


Children and Families Service

Special Guardianship

PROCEDURE APPROVAL			
Approved By	Gemma Gerrish	Position	Director of Children's Social Care
Signature		Date Approved	July 2022
Post Responsible for Reviewing	Senior Manager, Provider Services	Date to be Reviewed	August 2025

Special Guardianship

1.0 Introduction

1.1 The Special Guardianship Regulations came into force on 30 December 2005 at the same time as the Adoption and Children Act 2002. **Ref: Section 115 Adoption and Children Act 2002** The updated guidance includes an emphasis on special guardianship providing a firm foundation on which to build a lifelong permanent relationship between the child and their carer' (Special Guardianship Guidance DFES 2005 (Amended 2016))

1.2 Special Guardianship was introduced as an alternative legal status for children and fits broadly between a Child Arrangement Order and an Adoption Order in terms of the carer taking responsibility for the child. It offers greater security than long term foster care and a Child Arrangement Order but without the severance of legal ties with the birth family, as with adoption.

1.3 Special Guardianship

- Gives the Special Guardian parental responsibility for the child. Unlike Adoption, under a Special Guardianship Order the birth parents remain the child's legal parents and retain parental responsibility, though their ability to exercise this is extremely limited. The intention is that the Special Guardian will have clear responsibility for all day-to-day decisions about caring for the child/young person and for taking any other decisions about their upbringing, such as their education.
- A Special Guardian may **exercise parental responsibility to the exclusion of others with parental responsibility**, such as the parents, and without needing to consult them in all but a few circumstances (changing the child's name; consenting to adoption and taking the child abroad for more than 3 months).
- Means the child is **no longer in the care of the local authority**.
- Establishes a **legal relationship** between the child and the carer until the young person reaches the age of 18 years. This should provide a strong

foundation for a lifelong relationship between the child and their former special guardian.

- Preserves the link between the child and their birth family

Practice guidance

This legal status is likely to apply mainly to:

- Younger children who have lived since birth with a close family member who is the child's main attachment figure
- Older children who have complex Family Time arrangements which benefit the child, and which can be managed by the Special Guardian
- Children from minority ethnic communities which have religious and cultural difficulties with adoption
- Unaccompanied asylum seekers who may have strong attachments to families abroad
- Children who have an established relationship with a connected person
- Children whose foster carers have looked after them for a period of time and who wish to hold a more permanent legal status for the child.

1.4 Special Guardianship may therefore be an alternative legal status for children during permanence planning, particularly where children are looked after by family/friends foster carers.

1.5 Additionally it may be possible to discharge a Care Order or end a long-standing Section 20 accommodation where the child is placed with family/friends foster carers and the carers are willing to make application for Special Guardianship.

2.0 Applications for Special Guardianship

2.1 Applications may be made by an individual or a couple (who do not need to be married) who are over 18 years of age.

2.2 The following may make an application for a special guardianship order:

- Any guardian of the child
- A local authority foster carer with whom the child has lived continuously for one year immediately preceding the application
- Anyone with a residence order/child arrangement order with respect to the child or who has the consent of all those in whose favour a residence order/child arrangement order is in force
- Anyone with whom the child has lived for three out of the last five years
- Anyone who has the consent of the local authority (looked after children only)
- Anyone who has the consent of all those with parental responsibility for the child
- Any person, including the child, who has the leave of the court to apply

2.3 The parents of a child cannot become that child's special guardian.

2.4 The court can also make a Special Guardianship Order in any family proceedings (including adoption) concerning the welfare of the child if they consider an order should be made. There does not have to be an application for an order to be made (or varied/discharged) in these cases. However, in considering whether to make such an order as a final order in care proceedings the court will need to ensure that there is a relationship between the child and proposed special Guardian, whether the child has lived with or had regular substantial contact with the child and that the prospective special Guardian has full insight into the role of special Guardian and the specific needs of the child as evidenced through the relationship with the child and formal training (*see appendix 1 flowchart*)

2.5 Any person who wants to make an application for a special guardianship order must give the local authority 3 months written notice of their intention to apply. During permanence planning this notice will be dealt with by the child's social worker unless the notice is given prior to the child's 4-month Statutory Review in which case the Child in Care teams would deal

with the notification. ([Our Approach to Permanence- Procedural and Practice Guidance](#))

- 2.6 If application is made with the leave of the court no notice to the local authority has to be given.
- 2.7 On receipt of the application, or at the court's request, the local authority must investigate and prepare a report about the suitability of the applicants to be special guardians within the 3-month notice period or within the timetable set by the court. The suitability report will be completed jointly by a social worker from the Connected People's Fostering Team (who will undertake the assessment of the prospective special guardian) and Child's social worker,

The Schedule to the 2005 Regulations as amended by the 2016 Regulations sets out in full the prescribed matters for the report in respect of both the child and the child's family. These amendments cover:

- information about the child who is the subject of the application including their current and likely future needs, and any harm they have previously suffered
- information about the child's family including any likely risk of future harm posed by the child's parent or other relevant person
- the wishes and feelings of the child and others
- information about the prospective special guardian including the nature of their current and previous relationship with the child and, their ability and suitability to bring up the child until the child reaches the age of 18
- information about the local authority which compiled the report
- a summary prepared by a medical professional
- implications of the making of a special guardianship order for those involved
- relative merits of special guardianship and other orders
- a recommendation regarding special guardianship
- a recommendation regarding Family

Disclosure and Barring checks will be completed on all adults in the home 16 years and above, the date and the outcome of the checks will be recorded on special guardian's electronic record.

3.0 Special Guardianship Order Application in Respect of a Child in Care in a long-term stable foster care placement

- 3.1 The possibility of a Special Guardianship Order application as a means of achieving legal permanence for the child should be considered at every review of the child's plan. (link to permanency policy)
- 3.2 If a child has a plan for long term stability in foster care, particularly with family/ friends foster carers, and the need to be looked after under Section 20 or a Care Order changes, the local authority will support foster carers to make an application for a Special Guardianship Order if the child is accommodated under Section 20 or will apply for the Care Order to be discharged in favour of a Special Guardianship Order if the child is subject to a Care Order.
- 3.3 A care planning meeting should be held and should be attended by the Fostering Service. The meeting should be chaired by the Children in Care Team Manager and the following actions initiated:
- The need to consider further where legal services fit into the process (e.g., in anticipation of contested Special Guardian Order proceedings or in considering the need for sec.8 Orders, of the Children Act 1989), particularly around Family Time, which may be needed alongside the Special Guardianship Order
 - Provision of information to the carers about the legal and financial implications of an application for a Special Guardianship Order.
 - Provision of information on Special Guardianship to the child and the birth family.
 - An assessment of the carer's ability to meet the child's needs for permanence and for ongoing financial and practical support to facilitate the

carer's application. If support for direct Family Time is required, this must be clearly documented

- Preparation of a Special Guardianship Report. The information required to be provided in the report should already be available in respect of a cared for child where the applicant is the child's current approved carer. The connected people's team will undertake the assessment on the proposed carer the child's social worker will complete the child's components of the report.

Practice guidance

If a child is in a stable placement with a foster carer from the independent sector and a Special Guardianship Order is being considered as the permanence plan for the child, a representative from the Independent Fostering agency should be included in the care planning meeting and any consideration of financial support will need to address the different financial status of an agency foster carer. An early discussion with the Permanence Hub, Senior Manager will be necessary to clarify exactly what financial support will be available. No agreement should ever be given to a level of financial support without senior management agreement.

3.4 If a long-term foster carer wishes to make application for a Special Guardianship Order and is supported by the local authority, and the Special Guardianship Order is **a direct alternative to care/care proceedings** the local authority will:

3.5 Contribute to legal fees associated with the application if the child is looked after under Section 20 and the person with existing parental responsibility is in

agreement or apply for discharge of the Care Order if the child is subject to a Section 31 Care Order with a recommendation of substitution of a Special Guardianship Order.

- 3.6 Pay a Special Guardianship Order Allowance based on a financial assessment the allowance will not normally include any element of remuneration to the special guardian. However, former foster carers may continue to receive the banding element for a period of two years. A remuneration element. See 3.8.
- 3.7 Consider one-off payments to contribute to the expenditure necessary for the purposes of accommodating and maintaining the child
- 3.8 Foster carers who received a 'skills banding' element may, in exceptional circumstances, continue the skills-banding element of pay beyond the two-year period. This decision will be considered by the Permanence Hub Senior Manager who will be guided by an individual assessment of the needs of the child. (This will be recorded within the Special Guardianship support plan)
- 3.9 If a child is subject to Section 20 and it is decided within care planning that a Special Guardianship Order is the appropriate means of achieving legal permanence for the child and this plan is opposed by the parents, an application for a Care Order should be made as a route for deciding the legal status of the child.
- 3.10 The completed Special Guardianship Report should be presented to the Connected People's Fostering Team Manager for quality assurance.
- 3.11 All provision of financial and practical support is subject to the agreement of the Senior Manager, Permanence Hub

4.0 Special Guardianship Order Applications in Respect of a child who is not in care

- 4.1 The Local Authority would not expect to commit to financial support in cases where the child has not previously been looked after. The exception to this is in respect of care proceedings where a child may not be subject to an order

but where the plan for the child is placement with a family member under a Special Guardianship Order as a direct alternative to the child needing to be in care. In this case a financial means test will be completed and reviewed. See section 12 Review of Special Guardianship Payments.

- 4.2 Where authorisation is sought for the financial support of a Special Guardianship Order for a non-looked after child an initial approval should be confirmed at Senior Manager level.
- 4.3 In cases of non-looked after children the Special Guardianship report will be completed by the Connected People's Fostering Team and a Child in Need Social worker.

5.0 Effect of Special Guardianship Order

5.1 The effects of the making of the special guardianship order are:

- The Special Guardian will have parental responsibility for the child and may exercise that to the exclusion of all others (except another special guardian) until child is 18 years old.
- The child may be known by a new surname only with the leave of the court and/or written consent of everyone with parental responsibility.
- the child may only be taken out of the country for longer than 3 months with the leave of the court and/or written consent of everyone.

5.2 The birth parents legally remain the child's parents but their ability to exercise parental responsibility is limited to the right to consent or not to adoption and to consent in those situations where the law requires the consent of more than one person with parental responsibility as set out above relating to removal from the country or change of surname.

6.0 Discharge of Special Guardianship Orders

6.1 A Special Guardianship Order can be varied or discharged on the application of:

- The Special Guardian
- The Local Authority that had care of the child before the Special Guardianship Order was made.
- Anyone with a residence order/child arrangement order in respect of the child before the special guardianship order was made.
- With the leave of the court:
 - i. the child's parents or guardians.
 - ii. any stepparent who has parental responsibility.
 - iii. anyone who had parental responsibility before the order was made.
 - iv. the child if they are of sufficient age and understanding.

For applicants other than the child, the court will only give leave where there has been a significant change in circumstances.

7.0 Assessment for Special Guardianship Support Services

7.1 If the child who is the subject of a Special Guardianship application is already known to the child in need/ child in care teams the assessment for support services will be undertaken as part of the care planning for the child and will use information already available to the assessing children's social worker. Any additional needs identified during the carers assessment will be incorporated into the support plan.

7.2 If a child was previously in care the following people **must** be assessed for support services if they request it:

- The child
 - The Special Guardian or prospective Special Guardian
- Cheshire West and Chester – Special Guardianship

- A parent

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7.3 The assessment for support services must address the three domains of the Assessment Framework i.e.,

- The child's needs
- The parenting capacity of the special guardian
- The family, social and environmental context within which the child will be living

8.0 Completing the Assessment for Special Guardianship Support Services

Practice guidance

An SGO Support Plan meeting to be arranged with child's Social Worker, Supervising Social Worker and Senior SGO Social Worker prior to the plan being submitted to Senior Manager.

8.1 The assessment of support needs should be completed jointly by the Child's social worker and the supervising social worker for the proposed Special Guardians in consultation with the Senior Social Worker for SGO Support. The support plan must be robust, unambiguous and comprehensive

- The current needs or likely future developmental needs of the child
- The parenting capacity of the prospective special guardian.

Including:

- 1) their understanding of, and ability to meet the child's current and likely future needs, particularly, any needs the child may have arising from harm that the child has suffered.

2) their understanding of, and ability to protect the child from any current or future risk of harm posed by the child's parents, relatives, or any other person the local authority consider relevant, particularly in relation to contact between any such person and the child.

3) their ability and suitability to bring up the child until the child reaches the age of 18.

- The family and environmental factors which will influence their future life.
- What the life of the child will be like with the special guardian.
- The needs of the prospective Special Guardian and their family.
- The impact of the order on any pre-existing relationships.
- Multi agency contributions to support needs.
- The child's history and experiences to establish specific vulnerabilities which may result from adverse experiences.
- Any previous assessments in respect of the child or special guardian.
- The views of the child and special guardian.
- Use of evidence-based assessment tools.

Practice guidance

- An assessment for special guardianship support services may be completed at the same time as the interviews for the court report
- The relevant Health provider and/or Education should be consulted if identified needs have service implications for Health or Education services.

8.2 The assessment for support services should be submitted to the Senior Manager who will make the decision as to whether special guardianship support services will be provided.

8.3 If special guardianship support services are to be provided on more than one occasion and are not limited to the provision of advice and information a **special guardianship support plan** must be produced. The plan should set out:

- The services to be provided
- The objectives of the services
- Timescale for provision of services
- Review arrangements
- The person responsible for monitoring the provision of services

8.4 A copy of the plan should be provided to the assessed person. Where a support plan is produced this will also serve as the notice of the outcome of the assessment.

8.5 If:

- No services are to be provided
- Service is only to be provided on one occasion
- The service consists only of the provision of advice and information

No Special Guardianship Support Plan is required but the person must be provided with a **Notice of the Outcome of the Assessment** stating the person's assessed need for special guardianship support services, any service to be provided and the arrangements for making any representations.

8.6 The person is allowed 28 days from the date of the notification being sent to make any representations about the assessment. No decision about the provision of support services can be made until this time period has expired. The person should be advised about sources of independent advice and advocacy.

8.7 If the assessment for support services concludes support services are required, Cheshire West and Chester will endeavour to provide the identified service.

However, before any service is provided the Special Guardian will need to agree:

- a) that they will inform the Local Authority immediately of any significant changes in the family e.g., change of address, financial situation, employment, and household.
- b) If they are in receipt of support, including financial, that they will comply with an annual review of support services.

9.0 Post Order Special Guardianship Support Services.

The local authority must provide special guardianship support services. These include:

- 9.1 Counselling, advice, and information.
- 9.2 Support groups and training in consultation with children subject to Special Guardianship Orders and their carer's.
- 9.3 Advice and guidance in relation to Family Time between a child subject to special guardianship and a natural parent, sibling, guardian, or person with whom the child has a beneficial relationship if required. The Authority would not normally expect to make a commitment to the long-term supervision of contact arrangements.
- 9.4 Therapeutic Services
 - 9.4.1 An assessment of the needs of the child for the court report will include the child's need for any therapeutic services. If a need is identified, referral will be made to the appropriate service. The need for any therapeutic service which lies outside the resources of Cheshire West and Chester provision will be considered on an individual basis.

The services (if any) that the Local Authority proposes to provide, which may include therapeutic life story work, play therapy, attachment-based support. From the 1st of April 2016, special guardians may apply for the Adoption Support Fund for these types of services for children and young people who were previously looked after prior to the Special Guardianship Order. The Adoption Support Fund is subject to regulatory review by the Department of Education, which may result in changes to the eligibility criteria.

9.4.2 Needs may be identified which will need to be addressed on a continuing basis, at some point in the future or through a specialist resource. Financial arrangements for this therapeutic support should be considered as part of the Special Guardianship Support Plan prior to any order being made.

9.5 Training

9.5.1 Training may be offered to special guardians. This may be through support groups, through specific training for adopters and special guardians or inclusion on Cheshire West and Chester training courses.

9.6 Mediation in matters relating to the special guardianship order

9.6.1 Support is provided to the Special Guardian. If particular needs in relation the child become apparent, the child will be referred to the children in need team for ongoing intervention (e.g, any Safeguarding matters).

9.7 Short breaks

9.7.1 Respite arrangements may need to be established as part of the Special Guardianship Support Plan to meet both the needs of the child and the special guardian. This is particularly likely where the child has significant physical or learning difficulties.

9.7.2 Provision may be made through Cheshire West and Chester Council resources or financial arrangements may need to be put in place through the special guardianship allowance for the Special Guardian to purchase respite care of their choice as needed. This may include consideration of a direct payment.

Practice guidance

Children who were in care before the making of the special guardianship order will also qualify for support where the qualifying criteria within the Children (Leaving Care) Act 2000 is met. [Children \(Leaving Care\) Act 2000 - Explanatory Notes \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2000/31/section/10)

10.0 Special Guardianship Order Allowance

10.1 An allowance will only be paid when the Special Guardianship Order is a **direct alternative to care/care proceedings** and is paid to:

- Ensure the carer can look after the child
- Meet special needs, in particular those relating to serious and long-term conditions, or the consequences of past abuse or neglect which will require expenditure over and above that which would be reasonably expected.

10.2 Planning processes and the statutory looked after children review must determine whether the making of a Special Guardianship Order is in the best interests of the child. A Statutory Review must endorse the Special Guardianship plan after the care planning meeting. The review needs to be in a position to agree both the overall plan and the support plan on offer. Financial issues must be addressed during the planning process.

10.3 TSC will undertake the financial assessment, the proposed allowance will be submitted to the Permanence Hub, Senior Manager along with the Special Guardianship Support Plan who will make the decision about the provision of the Special Guardianship Order allowance and other support services. This will be loaded on to the Special Guardian's electronic record. The Special Guardian will be required to sign a financial agreement, agreeing to cooperate with the review process.

10.4 Payment of a means tested allowance should start from the date of the Special Guardianship Order is made and is payable up to a child's 18th birthday or the end of the academic Year 13 (31st August),

Financial support ceases to be payable to a special guardian or prospective special guardian if:

- a) the child ceases to have a home with the Special Guardian
- (b) the child ceases full-time education or training and commences employment
- (c) the child qualifies for Benefits in his own right, or
- (d) the child attains the age of 18 unless he continues in full-time education or training, when it may continue until the end of the course or training, he is then undertaking.

10.5 The service reserves the right to discontinue payments where evidence of regular attendance is not provided on request. This is to ensure payments are not made in error and to encourage high levels of attendance.

10.6 Any allowance paid by the Local Authority may be subject to scrutiny by the Department for Work and Pensions (DWP) and may result in a change to the amount of benefits received.

11.0 Procedure for Payment of Special Guardianship Order Allowance

11.1 When a Special Guardianship Order allowance is agreed it will be paid from the date of the Special Guardianship Order.

11.2 For existing foster carers the fostering allowance will cease on the date the Special Guardianship Order is made. The insurance cover provided by the Directorate to foster carers will also cease to apply.

11.3 The responsible social worker should update the legal status on Liquid Logic

12.0 Review of Special Guardianship Order Payments

- 12.1 The review of Special Guardianship Order Allowances is the responsibility of the Transactional Service Centre. *(see Appendix 2)*
- 12.2 The Special Guardianship Order Allowance is subject to annual review.
- 12.3 The annual review of SGO payments will be triggered administratively within the Transactional Service Centre. The financial assessment element of the review will be carried out the Transactional Service Centre and will be primarily concerned with determining whether financial support should rise/fall based on the financial position of the family and any change since the Order was arranged or the date of the last review.
- Special guardians who do not engage in the financial review, allowances will cease.
- 12.4 The outcome of the financial assessment will be considered by the Transactional Service Centre.
- 12.5 Special Guardians have 28 days to appeal this decision. If an appeal is raised it will be reviewed by the Provider Services Senior Manager.

13.0 Support Services for People outside the area

- 13.1 If the child was previously in care, responsibility for the assessment and provision of services remains with the local authority where the child was last in care for 3 years from the date of the order.
- 13.2 If the family moves in this period or there is any other significant change in their circumstances, the previous care authority may reassess their need for services and alter the support plan as appropriate. However, regardless of where the family live the local authority to which the child was previously in care retains responsibility for the payment of any ongoing financial support for as long as the family qualify for payment.
- 13.3 If the child was not previously in care, the local authority where the Special Guardian lives is responsible for the assessment and provision of services.

The local authority where the Special Guardian lives is also responsible for the assessment and provision of services at the end of the three-year period from the making of the special guardianship order for children who were previously in care.

14.0 Review of Support Services

14.1 Support services provided within a special guardianship support plan must be reviewed:

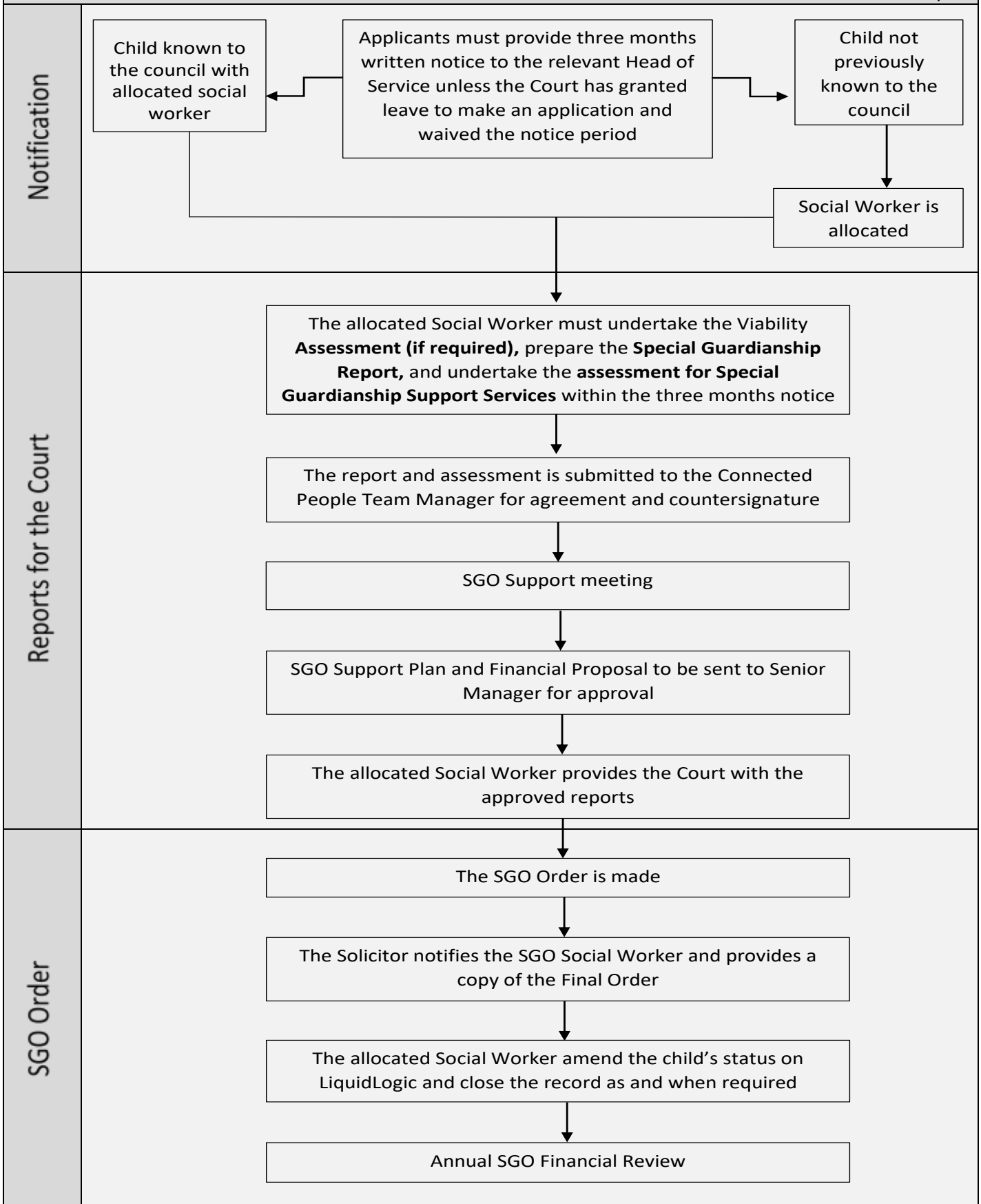
- When there is a change in the person’s circumstances which affects the provision of support services. If the change of circumstances is relatively minor, the review may be limited to an exchange of correspondence.
- When requested by a Special Guardian this will be complete in conjunction with the financial review.

14.2 If the review identifies a major change in circumstances resulting in changes to the Support Plan, a new Special Guardianship Support Plan must be produced, and a copy of the revised plan should be provided to the assessed person. The person must be given 28 days from the date of the Plan being sent to make any representations about the re-assessment of the provision of support services.

Appendix 1

Special Guardianship Policy Flowchart

Ref: F/22



This form is to be completed and returned in the envelope provided and will form part/or all of your care order annual review for financial support.

Carer/Adopter
name:

LL ID:

Name of child:

LL ID:

Address:

Email:

Telephone:

1. Is the child still living with you at home?

Yes

No

a) If no, please provide the date the child moved away.

Date:

2. Is the child still receiving continuous full-time education?

Yes

No

a) If yes, when will this cease?

Date:

b) If yes, this is a;

School

College

3. What is the name and address of the establishment?

4. If they are in college;

a) What course is the young person undertaking?

Declaration

Even if someone else has filled in this form for you, make sure they have read it back to you before you sign this declaration.

Please read this declaration carefully before you sign and date it.

The information I have given on this form is correct and complete and I understand the following:

- The data provided on the application will be used to calculate the financial support which may be available and will be stored in accordance with the Data Protection Act. The data can be used in the council and shared with other councils, and with partner agencies which will specifically include social services, support providers, debt offices such as CAB and police where appropriate.
- If I give information that is incorrect or incomplete, you may take action against me. This may include court action.
- The council will use the information provided in connection with the administration of financial support, to prevent to detect fraud and any other crime, to support national fraud initiatives and to protect public funds. The council may share your personal information internally to provide other Council services. Any use of personal data will be in full accordance with the Data Protection Act 1998. When updating our systems, we may use copies of the data you provide in order to test our IT Systems. If personal data is used for system testing, it will be copied to a test environment, where it will be used to test IT systems in a realistic way. Appropriate security precautions and permissions will be applied to the data. Visit the privacy section on our website for more information.
- I have a responsibility to notify you immediately of any changes listed in the section 'Change you must tell us about'. If I do not do this, you may take court action against me.
- If I receive too much allowance, I will have to repay the money.
- The allowance is subject to a financial assessment review and these reviews will be completed annually.

- Where possible the Council will send correspondence to me via secure email.

Your signature:

Date:

Your partner's
signature:

Date: