



Report focus
Summary of findings and recommendations from a review of the evidence relating to special guardianship.

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Special guardianship: a review of the evidence

Summary report



About this review

This review was commissioned by the Nuffield Family Justice Observatory and has been co-produced by CoramBAAF, led by John Simmonds, OBE, working in partnership with Professor Judith Harwin and her team at Lancaster University. The issues for consideration were scoped by family justice practitioners, policy leads and academics.

As the work has progressed, the issues have been discussed by members of the Family Justice Board, led by HHJ Jane Probyn and David Williams and a sub-group of the President's Public Law Working Group, led by Mr Justice Keehan.

The review has been published in four parts:

- Special guardianship: a review of the evidence. Summary report
- Special guardianship: practitioner perspectives
- Special guardianship: a review of the English research studies
- Special guardianship: international research on kinship care

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About the Nuffield Family Justice Observatory

The Nuffield Family Justice Observatory (Nuffield FJO) aims to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales. Covering both public and private law, the Nuffield FJO will provide accessible analysis and research for professionals working in the family courts.

The Nuffield FJO has been established by the Nuffield Foundation, an independent charitable trust with a mission to advance social well-being. The Foundation funds research that informs social policy, primarily in Education, Welfare, and Justice. It also funds student programmes for young people to develop skills and confidence in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Ada Lovelace Institute and the Nuffield Council on Bioethics.

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Foreword

Relatives are often best placed to provide a secure, loving home for children who, for a variety of reasons, are unable to be cared for by their parents. However, the increasing use of Special Guardianship Orders to place children with relatives following care proceedings, where a child did not have a pre-existing strong relationship with the prospective guardians, has raised concerns about whether such decisions are being made in the best interests of both children and their carers.

Such an important – and potentially contentious – issue requires careful consideration of the available evidence. While the number of research studies on special guardianship is still limited, this rapid evidence review points to consistent messages that are emerging from English research and the international literature on kinship care. By drawing together the messages from research, together with insights from social workers, lawyers, Cafcass officers and others, the review provides the most up-to-date assessment of the current evidence relating to special guardianship.

The review concludes that special guardianship continues to be an important permanence option for the right child and the right family. However, it also highlights the

lack of careful assessment of, and preparation and ongoing support for, special guardians, who are often asked to care for children with complex emotional and behavioural difficulties. When Special Guardianship Orders are made in such circumstances, there is a higher risk that a child's placement will break down.

I am delighted that the Nuffield Family Justice Observatory has been able to publish this rapid evidence review at a time – following the Re P-S Court of Appeal judgement – that guidance is being prepared to guide future decision making. The Observatory has been established with this very mission in mind: to ensure that decisions made in the family justice system are better informed by data and research. I am grateful to the authors for producing such a valuable synthesis of the data, research evidence and practitioner insight. Their recommendations provide a framework to guide future action to ensure that children who are subject to Special Guardianship Orders have the best possible opportunities to thrive.



Lisa Harker
Director, Nuffield Family
Justice Observatory

Overview

A Special Guardianship Order (SGO) gives one or more individuals, usually family members, parental responsibility for a child who cannot live with their birth parents. Although the making of an SGO enables the person who holds the Order to exercise that responsibility 'to the exclusion of all others', the basic legal link between the child and their birth parents is preserved.

In the development of the policy framework for SGOs, there was a strong focus on people who were already caring for children – family members or foster carers in particular. However, they are now most frequently used as the Order made at the resolution of care proceedings. The use of SGOs is increasing: over 21,000 children have been placed with special guardians since 2010 (Harwin et al., 2019). The use of SGOs in situations where a child does not have a pre-existing relationship with the prospective guardians, and where such guardians identify themselves after care proceedings have begun, has raised questions about the lack of time, resources and evidence for local authorities and the courts to ensure the Order being made is clearly in the best long-term interests of the child.

In July 2018, the former President of the Family Division invited the Family Justice Council to draft authoritative guidance to assist courts in making SGOs and specifically to address the issues raised in the Court of Appeal judgment in the case of *Re P-S* (the case is explained in more detail below). This rapid evidence review is intended to contribute to the drafting of that guidance and to help inform decision-making by frontline practitioners. The review addresses three overarching questions relating to special guardianship:

1. What do we know about placement stability and child outcomes?
2. What support is or should be made available for children and their carers?
3. What do we know about and what can we learn from current implementation of special guardianship?

The questions have been addressed by consulting with social workers, lawyers, Cafcass officers and representatives of NGOs; undertaking a review of the research literature specific to special guardianship; and undertaking a review of the international research evidence on kinship care.

We conclude that special guardianship continues to be an important permanence option 'for the right child and the right family'. But for this to be so, the system as a whole must operate in a coherent, timely, evidence-informed way and this requires changes in mindset, regulations and protocols.

The issues identified in our review are a combination of systemic, policy and practice issues. There has been a major shift in focus from the original policy framework for SGOs being made as a result of a private law application by the child's current and established carers, to the extensive use of the court's power to make the order under 'its own motion' during care proceedings. SGOs were not primarily designed to be used in this way, and this presents

challenges for local authorities and the courts in providing special guardians with adequate preparation and support for the long-term consequences of this life-changing responsibility.

As it currently operates, special guardianship is also not appropriately aligned with best practice in other forms of child placement such as adoption and foster care – a serious issue when children share similar issues such as abuse and neglect and the birth parents' lack of capacity to safely and responsibly care for their child.

The context for this review: the Re P-S judgment

In Re P-S¹ the Court of Appeal was asked to consider whether the judge who heard the original care proceedings had been wrong to decline to make SGOs in favour of the paternal grandparents before the children had lived with them. Instead the judge made care orders to enable the local authority to have more time to assess the suitability of family members as special guardians. The judge had relied on 'informal' guidance' drafted by Mr. Justice Keehan to address the problem of prospective special guardians being identified after care proceedings have commenced, when proceedings are required to be completed within 26-weeks unless an extension is considered necessary.²

The specific issues raised by the case³ were:

1. Whether it was lawful to make a care order to enable the local authority to address the specific issues of the respective paternal grandparents being granted an SGO in relation to their grandchildren?

The Court of Appeal found that it was not lawful to use care orders as an interim order because 'the concept of a short-term order is flawed'.⁴

2. What is the status and evidence base of informal guidance used in the decision of the court of first instance in resolving the above matter?

The Court of Appeal found that the use of 'informal guidance' '...is not the same as authoritative guidance or a practice direction'; nor did it 'identify the evidence-based research upon which it relied, nor was it scrutinised'.

3. What role should prospective special guardians have in care proceedings?

The judgment concluded that the grandparents did not have effective access to justice and the resulting procedural fairness was 'not in the best interests of the children'.

While the Court of Appeal resolved the specific issues that were the subject of the appeal, the appointment of the Association of Lawyers for Children as intervenors in the case raised further pressing questions about special guardianship in the context of care proceedings. The judgment identified the need to make available authoritative guidance to resolve what had

1 Re P-S (Children) [2018] EWCA Civ 1407.

2 Children and Families Act 2014, S14(2)(i)(ii) and S14(5).

3 The background to the case was as follows. All parties had been in agreement that SGOs should be made in favour of the children's respective paternal grandparents. However, the judge was concerned that the children had not previously lived with the proposed special guardians and he wished the placements to be tested in practice. He therefore made final care orders instead of SGOs, drawing on informal guidance from a Designated Judge from another area. His intention was that, assuming the placements went well, the care order would be brought back to court with a view to its early discharge. The local authority would then assist the special guardians to make an application for an SGO. The proposed special guardians were not made party to the proceedings and were not legally represented.

4 Para 33.

become a contentious set of issues. As a result, the President of the Family Division invited the Family Justice Council to draft 'authoritative guidance' to assist courts in resolving the issues raised by the Appeal.⁵

A brief history of special guardianship

The origins of special guardianship are in custodianship, a legal order framed by the Children Act 1975 that was designed to give legal custody of a child to a relative or step-parent who had already been caring for a child, or who was applying for custody with the consent of the parent of the child.

The specific design of special guardianship began with a review shortly after the Children Act 1989 came into law. This was re-invigorated in the Adoption White Paper (Department of Health, 2000) which noted that family members were 'the preferred choice [for placement] where it is possible and consistent with the child's welfare' (para 5.4).

The White Paper noted likely problems with adoption as an option for certain groups of children and families. It concluded there was a case to develop a new legislative option to provide permanence short of the legal separation involved in adoption and named special guardianship as that option. The Adoption and Children Act 2002 amended the Children Act 1989 at Section 14A to bring special guardianship into law.

Under a Special Guardianship Order (SGO):

- The carer exercises parental responsibility for all aspects of daily care of the child or young person and decisions regarding their upbringing.
- If the child is in the care of the local authority, the making of the Order results in the child leaving care.
- The legal link between the child or young person and their birth family is preserved.
- A range of support services including, where appropriate, financial support, must be made available to special guardians and the child, although specific eligibility depends on whether the child was previously 'looked after'.

A number of requirements were intended to ensure that the making of an SGO is robust, evidence-based and fully explored (where this results from a private law application). These requirements are:

- The child is to have lived with the person (where they are a foster carer or relative) who is making the application for a minimum of one year. This clearly indicates that the application, the assessment and

⁵ The Public Law Working Group, led by Mr Justice Keehan, has been commissioned to review the current operation of the family court system as a whole. The chair of the group, Mr Justice Keehan invited us to share our emerging findings with that group.



There are now more than 21,000 children for whom care proceedings concluded with the making of an SGO”

the deliberations of the court are rooted in a set of relationships and arrangements that have already become established.

- That the applicant has come to a view that becoming the person who will exercise parental responsibility for the child until they are 18 will appropriately enhance their capacity to care for the child.
- That the child’s wishes and feelings have been taken into account.
- That the making of the Order is consistent with the ‘welfare checklist’ as set out in section 1 of the Children Act 1989.

Where an application is made, the local authority must prepare and submit a report within three months of the application being made. The report must address all the issues as set in the Appendix to the Special Guardianship Regulations 2005.⁶

While the design and implementation of special guardianship centres on the issues as set out above, the law also enables the court to make an Order where no **application has been made**.

This exception introduces a significant degree of flexibility into special guardianship, but it also overrides the robust process where the private law application is made. The most common circumstance where an SGO is now made is where there is no application from a family member, but where family members identify themselves as potential carers for the child after care proceedings have commenced and where the clock is ticking in respect of the statutory requirement to complete those proceedings within 26 weeks. The absence of a robust framework to ensure the making of the order is child-centred, evidence-based and adequately resourced within this timeframe is at the centre of the Pe P-S judgment and many other cases.

Trends in the use of Special Guardianship Orders

There are now more than 21,000 children for whom care proceedings concluded with the making of an SGO. It has become a significant permanence option for children who have been neglected or abused. There has also been a rise in the use of SGOs for very young children (Harwin et al., 2019). The rise in numbers and the percentage of SGOs as a proportion of all family orders and the decline in placement orders and adoption is one of the most significant trends since 2010, as shown in Figure 1.

Over the same period there has been a marked increase in the use of Supervision Orders made alongside an SGO. This has raised concerns because the former continues the legal duty of the State to ‘supervise’

⁶ Amended in 2016.

the child in placement and the latter means that the special guardians exercise parental responsibility to the exclusion of all others – in effect that they leave the care of the local authority. In its 2015 review of special guardianship, the DfE expressed concern that use of a Supervision Order alongside an SGO may indicate a lack of judicial confidence that the placement is able to meet the child's needs.

Given its scale and proportion, there is a major need to understand the stability of special guardianship, the outcomes for children and the impact of the Order on their carers. Concerns over the implementation and use of SGOs led to a major review by the Department of Education in 2015, which affirmed the value of SGOs but identified the need for change. The Special Guardianship (Amendment) Regulations 2016 introduced a requirement that due consideration must be given to any significant harm that the child had experienced, and the parenting capacity of the prospective special guardians must be able to address the consequences of this on the child's development. The Children and Social Work Act 2017, section 8 made these issues primary considerations in all permanency planning including SGOs.

Figure 1
Percentage of children subject to each of the six types of legal Orders per year

Source: Harwin et al, 2019. Cafcass data.



Findings from the focus groups

Five focus groups were held with a total of 44 family justice practitioners including lawyers, social workers and Cafcass Guardians. The discussions endorsed the view that special guardianship is an important and valued permanency option where it is for 'the right child for the right family'. However, the discussions raised a number of concerns:

Timely identification: obstacles and opportunities

- Kinship care is not typically identified as requiring the same level of skills and knowledge as fostering or adoption although it was recognised to be equally demanding.
- The capacity of the local authority workforce and resources are significantly stretched. When core processes such as viability assessments are allocated to children's social workers who have little experience, skills and support of family placement issues, this can create challenging problems in robust care planning.
- Family group conferences were identified as making a positive contribution to early identification and care planning but require training, resources and support.

Preparation and training for prospective special guardians

- Preparation was described as 'almost non-existent' and 'ad hoc'.
- There is no regulatory requirement to ensure preparation and/or training is available as there is with adoption or fostering.

Assessments: rushed and lacking a child-centred focus

There was widespread dissatisfaction and frustration with the assessment process:

- Courts have a duty to complete proceedings within 26 weeks, but family members are often not identified until after proceedings have commenced. This results in unworkable and professionally compromising timescales and a significantly lower standard of assessment for family members compared to other placement options such as adoption or fostering.
- Insufficient consideration is given to the prospective special guardians' existing relationship, experience and knowledge of the child and the consequences of this.

- The wishes, feelings and needs of the child played little if any part in decision making.

Party status⁷

- The problems created when prospective special guardians do not have party status in the proceedings affect their ability to reach an informed decision as to the appropriateness and implications of the SGO. It can leave them ill-prepared for their role.
- The stress and confusion of prospective special guardians when they find themselves in court with little, if any, legal or other forms of support. This can be amplified by any disagreements with the child's parents or other family members.
- There was no consensus among the focus groups as to whether prospective special guardians should routinely have party status.

The impact of the 26-week timescale

- The focus groups were unanimous in their view that the 26-week timescale had significantly affected the full and proper consideration of the suitability of family members when making an SGO. While welcoming the principle of 'minimising delay', they were concerned by the degree of compromise that they were typically faced with.
- They highlighted considerable variability in judicial approaches permitting an extension to 26 weeks, and in the legal order made at the conclusion of proceedings – a Care Order or SGO.
- There was no consensus as to whether the availability of an interim SGO or other orders could resolve these issues.

The support plan for the child and the special guardians

- The impact of neglect and abuse on children's development has been clearly identified in both adoption and foster care. Children made subject to an SGO following care proceedings have met the threshold for significant harm and they have the same needs for therapeutic support as children in adoption or foster care. Their special guardians may also need support in managing the consequences of abuse and neglect.
- Support plans were described as lacking robust evidence and detail. This includes:
 - The challenge of making an evidence-informed support plan if the child has not lived with the special guardian before the Order is made.

⁷ Party status would provide the prospective special guardian to be represented in the care proceedings and to have access to relevant information. Legal representation would be accessed through legal aid.

- The high degree of risk when support plans do not result from a full assessment of the needs of the child and the prospective special guardians.
- The lack of eligibility and support over housing and finance especially when compared to fostering and adoption.
- Ensuring compliance with the Special Guardianship Support Regulations 2005.

Practitioner conclusions and recommendations

Practitioners called for major reform of the process for making an SGO. This includes:

- A robust system of preparation and training for prospective special guardians.
- Assessments should not be concluded until sufficient preparation has been completed and the prospective carers are fully aware of what the Order means.
- Developing the skills and knowledge of children's social workers in kinship placement.
- The making of the Order is robustly evidence-based and child-centred and is not compromised by the 26-week timescale.
- Finding a solution to the issue raised in Re P-S about the form of an Order that would allow sufficient time for the prospective special guardian/s and child to live together before an SGO could be made.

Findings from the research evidence on special guardianship

The English research evidence on special guardianship⁸ is limited when compared to studies on adoption, fostering and kinship care and there are no Welsh studies. There are as yet no systematic reviews⁹ of special guardianship. Nevertheless, we can draw some observations from the existing English research and the international literature on kinship care.

- 8 The main studies that are reported here were conducted by: Selwyn J, Wijedasa D, & Meakings S, 2014; Wade J, Sinclair I, Stuttard L, & Simmonds J, 2014; Wade, Dixon, & Richards, 2010; Harwin J, Alrouh B, Golding L, McQuarrie T, Broadhurst K, & Cusworth L, 2019.
- 9 A systematic review collects and evaluates all the available evidence on a particular research question, according to pre-agreed criteria (see the international research on kinship care paper).

What is the stability of special guardianship placements and their disruption rates?

Special guardianship is a stable option when measured by return of the child to local authority care or by being made subject to further care proceedings. Within five years of the making of the Order:

- For every 100 children placed, approximately five children are at risk of being subject to return to local authority care or further care proceedings.
- The disruption rate is lower than for Child Arrangement Orders (approximately 15 children per 100) but higher than for adoption (7 per 1,000).

Risk and protective factors in promoting stability

- Children aged four or above when the Order is made are at greater risk of re-entering local authority care and/or returning to court for further care proceedings than children who are aged under four.
- Emotional and behavioural difficulties increase the risk of SGO disruption.
- The risk of return to local authority care increases for children placed with unrelated carers and the number of moves the child experienced prior to the making of the SGO.
- The risk of return to court for further care proceedings increases for children who are placed on an SGO and have a Supervision Order made at the same time. It is unclear whether this is because the placement is more vulnerable in the first place or because it is monitored more closely, or whether it is a combination of both factors.
- Poor integration of the child into the family is associated with disruption.

Children's well-being outcomes

There is a lack of robust longitudinal evidence on children placed on an SGO that addresses key features of their medium- and long-term outcomes.

The small number of studies that have investigated child outcomes of SGOs conclude that:

- A majority of children fare well in special guardianship in relation to their safety, well-being and developmental progress.
- Government administrative data has shown that children on SGOs have better educational outcomes at key stages 2 and 4¹⁰ than looked-after children.

¹⁰ Children's education is divided into four key stages. Key stage 2 refers to the national curriculum taught to pupils aged 4–7. Key stage 4 refers to the period of education for pupils aged 14–16.

- A strong pre-existing relationship between the child and the carer when the Order is made contributes to good outcomes for children.
- A successful placement can best be promoted when:
 - there is greater integration of the child into the family;
 - children have fewer emotional and behavioural difficulties;
 - special guardians feel well-prepared for their role;
 - there is greater support from the special guardian's family;
 - where contact with birth parents is safe, positive and supportive. In some cases positive contact can be supported by a Supervision Order that can be valued by special guardians.
- Special guardians highlight the importance of therapeutic support to help the children in their care to deal with the consequences of past experiences of abuse and neglect.

Risk factors

- Emotional and behavioural difficulties are a major risk factor for placement progress and child well-being outcomes.
- Older age when the Order was made predicts poorer emotional and behavioural outcomes, especially when the child had experienced neglect and abuse.
- High levels of mental health difficulties combined with higher levels of carer strain increase the likelihood of placements being rated by special guardians as going less well.
- Financial and housing problems increase carer strain and stress.
- Lack of support to prepare for the life-changing nature of the Order.
- Lack of support to manage contact with birth parents, changing family relationships and family conflict.

Children's perspectives on special guardianship

There is a dearth of evidence on children's views. The very small number of interviews with children identified some important themes around their understanding of the Order, their life story and nature of their family relationships, and the development of a positive sense of identity.

The experience of carers who become special guardians

- Special guardianship is a life-changing Order for the special guardians, the child, the birth parents, and other family members. The research indicates that most special guardians thought that it was the right Order for them and their child because it gave them legal security and enhanced their parental decision-making powers.

- The life-changing nature of the Order also indicates a wide range of stresses across all areas of life. These include financial and housing issues, the challenge to family relationships and the management of a broad set of issues in the child's development.

The process of becoming a special guardian – experiences and views regarding local authorities and courts

- The process of becoming a special guardian was found to be confusing and stressful.
- Special guardians felt that they had limited information about the child.
- A lack of legal and social work advice affected their ability to advocate for financial and other support. They often did not understand the nature and implications of special guardianship and some had to resort to Google to get basic information.
- They did not always feel they had been well prepared for the role of special guardian.
- Contact arrangements with birth parents could be problematic and conflictual. For some a Supervision Order was seen to be helpful in managing difficult relationships.
- A strong theme was the importance of support. Informal support groups hosted by local authorities and NGOs were valued and so was support from the wider family. However, support could be difficult to access for many reasons that include both structural and internal barriers.

Table 1: Research messages regarding the stability of special guardianship placements and child well-being outcomes and corroborating international evidence on kinship care

Key messages from SGO research from England	Corroborating international research evidence on kinship care?
Special guardianship has a low rate of disruption.	Kinship care offers greater levels of stability for children than non-kinship foster care.
Children aged four or above when the Order is made are at greater risk of placement instability and experiencing emotional/behavioural difficulties than younger children.	Children who are older (school age) at placement (kinship and non-kinship care) are more at risk of placement instability and emotional/behavioural difficulties than younger children.
Further point: this is particularly so for older children with a history of abuse, neglect, trauma and placement breakdown.	
Children's emotional and behavioral difficulties are major risk factors for placement instability, disruption and lead to poorer child well-being outcomes.	Children's mental health and externalising behaviours (aggression and conduct disorders) are strong predictors of placement (kinship and non-kinship) instability, disruption and lead to poorer child well-being outcomes.
The risk of placement disruption increases for children placed with unrelated carers.	The unconditional commitment of kinship carers and the child's sense of family belonging are the factors that typically account for the potential of kinship care to offer greater stability for children than non-kinship foster care.
Further point: international literature shows for any placement type, the quality of the placement relies on a sufficient fit between the emotional capacity, sensitivity and skills of carers and the needs of the child and their developmental challenges.	
A history of placement instability is associated with special guardianship placement disruption.	A history of placement instability is associated with further placement disruption (kinship and non-kinship care).
Poor integration into the family is associated with special guardianship placement disruption.	Poor integration into the foster family (whether kinship or non-kinship) is associated with foster care disruption.
Further point: the international evidence is inconsistent regarding the impact of, or presence of the carers' own children on placement instability. Within the international literature, separation of siblings can be associated with placement instability. The role of siblings has not been sufficiently investigated within the English literature on special guardianship and warrants further research.	
Difficulties with birth parent contact contributes to carer strain.	Difficulties with birth parent contact contributes to carer strain.
Further point: managing contact has not been sufficiently investigated within the English and international literature and warrants further research.	

Key messages from SGO research from England

Corroborating international research evidence on kinship care?

Carer qualities and how they may link to placement stability are not sufficiently investigated within the English SGO research and warrant further investigation.

There is a positive association between carer qualities and placement stability. These include: sensitivity towards the child's needs and development of a child-focused relationship that creates a sense of security and stability for the child.

Carers who feel well prepared for the role of becoming a special guardian can lead to greater placement stability.

Carers who are better prepared regarding the child's needs are more able to support the child, which reduces the risk of placement instability.

The majority of children fare well in special guardianship in relation to their safety, well-being and developmental progress.

The balance of evidence indicates that children in kinship care record fewer externalising (aggression and conduct disorders) behavioural problems than children in mainstream foster care. The evidence is mixed regarding mental health.

Children on SGOs have better educational outcomes at key stages 2 and 4 than looked after children.

Educational attainment for children in care is poorer than in the general population of children. No significant differences have been found between children in kinship care or foster care in terms of improvements in educational attainment during their kinship or foster placement.

Carers report a lack of support to prepare for the life-changing nature of the Order and to manage difficult contact with birth parents, changing family dynamics and family conflict.

There are unmet service needs and low service use among kinship carers and children in their care.

Further point: very few interventions have been developed specifically to support the needs of kinship carers and the children in their care.

Implications and recommendations

The evidence from all sources set out above has important practice and policy implications. The significant benefits of placing a child with family members is reinforced by the research evidence. However, as with all child placement options, this evidence must also take account of the major adjustments that are required by the carers and the importance of providing the services and support that enable those adjustments to be made. This includes practical arrangements such as finance and housing, parenting support, support with the child's health, mental health and education needs and adjustments to family relationships that become realigned when an extended family member becomes the legal parent to the child. These services may include establishing peer networks of special guardians, providing access to support via the Adoption Support Fund, specialist therapeutic support for children and support for carers experiencing 'carer strain' and its consequences.

A plan for action will require a joined-up approach in identifying a future strategy that involves the Courts, the Department for Education, Cafcass, Ministry of Justice,¹¹ the Adoption and Special Guardianship Leadership Board and the Family Justice Board. Local Family Justice Boards also have a crucial role in helping to promote consistency in decision-making and in developing a local problem-solving strategy consistent with the main findings on gaps in evidence.

Priority recommendations for action where an SGO is being made as a conclusion to care proceedings

Timely identification

- Strengthen and resource the pre-proceedings phase of the Public Law Outline to identify and work with family members who might become long-term carers for the child.
- Family group conferences should be used as a significant opportunity for undertaking this work.

Preparation and training for prospective special guardians

- Ensure that prospective special guardians complete preparation and training to an agreed statutory minimum.

¹¹ The Ministry of Justice has published an outline plan to improve access to legal aid: www.gov.uk/government/publications/legal-support-action-plan

Assessments

- Assessments should not be concluded until sufficient preparation has been completed.
- Developing the skills and knowledge of children's social workers in family placement must be prioritised.
- Ensure that viability assessments are appropriately robust and undertaken by a skilled professional.
- Ensure that the local authority agrees a plan with the prospective special guardian about the assessment process.
- Establish a robust protocol that ensures that the prospective special guardian has – or develops – a significant relationship with the child, including day-to-day care of the child, and that this forms the evidence base for the making of the Order.¹²

Party status and legal advice

- Ensure that prospective special guardians receive full information about the meaning, significance and responsibilities of the relevant legal Order in both the immediate and long term.
- Identifying a solution to the issues of party status of prospective special guardians in care proceedings is a priority.

The impact of the 26-week timescales

- Ensure that the timetable for concluding care proceedings within 26 weeks is complied with or that an evidenced-based timetable for an extension is agreed.
- A resolution is needed about a legal order that would allow sufficient time for the prospective special guardian/s and child to live together before an SGO is made. This may include the extension in the use of Placement Orders or the introduction of interim SGOs.

The support plan for the child and the special guardians

- Ensure that a support plan is based on a comprehensive evidence-based assessment of need as required by the Special Guardianship Regulations 2005.
- Ensure that support services are available locally that comply with the Special Guardianship Support Regulations 2005. This must include alignment with entitlements that apply to adoption and/or foster care such as parental leave, housing priority and benefits.

¹² It should be noted that the minimum period for this is 12 months when a relative or foster carer makes a private law SGO application.

Research priorities

- Further longitudinal studies are needed to track children's developmental outcomes of placements made under an SGO where these are the conclusion of care proceedings.
- Children and young people's views and experiences of special guardianship must be appropriately explored.
- There is a pressing need for research on how best to ensure safe and positive contact with birth parents and the wider family.

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Despite the challenges that both professionals and carers are having in finding answers to complex questions, there is a deeply held commitment to identifying and finding solutions for families whose lives have been changed by special guardianship.

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