



## **Qualitative case file review of special guardianship orders**

### Purpose and areas of enquiry

To deepen Cafcass' understanding of special guardianship and contribute to the Department for Education review of special guardianship orders (SGOs), which also includes a quantitative study and qualitative data from local authority files.

Our core purpose was to make use of a sample of Cafcass case files which conclude with an SGO being made, in order to describe:

### Case information

- The background of the child and the family
- The identity of the special guardian, and their relationship with the child and the parties
- The information available to the special guardian.

### The assessment process

- The factors taken into consideration in the assessment e.g. potential risks, the motivation of the special guardian, how the child's needs will be met
- The professionals involved in the assessment
- The support offered to/needed by the birth parents and special guardian
- Whether any other permanence option was considered.

### Methodology

The qualitative review used data obtained from the Cafcass case file, including local authority assessments and the reports of the Children's Guardian. The sample cases were selected from s31 applications received by Cafcass between May 2013 and May 2015, which concluded with a SGO. This small sample is not representative of SGOs as a whole.

Cases were selected using nested criteria of: the age of the oldest subject child in the case, and their location within one of four Cafcass service areas covering a broad geographical range. Identifying the oldest subject child enabled cases to be selected across the full range of age groups, and this was slightly weighted in favour of capturing SGOs made in respect of young children, at the request of the DfE. In total, 51 case files were reviewed by four members of Cafcass staff drawn from policy, safeguarding and the National Improvement Service. Each file was reviewed by one member of the team.

The methodology captured cases only where the legal output was a special guardianship order. This means the data does not include those cases where special guardianship was considered but ruled out by the local authority, or where the court decided not to make an order where such an application was made. Similarly, as the sample cases originated from s31 applications, the data does not capture standalone special guardianship applications, such as those made by a foster carer when a child is already accommodated, made outside of care proceedings.

The data was sourced from the court bundle and is largely derived from the Cafcass case plan, reports to court filed by the children's guardian, and the local authority's assessment and support documents.

## Findings

### **Child and family information**

All but one of the families were known to the local authority prior to proceedings, with some level of intervention and support, including attempts at reunification. Some families had been involved in previous care or private law proceedings.

Risks within the birth family included some or all of the following factors: domestic abuse, drug/alcohol misuse, parental mental health, chaotic lifestyle, and a lack of engagement with services. Some parents were young, were recognised as vulnerable adults,<sup>1</sup> and/or had themselves been removed from their birth families. As is commonly the case where concerns relate to parental lifestyles, proceedings had been instigated primarily due to neglect. Reunification did not seem to be a viable option, due to the chronic risks in the case and earlier unsuccessful attempts at support. When proceedings started, almost all children in the sample were in a form of 'alternative' care; some as a result of emergency measures, and others through informal placements made by the family. Some older children remained at home on supervision orders, while some very young children were in mother and baby placements. The children not in their parents' care were split fairly evenly between friends and family placements, and unrelated foster carers, though the former were slightly more prominent in this sample.

Older children had witnessed serious domestic abuse and/or experienced multiple placements; some exhibited 'disturbed' or sexualised behaviour, and were aggressive or challenging. Some younger children were reported to have developmental delay, to be affected by mother's drug or alcohol use during pregnancy, injuries, attachment disorder, and to have experienced a lack of stimulation. Children removed at or shortly after birth may not have suffered the adverse experiences of some of the older children within the sample.

Most of the special guardians came from the child's family, with maternal family members being more likely applicants within this sample. Others were current or former foster carers of the child, or family friends.<sup>2</sup> Birth parents were generally in favour of the SGO, the inference being that this was preferable to long-term out of family care. In some cases the birth parents voiced initial concerns with the placement, particularly if they did not have a positive relationship with the prospective special guardians (hereafter referred to as the 'applicants').

### **What is working well?**

Around half of the orders reflected the intended use of special guardianship, as set out in the DfE consultation paper, as a permanence option for 'a significant group of children' including older or more difficult to place children, and those already settled with a relative or foster carer.

Case example: a special guardianship order was made to the foster carers of a 4 year old child with behavioural problems, who had 'thrived in their care'. They had built up a good relationship with the child's mother and, although originally seeking a long-term foster placement, they reconsidered during proceedings and received support from the local authority as they moved towards being special guardians.

Case example: four children (aged 10 to 15 years) moved to the care of family members following the death of their mother. The family was not known to the local authority. The children felt secure with the applicants and were interviewed as part of the assessment.

Case example: two children, aged 4 and 7, had been exposed to enduring domestic abuse at home. There was a history of neglect, and substance misuse by both parents. The older child was receiving

support for anxiety, and the young child displayed behavioural issues including aggression. A special guardianship order was made to maternal family members with whom the children had previously lived for seven months, establishing a strong bond.

Within special guardianship assessments, extended family members were described as 'fully committed to caring for the child' and 'not fazed' by the commitment and hard work required. Some applicants were already providing, or had previously provided, care for another child within the family, or had cared for the subject child. This was seen, by professionals, as a strength over and above the family connection. The assessments focused on the support available within the extended family and community, the importance of the family in facilitating contact with birth parents, and in some cases keeping sibling groups together or in contact.

Case example: special guardianship was considered to be in the child's best interests, to maintain a relationship with parents and half-siblings. The child had a number of health needs and the applicant (maternal grandmother) evidenced her ability to care for the child and manage the regular contact. Case example: the applicant had previously fostered the child, and the assessment concluded that she had the required experience, knowledge, and awareness of the child's needs. Special guardianship was favoured as it enabled the child to maintain a relationship with their grandparents and mother, and contact with the father on an annual basis.

Where the child had an existing relationship with the applicant(s), assessments described children being 'relaxed and confident', 'alert and responsive' and 'safe and comfortable' when in their care. New babies with early placements were reported to have 'bonded well' and 'formed secure attachments'. Generally, older children were interviewed as part of the assessment process. While some expressed a desire to return home, or were reluctant to share their views with professionals, others were 'keen to be placed', particularly where they had previously lived with the applicant(s) or had enjoyed consistent unsupervised contact.

Researchers noted the 'thoroughness' of some assessments, including those where significant time had been spent interviewing applicants, where the long term implications of special guardianship had been discussed, and where extensive safeguarding checks had been undertaken.

Case example: the assessment was extremely thorough in terms of the enquiries – ten interviews with the applicant – and the content, which explored relevant aspects of the applicant's history and how this might affect her parenting both now and over the course of the child's life.

Case example: the assessment explored the applicants' decision some years earlier that a child within their family, who they had been fostering, should be adopted (not by them). This had been due to her emotional and behavioural issues, and their family needs at that time.

Case example: thorough checks were undertaken including references. There were interviews with the applicants and their children. The detailed assessment considered the applicants' understanding of the challenges they may face, particularly in respect of the child's behaviour, in the context of the child's experiences.

Whilst our primary purpose was to describe the assessment of special guardians, we formed tentative views as to the appropriateness of the placements, using a three-part typology: robust;

suitable; may not meet all of the child’s long term needs. The results, set out below, show that we considered about four-fifths of cases reviewed to be robust or suitable. There was, however, a concerning minority of placements which appeared unlikely to meet the child’s needs in the long term. No inferences about SGOs as a whole should be drawn from these figures.

	Number of Cases
A robust placement for the child	25
Suitable placement for the child given circumstances and possible alternatives	16
A placement that may not meet all of the child’s long term needs	10

### **What were the concerns?**

#### *Variability in the assessment process*

The case files in this sample contained a range of different assessment types, authored by a range of professionals including the child’s social worker, independent social workers, and professionals from the local authority’s fostering/kinship/family and friends team. Some assessments were jointly authored.

The templates used for assessments, particularly within local authority kinship teams, presented historic family detail, sometimes with little focus on the subject child or the applicant’s ability to care for them. Other assessments offered greater analysis. One template used headers such as ‘prospective carers’ understanding of the child’s needs and how they envisage they would meet them’, and ‘motivation for wanting to care for the child’. This template stood out because it promoted some consideration of what the child’s needs might be, in the light of prior experience and future development, not just in the next few months but throughout childhood. This was of particular relevance where, for example, older grandparents were proposing to take care of infants. In this regard the template seemed better aligned to regulation 12 (Special Guardianship Regulations 2005), than those used by other authorities.

#### *Scrutiny of placements*

The research team recorded, on the basis of the selective scrutiny of case files, concern about the long term implications of SGOs for some children and applicants. These cases generally featured a combination of some level of risk or potential unsuitability, and a child for whom other forms of permanence may have been suitable by virtue of their age and/or experiences.

Case example: a young child was placed with neighbours by the birth parents and lived with them for six months before being removed by the local authority. The court later returned the child to the neighbours, as special guardianship applicants. There was a positive SGO assessment but the local authority concluded the neighbours were unable to safely care for the child, raising concerns about their capacity and the difficulties they faced in their community, in which the birth parents resided. The court discussed the merits of a child arrangements order but it was considered this would not provide sufficient stability for the child. There was no plan for the birth parents to have contact.

Case example: a special guardianship order was made to a grandparent who initially declined to be assessed. The grandparent lived in a one-bedroom flat and had concerns that caring for the young child would affect their relationship with their partner, who lived in the home and who was opposed to long-term care.

Case example: it was unclear from the case file whether the applicants – the child’s grandparents – were fully aware of the child’s experiences and behaviour concerns. The grandmother was undergoing treatment for cancer.

Risks within birth families, identified in the case file, included sexual abuse, drug/alcohol misuse, and criminal behaviour. In extended family and friends placements, risks included the applicants’ lack of parenting experience and a lack of an existing and assessed relationship between the child and applicant.

The research team found examples of grandparents apparently minimising their own physical or mental health concerns, or failing to disclose potential risks to the child. In some cases this appears to have been done with good intentions, to secure the child’s placement, by downplaying issues of depression, mobility, or illness. Physical health was not always explored within the context of the child’s future experiences, such as who would play with the child, or take them to social activities. This was exemplified by a case in which a young child was placed with applicants already in their 60s with existing physical health difficulties. In other cases, grandparents appeared not to fully appreciate the circumstances that led to the child being removed, and may have experienced their own difficulties in parenting a child or grandchild. This was not always robustly probed within the assessment process, which focused on the positive factors such as the family connection and associated commitment to the child, and the possibility of concluding proceedings within a timely manner for the benefit of the child.

Potential risk factors identified by the researchers within the case file included: placement with grandparents whose children had been temporarily removed by the local authority a few years earlier following a physical assault; placement with grandparents where concerns had been raised about the sexual offending of their own children, one of whom was still living in the home; and placement with a grandparent with a long-term drug addiction. While there was some evidence in the case file of how these risks would be mitigated (for example a detailed support plan to address drug use), in others there was a feeling that undue weight may be given to a family placement above other permanence options.

Case example: a child was placed with the maternal grandfather and his wife. The quality of the relationship between the child and these applicants was unclear within the case file. The local authority assessment recorded that the child ‘has a right to be raised in the family that prioritises his welfare but that can still ensure his parents, in particular his mother, play an important role in his life’.

### *Timescales*

Special guardianship was not always the initial plan of the local authority. Child arrangements orders (CAOs) featured as an initial plan in some cases where the child had been placed with a carer informally, by the birth parents, before proceedings. In one such case, the local authority concluded a CAO would not provide sufficient stability to the child, given the mother’s presentation during proceedings (which included making threats to the applicants). Adoption was initially sought in some cases where it was considered that a more robust legal status was required for the child, and/or there should be no contact to the birth family.

In some of the cases, the local authority was without a robust contingency plan in respect of families receiving services. Professionals raised concerns about delays in bringing court proceedings, failing to assess family members, and a lack of clarity in plans for children.

In two cases in the sample, special guardianship orders were made to people who had not, or had only very recently, met the subject children. In one case the applicants, who were part of the maternal extended family, had not met the children's mother and the case file described 'complex family relationships' featuring some safeguarding concerns in the extended maternal family.

The timescale of proceedings, in some cases, may not have allowed sufficient time for applicants to fully understand the role, or to make informed decisions, particularly given their lack of familiarity with court processes, the fact that they are being assessed, and their wish to do the 'right thing'. Where applicants were provided with legal advice, this was sometimes funded by the local authority. There was little evidence in the assessments of in-depth consideration of motives, challenges, prospective difficulties, or the ways in which the placement might affect the special guardians themselves.

Case example: the case file recorded that the birth parent and applicant were 'unhappy with the lack of consultation between them both and the social worker', with the applicant feeling that 'the idea of a SGO has been presented to the family [as if] she requested this order [...] she believes that the local authority has not explained the implications of a SGO or the support plan'.

#### *Support plans and contact*

Support plans ranged from robust arrangements for the applicant(s), the child and, in some cases, the birth parent(s), to more of a setting out of the local authority's expectations. In the former category, plans included six or twelve month supervision orders, contact supervised by the local authority, financial assistance, invitations to workshops on attachment and difficult behaviour, access to support services for foster carers, a CIN plan, and support to complete life story work with the child. In the latter category, support plans focused only on financial assistance, with access to universal services.

Contact with birth parents was generally seen as a benefit of SGOs, even when there were risks associated with this, or the birth parents' lifestyle made it seem unlikely that they would play a consistently positive role in the child's life. The management of contact formed a substantial part of most support plans and, commonly, parents were seeking more contact than was recommended or supported by the local authority.

The pressure of managing potentially complicated family relationships was evident in the sample cases. Grandparents may already have struggled, within proceedings, to limit contact between the child and family members. This could be due to proximity – some birth parents lived in the same street, or house, as the child – or because of a strong desire among family members to maintain contact with the child. Some applicants received threats from, or were assaulted by, the parent(s) during proceedings.

Case example: the applicants had complained about the local authority's failure to provide adequate support and to assist when the birth parents' demands for contact had disrupted the child's placement a year earlier.

Case example: the support plan directed the children to ‘universal services’ and did not set out any sources of support for the maternal grandparents other than their eligibility for financial assistance. The Children’s Guardian recorded that no financial support had been provided to the maternal grandparents during the proceedings.

Case example: the quality of the relationship between the birth parents and the applicants, who had previously cared for the child, was unclear. The Children’s Guardian was concerned that neither parent was happy with the contact arrangements nor seemed able to commit to regular contact.

Specific future arrangements were often left to the discretion of the applicant(s), though local authorities planned to give ‘initial assistance’, or to supervise contact for a limited period. Generally, the Children’s Guardian addressed the need for a more robust support plan in relating to managing contact during the first six months.

## Conclusion

This small-scale study forms one element of a broader review. It has found evidence of good practice in the assessment and support plans of special guardians but not across the board – a reflection, perhaps, of the absence of a strong regulatory and assessment framework, the effect of which is to confer too much weight on professional discretion. At their best, these placements offered the prospect of restorative re-parenting. Where we had concerns, these had a number of common features: applicants with health/social problems; children who had suffered maltreatment and who were likely to have complex needs; parents whose behaviour had been, and would probably remain, erratic or hostile. Our concerns were generally: how the child’s needs would be met in the long-term; whether the special guardians would handle the stress of supervising contact; whether sufficient support would be at hand should there be difficulties in future.

## **Cafcass Policy team and National Improvement Service December 2015**

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1 “A vulnerable adult is a person aged 18 years or over who may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect him or herself against significant harm or exploitation” No Secrets (Department of Health/Home Office 2000)

2 This sample does not give a complete picture as to applications from foster carers, as we expect these to be made mostly in standalone applications when children are already accommodated.

3 Department for Education, Special guardianship: a call for views. Government consultation launched 16 July 2015.