as blackmail."

In one example, a local authority was explicit that the reason for the SGO was financial in terms of the fostering agency being too costly. The effect on children caught up in this poor planning is starkly illustrated in the words of the carer:

“the children have threatened to chain themselves to their beds if they have to move.”

In another case, a local authority was pressing a foster family to seek an SGO for a child who was settled with a loving family, or otherwise they would remove her and place her for adoption. It took the intervention of the Ombudsman to prevent the move and enable the child to stay with the carers.

We are told that one authority wrote to foster carers of all children and young people who are not placed for permanency stating that an SGO will be considered in every case. Such approaches goes against the principles of child centred, individual planning.

In conclusion, it would appear that decision-making has become skewed in some cases as decisions are being made on the basis of expediency not need. The number of children coming through care proceedings is increasing. The number of adoption orders is falling. The resources available to local authorities are falling. The resolution of this equation is inescapable – this equals increasing numbers of SGOs. It's much cheaper than fostering and easier to get the order.

Assessment process: Deciding whether an individual can become a special guardian

Why are we asking questions about the assessment process?

Local authorities assess prospective special guardians to explore whether they are able to meet the child's needs. Regulations set out what the report should consider. LAs may be assessing a close relative who already has a relationship and history with a child or they may be assessing someone who does not know the child very well or at all. We are interested to hear your views on how well assessment for special guardians

3 Could the assessment processes for determining whether a prospective special guardian is suitable be improved? If so, how?

Comments:

The answer to the above from our members is an emphatic yes. As we have already stated, the timescales (particularly where courts are involved) make the assessments very tight and judgements are made very quickly, which contrasts with generic fostering assessments where there is more time.

We need to determine what is the appropriate level of assessment - both assessment of suitability to care in general and assessment of the suitability of the specific match. In the case of SG, there may also be a need to find the most suitable of several competing applicants. This raises questions about what are appropriate timescales for an adequate assessment and how this fits with the PLO deadline and with the child's timetable.

We understand that BAAF was looking at one format for both a Form C and SGO which could help to improve the quality of the assessment process. The current format does not encourage thorough assessment which should be required for such a permanent option. Whilst various checks are undertaken there is often not sufficient exploration of the applicants history, experience of being parented and their understanding of the risks. Nor is there sufficient exploration of the impact on other children and the rest of the family. It is well-known that the criteria is lower than for a Connected Persons fostering assessment which means that on one hand, a panel may not approve the application for the latter but could approve it for a SGO application. Below is a selection of direct quotes from BASW England members who once again gave very similar responses to the question :

"The main obstacle to a successful SGO placement is the contact issue especially with young children. The level of contact is often led by the parents' needs rather than the child's. Very high levels of contact are permitted which inevitably cause confusion for the child. Parents often come and go as they please. Many SWs and legal advocates do not understand the complex emotional impact this has for the child. Applicants find post order they cannot deal with the fallout from high levels of contact. If a child has been subject to trauma then this is constantly re triggered. "

"SGO is okay and would work well if both parents and the person applying for SGO, are educated in depth about SG. Majority of cases where SGO have been granted to foster parents, where children are age 5 years old and above, some children are left more emotionally disturbed. The reason being conflict of loyalty. In some cases where there is no cultural match, SGO applicants feel insecure about child's contact with birth family. Therefore may consciously or unconsciously make wrong decisions about contact with family, hence negative impact on the child. This may lead to resentment from the young person as they grow up."

"I believe there is a definite remit to improve the assessments of Special Guardians, i feel that there is a need for mandatory training to be introduced as currently takes place with those being assessed to become adopters. The assessment mirrors the

assessment of adopters but the training and support provided does not accompany this. I believe that those pursuing an SGO should have the same opportunities as those pursuing adoption.”

“I have found local authorities doing what they call SGO assessments on family members who have never met the children as well as examining assessments that are lacking in depth with poor support plans.”

“Inadequate assessment: there are many examples where social workers raise the prospect of a foster carer taking out an SGO before anything like a full and complete needs-based assessment has been completed. It goes without saying that a consideration of matching has not been undertaken either. Both these assessments are fundamental to good permanency planning.”

“Sometimes an SGO is suggested after only a few months of a short-term placement, well before we can judge the strength and nature of the relationship between the child and the carers. Carers and foster care professionals share concern and bewilderment as these suggestions appear to come out of the blue. When pressed on this, several social workers have told carers in different parts of the country, “it’s our policy.”

“It appears that there is a lower threshold when judges are awarding special guardianship and child arrangement orders. That because the child is going to family or a connected person and there will be ongoing contact with family there can be less evidence showing the carers can meet the child’s needs now and in the future. As well as placing children I have been involved in several families with teenagers placed with Grandparents as children where things are not going so well, grandparents getting older and feeling less able to manage challenging behaviour and late nights and the worry and stress these young people were putting them under. It was clear that the young people had been affected by their early experiences and loss of parents and attachment issues but often these carers found it difficult to accept and understand these needs and therefore find it hard to engage in the support and changes needed to maintain the placements leading to teenagers coming into care and facing rubbish outcomes as LAC teens. It is clear a more robust assessment was needed or provision for support, not necessarily in the immediate time or even immediate years after the child is placed but that when these carers are calling social care or asking school for help there should be a stronger provision and duty that the local authority provide significant support at this time. There will be an issue here not only of changes to the law or policy but of resources to enable local authorities to provide good support.”

Providing the right support for special guardians and children

Why are we asking questions about support?

For a SGO to be successful, both the child or children and the guardian(s) and the birth parents may need support. As a minimum, the special guardian will need to understand

their new legal duties and responsibilities and what an SGO means; and birth parents also need help to understand what the SGO means for them and to manage their expectations about their future relationship with their child. Where an SGO entails a child or children moving to a new home, there may be specific things that could support that transition to be successful. In addition, many children who leave care on an SGO, or who may be placed under an SGO as an alternative to care, may need support throughout their childhood to manage the impact of abuse or neglect in their early childhood, and their guardians may need support to care for them and protect their best interests. We are interested in your views on what advice and support is most important at each stage of being a special guardian.

4 What type of advice and support to children, special guardians, and birth parents do you think should be provided and when?

- Before an SGO is made
- During a child's transition to a new SGO placement (where applicable)
- After an SGO is made

<input type="checkbox"/> Before an SGO is made	<input type="checkbox"/> During a child's transition to a new SGO placement (where applicable)	<input type="checkbox"/> After an SGO is made
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Comments:

- The demographic of children placed on SGO's is similar to that of the adopted population, i.e. neglected, abused and traumatised by separation and loss, yet there is no funding to meet the therapeutic needs of these children to parallel the Adoption Support Fund. They are therefore disadvantaged by an inadequate system that is not properly resourced. And where there is overwhelming evidence of the national inadequacy of CAHMS services
- Special guardians must be made fully aware of what is to be expected, now and in the future and that contact is supported. Members tell us frequently that special guardians are not well prepared for the process. There should be specialized robust mandatory training for them, to ensure they fully comprehend what they are taking on in terms of children's experiences and behaviours, how to manage and become change agents in the lives of these children and to manage their own responses to the challenges the children will inevitably present on an ongoing basis. Whilst family members in these situations generally have altruistic feelings towards the children they are caring for they also need additional preparation, training and support to safeguard their welfare and wellbeing.
- Carers and family members need to clearly understand what the order means in terms of parental responsibility, making decisions in the child's future and being

very clear what will be available in terms of support - both practical and financial and from who.

- Availability of support groups: the chance to meet other special guardians in a similar position to them e.g. older relatives, relatives who haven't met the child, family friends or foster carers to hear what the reality is like and what has helped or hindered them
- Availability and encouragement to attend training aimed at these carers around issues of identity, managing conflict with birth family, life story work, attachment, dealing with loss and bereavement, transitions.
- More books and resources aimed at carers and children to help them and additionally for those working with special guardians.
- In each LA, there needs to be information, for e.g. leaflets or virtual information on a website about the support that is available for potential SGs to read it and consider. At the moment, it seems quite 'ad hoc'. A member suggested that each LA should have a mission statement
- Support provided can be uncritical, but in some circumstances it is appropriate for to be challenged. An example given was from a member's current caseload where a grandmother had stopped contact with father. The SG support team acted as an advocate for her, rather than challenging her for going against an order. Family therapy skills could be deployed in these circumstances
- The legislation ensures support must be provided as part of the order. The nature and duration of this support is not specified however, leaving carers adrift if issues arise subsequently. Concomitantly, we know resources in the community are rapidly diminishing. The legislation therefore, needs to be strengthened in this area.
- Special guardians need advice and training about how children may respond when placed away from their family, how to work with parents or birth families and how to support a child in understanding their life history
- There are major gaps in the support package provided to SGO carers. Although financial support is provided this is limited in most LA to three years. Therapeutic services are limited or can take a long term to access as mostly reliant on universal services available. In some LA where carers have been supported to access SGO through the private law route and children are not LAC the support is even limited.
- What support can be made available if the SG lives outside the UK?

Identifying good practice

Why are we asking about good practice?

The rate at which SGOs are used is highly variable between local areas; in addition, the research suggests that practice and children and carers' experience of SGOs can be very different. We know there is good practice out there, and we are interested in your views on what the best practice in special guardianship looks like so that we can support all practitioners to deliver this.

5 In your view, what constitutes good practice in enabling a special guardianship to be successful?

Comments:

One member purports that the special guardianship report template is cumbersome and does not encourage analytical thinking or consideration of key issues [and argues that-](#) Australia has a much better model.

A lot of the questions in our template are irrelevant (age of death of siblings, qualifications). We need to add: brief risk assessment in relation to birth parents and extended family; understanding of the concerns; understanding of the child's needs; capacity to protect the child; capacity to deal with conflict; extended family relationships; reasons why this child needs care; applicants' history of grief and loss; applicants' own history of being parented and any abuse history; relationship history; drugs, alcohol, mental health, domestic issues with own children, criminality, learning disability; if these are grandchildren, how do they reflect on their own care of the child's parent? What have they learnt? What would they do differently? Why do they think the parent has problems? How have their other children fared? How do they cope with stress? How will caring for this child affect their relationship with the child's parents and other family members? What will the impact be on their own children? What will they tell this child about why they can't live with their parents? What will they tell other people? What will the child tell others? What are their expectations of how the child will respond if placed? How well do they understand the child's experiences? Can they prioritise the child over the parent?

Some of our members argue that there is a need to develop specialist posts in assessing and supporting special guardians as the issues that arise in these cases are quite different from adoption and fostering in some ways. There needs to be more recognition of the way in which relatives typically become carers in a crisis which is unplanned, rendering them unprepared, shocked, hurt, scared, ashamed, guilty and angry about what has happened in their family, often not knowing the full story about what has been going on. The assessment process needs to include time to absorb what has happened, learn about the child's needs, make sense of why the local authority is involved, come to understand the process and what special guardianship actually means with the help of the assessing social worker. The question should be:

can we support these people to learn to care for and protect the child? Can they do it right now? Do they have access to support groups, Family Rights Group, help with contact, mediation, reviews of placement and contact plans, fast track to CAMHS support, immediate financial support, help with housing, training and life story work - using the words and pictures model should be routine. Family group conferences can help early on and when it comes to managing contact plans - but kinship carers should not be left to 'manage their own'. They particularly need help in thinking through the long term implications of contact including social media.

One member praised their local authority for having a standardised template for all SGO reports and a panel process that works well and is efficient.

- Initially, consideration must be given to ensure that the SGO is what the applicant wants and not just the Local Authority and essentially whether the child would be better supported under a different order or whether the SGO is appropriate for that child.
- Local authorities should ensure that the applicant knows of all the options for permanence and the same financial support should be made available vis-à-vis adoption as this is quite often the decider when considering this as an order for permanence.
- To ensure that the applicant knows the full implications/ responsibilities of a SGO prior to commencing the application process and not just at the point of lodging the application at which point the assessment has in some cases already started or may already have been completed.
- To ensure that the applicant fully understands the legal implications of a SGO , to include their rights and responsibilities, the child and families right to contact and the possibility of challenge whether now or later in childhood
- A commitment from the Local Authority to financial support in the event of an application to court for additional contact or to challenge the SGO.
- To have all training made available as in the case of those being assessed to become adopters and beyond as adopters would do.
- To have support with contact, including reviewing contact and supporting this for the remainder of their childhood
- To be fully supported with life story work and life story books so when a child is older and/ or able to begin to understand their history and their identity, this is made available.

- Support packages should be guaranteed for the duration of the Order and regularly reviewed.
- SGOs are part of permanency planning. As such they should be included in current process and practice alongside adoption and permanent fostering.
- Consideration in this permanency planning process to permanency teams

A number of members have suggested that it would be good to have involvement of adoption or fostering social workers in the assessment of carers for SGOs. It is a major piece of work for the child's social worker taking up a lot of extra work when there will already be a lot going on in terms of court work and assessments (of birth parents) and working with the child to help them understand where they are and ensuring their needs are met. The sort of specialist experience and training to undertake these assessments is held by these workers - it could also mean that potential SGO carers can access induction and core training for adopters or foster carers. It may not be felt appropriate to mix potential SGO carers with potential adopters etc but specialist training drawing on the induction training for adopters would be really beneficial:

“When thinking about introductions and ongoing support I considered that these carers and children often need the same level of support as adopters and children preparing for adoption. In my authority this is how we manage introduction plans etc. If there had been involvement from an adoption or fostering worker at this point the carers would have some support separate to that of the child's social worker. I have found that carers may want to hide any concerns they have from the child's social worker for fear that their assessment or court decisions may be affected but the relationship with a separate assessing worker may allow and encourage more honesty about the struggles and concerns.”

Some authorities have established individual SGO staff or even SG teams. Here the practice and thinking has more depth and this is to be welcomed. However, we need to establish that this will lead to better outcomes for children and young people who are looked after.

6 Please add any other comments/views below about your experience of special guardianship and how it could be improved, if at all?

Comments:

This is a much needed area of research. We understand that CAFCASS has undertaken some research about the disruption rate as many care proceedings applications resulting in SGOs have broken down.

One member queries how many cases there have there been of parents having children back where their circumstances have changed sufficiently to meet the stringent criterion. If the plan for the child is to return eventually to the care of parents, SG does not seem appropriate, but -

- What is the appropriate option?
- If the child can later return to the parents, how will this be managed?
- How should the carers act if it later emerges that the child cannot return to the parents?

Interestingly but not surprisingly SGOs are **not used in UASC** work. UASC rarely -- extremely rarely ---reach the family courts for any order at all **of any kind** There is no wish or intention to give UASC this level of permanency or security even when they arrive under the age of 10:

“I had many such cases in the LA where I worked which were pre the introduction of SGO but even now the UASC will be placed under kinship care with extended relatives and rarely with an SGO attached, or with much support. This raises debate about the relationship between immigration and welfare systems/laws/permanency or the lack of the connection or use of SGOs or indeed section 31 proceedings!”

“In general, I think that special guardianship has worked well, and has proved an invaluable addition to the legal options for children. Are we doing anything to mark its tenth anniversary at the end of this year? Maybe a party or get together for children [and SGs] placed in January 2006?”

I note that special guardianship is often used in cultural groups where adoption might normally have been the outcome for e.g. some Muslims do not accept the validity of adoption as practiced in the UK. This is rarely mentioned in the literature, but it should be explored, as they are very different orders.”

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply.	
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Email address for acknowledgement:

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents?

Yes

No

All DfE public consultations are required to meet the [Cabinet Office consultation principles](#)

The key consultation principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and use real discussion with affected parties and experts as well as the expertise of civil service learning to make well informed decisions
- departments should explain what responses they have received and how these have been used in formulating policy
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

If you have any comments on how DfE consultations are conducted, please email: consultation.unit@education.gsi.gov.uk

Completed responses should be sent by **18 September 2015**:

By post to:

Patrick Towgood/Neil Comport
Department for Education
Floor 1
Sanctuary Buildings
20 Great Smith Street
London
SW1P 3BT

By email to: SpecialGuardianship.REVIEW@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.