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| **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**](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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

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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](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288 or via the Department's ['Contact us'](https://form.education.gov.uk/fillform.php?self=1&form_id=cCCNJ1xSfBE&type=form&ShowMsg=1&form_name=Contact+the+Department+for+Education&noRegister=false&ret=%2Fmodule%2Fservices&noLoginPrompt=1) page.

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

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| |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | Checkbox |  | | | Lawyer | |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | Checkbox |  | | | Director of Children's Services | |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | Checkbox |  | | | Academic |
| |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | Checkbox |  | | | Parent/Grandparent or other relation | |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | Checkbox |  | | | Social work practitioner | |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | Checkbox |  | | | Member of judiciary |

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**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?

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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?

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**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?

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**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

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**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?

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

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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.

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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?

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All DfE public consultations are required to meet the [Cabinet Office consultation principles](https://www.gov.uk/government/publications/consultation-principles-guidance)

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](mailto: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](mailto:SpecialGuardianship.REVIEW@education.gsi.gov.uk)

**Thank you for taking time to respond to this consultation.**