

XXXX No.

CHILDREN AND YOUNG PERSONS

ENGLAND

The Special Guardianship (England) Regulations XXXX

Made - - - - XXXX

Laid before Parliament XXXX

Coming into force - - XXXX

ARRANGEMENT OF REGULATIONS

PART 1

GENERAL

1. Citation, commencement, application and interpretation

PART 2

SPECIAL GUARDIANSHIP ORDERS - REPORTS

2. Reports

PART 3

SPECIAL GUARDIANSHIP SUPPORT SERVICES

3. Provision of special guardianship support services
4. Circumstances in which financial support may be paid
5. Assessment of needs for special guardianship support services
6. Procedure for assessment
7. Amount of financial support
8. Notification of assessment
9. Decision as to special guardianship support services
10. Notices
11. Special guardianship support services plan
12. Review of the provision of special guardianship support services

PART 4

MISCELLANEOUS PROVISIONS IN RELATION TO SPECIAL GUARDIANSHIP

13. Relevant authority for the purposes of section 24(5)(za) of the Act
14. Functions specified under section 26(3C) of the Act

SCHEDULE

Reports – matters prescribed for the purposes of section 14A(8)(b) of the Act
The Secretary of State for Education and Skills, in exercise of the powers conferred upon him by sections 14A(8)(b), 14F, 24(5)(za), 26(3C) and 104 of the Children Act 1989(a) and all other powers enabling him in that behalf hereby makes the following Regulations –

PART 1 GENERAL

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Special Guardianship (England) Regulations XXXX and shall come into force on xx.

(2) These Regulations apply to England only.

(3) Reference in these Regulations to “a child falling within regulation 1(3)” are to a child with respect to whom, as the case may be, —

- (a) a special guardianship order is in force;
- (b) a person has given notice to a local authority under section 14A(7) of the Act of an intention to make an application for a special guardianship order in accordance with section 14A(3) of the Act; or
- (c) a court is considering whether a special guardianship order should be made and it has asked a local authority to conduct an investigation and prepare a report pursuant to section 14A(9) of the Act.

(4) In these Regulations—

“the Act” means the Children Act 1989;

“local education authority” has the same meaning as in the Education Act 1996(b);

“prospective special guardian” means a person —

- (a) who has given notice to a local authority under section 14A(7) of the Act of an intention to make an application for a special guardianship order in accordance with section 14A(3) of the Act; or
- (b) in respect of whom a court has requested that a local authority conduct an investigation and prepare a report pursuant to section 14A(9) of the Act; and

“special guardian” means a person appointed to be a special guardian under an order (“a special guardianship order”) made pursuant to section 14A of the Act (special guardianship orders).

PART 2 SPECIAL GUARDIANSHIP ORDERS - REPORTS

Reports

2. The matters specified in the Schedule are prescribed for the purposes of section 14A(8)(b) of the Act.

(a) 1989 c.41. Sections 14A and 14F and 24(5)(za) were inserted by, respectively, section 115 of, and paragraph 60(c) of Schedule 3 to, the Adoption and Children Act 2002 (c.38). Section 26(3C) was inserted by section 117 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43).

(b) 1996 c.56.

PART 3
SPECIAL GUARDIANSHIP SUPPORT SERVICES

Provision of special guardianship support services

3.—(1) The following services are prescribed in relation to special guardianship for the purposes of section 14F(1)(b) of the Act—

- (a) financial support payable under regulation 4;
- (b) provision of support groups for—
 - (i) children falling within regulation 1(3);
 - (ii) special guardians;
 - (iii) prospective special guardians; and
 - (iv) parents of a child falling within regulation 1(3),
to discuss matters relating to special guardianship;
- (c) assistance in relation to arrangements which exist prior to an assessment being undertaken under regulation 5 for contact between a child falling within regulation 1(3) and—
 - (i) his parent or a relative of his; or
 - (ii) any other person with whom such a child has a relationship which appears to the local authority to be beneficial to the welfare of the child having regard to the factors specified in section 1(3) of the Act;
- (d) services provided in relation to the therapeutic needs of a child falling within regulation 1(3);
- (e) assistance for the purpose of ensuring the continuance of the relationship between a child falling within regulation 1(3) and a special guardian or prospective special guardian, including—
 - (i) training for that person to meet any special needs of that child;
 - (ii) respite care;
 - (iii) mediation in relation to matters relating to special guardianship orders.

(2) These Regulations shall apply to a local authority in respect of a person referred to in section 14F(3) or (4) of the Act or in regulation 5(1) who—

- (a) lives in the area of the local authority;
- (b) intends to live in the area of the local authority;
- (c) is a child who is looked after by the local authority;
- (d) is a person whose needs for special guardianship support services have been assessed by the local authority.

(3) The following are prescribed for the purposes of section 14F(9)(b) of the Act—

- (a) adoption support agencies;
- (b) Primary Care Trusts;
- (c) local education authorities;
- (d) voluntary adoption agencies; and
- (e) independent fostering agencies.

(4) In paragraph (3)—

- (a) “adoption support agencies” and “voluntary adoption agencies” have the same meaning as in section 4 of the Care Standards Act 2000; and

- (b) “independent fostering agencies” has the meaning given in regulation 2(1) of the Fostering Services Regulations 2002(a).

Circumstances in which financial support may be paid

4.—(1) Special guardianship support services in the form of financial support may only be paid to a special guardian or prospective special guardian and only where—

- (a) a child falling within regulation 1(3)(a) lives with his special guardian and the local authority considers that financial support is necessary to ensure that that person can look after that child;
- (b) a child falling within regulation 1(3)(b) or (c) lives with a prospective special guardian and—
 - (i) the local authority supports the making of a special guardianship order in respect of the prospective special guardian; and
 - (ii) the local authority considers that financial support is necessary to ensure that that person can look after that child pending the making of a special guardianship order;
- (c) the local authority considers that—
 - (i) the making of a special guardianship order, or of an order for financial provision to be made to or for the benefit of a child, would be beneficial to the interests of a child falling within regulation 1(3); and
 - (ii) it is appropriate to contribute to or meet any legal costs, including court fees, of a special guardian or prospective special guardian, as the case may be, associated with seeking such an order; or
- (d) a child falling within regulation 1(3) lives with his prospective special guardian or special guardian and the local authority considers that that child needs special care which requires a greater expenditure of resources than would otherwise be the case because of his illness, disability, emotional or behavioural difficulties or the consequences of his past abuse or neglect.

(2) Where the special guardianship support services are to comprise or include financial support, the local authority shall require the special guardian or prospective special guardian, as the case may be, to agree to—

- (a) inform the local authority as soon as is reasonably practicable if—
 - (i) he changes his address;
 - (ii) the child in respect of whom the special guardianship support services are provided no longer has his home with him, or the child dies; or
 - (iii) there is any change in his financial circumstances or the financial needs or resources of the child referred to in head (ii); and
- (b) supply the local authority with a written, completed annual statement as to—
 - (i) his financial circumstances;
 - (ii) his address;
 - (iii) the financial needs and resources of the child referred to in sub-paragraph (a)(ii); and
 - (iv) whether that child still has his home with him or, where there is more than one special guardian, with one of them.

(3) Where the agreement referred to in paragraph (2) is given orally, it shall be confirmed to the local authority in writing before the expiry of seven days from the date of the oral agreement.

(a) S.I. 2002/57.

Assessment of needs for special guardianship support services

5.—(1) The following are persons prescribed for the purposes of section 14F(3) of the Act in respect of whom the local authority must carry out an assessment of needs for special guardianship support services if that person so requests—

- (a) persons falling within section 14F(3)(a) to (c) of the Act; and
- (b) persons falling within paragraph (2).

(2) The following persons are prescribed for the purposes of section 14F(3)(d) of the Act—

- (a) a child of a special guardian;
- (b) any person whom the local authority considers to have a significant and ongoing relationship with a child falling within regulation 1(3);
- (c) a child falling within regulation 1(3)(b) or (c);
- (d) a child, not being a child falling within sub-paragraph (c), who is named in a local authority report for the court under section 14A(8) of the Act; and
- (e) a prospective special guardian.

Procedure for assessment

6.—(1) This regulation applies where the local authority carry out an assessment of a person's needs for special guardianship support services.

(2) The local authority shall have regard to such of the following considerations as are relevant to the assessment in question—

- (a) the developmental needs of the child falling within regulation 1(3);
- (b) the parenting capacity of the special guardian or prospective special guardian, as the case may be;
- (c) the family and environmental factors that have shaped the life of the child falling within regulation 1(3);
- (d) what the life of the child falling within regulation 1(3) might be like with the person falling within sub-paragraph (b);
- (e) any previous assessments undertaken in relation to a child falling within regulation 1(3) or a person falling within sub-paragraph (b);
- (f) the needs of a person falling within sub-paragraph (b) and of that person's family;
- (g) where it appears to the local authority that there is a pre-existing relationship between a person falling within sub-paragraph (b) and the parent of a child falling within regulation 1(3), the likely impact of the special guardianship order on the relationships between that person, that child and that parent.

(3) The local authority shall, where they consider it appropriate to do so—

- (a) interview the person whose needs for special guardianship support services are being assessed;
- (b) where the person falling within sub-paragraph (a) is a child, interview—
 - (i) the special guardian or the prospective special guardian, as the case may be; or
 - (ii) an adult the local authority considers it appropriate to interview; and
- (c) where it appears to the local authority that there may be a need for the provision of services for the person whose needs are being assessed—
 - (i) by a Primary Care Trust; or
 - (ii) which fall within the functions of a local education authority, consult that Primary Care Trust or that local education authority.

(4) After undertaking an assessment, the local authority shall prepare a written report of the assessment.

Amount of financial support

7.—(1) This regulation applies where the local authority carry out an assessment of a person's needs for special guardianship support services in the form of financial support.

(2) In determining the amount of financial support to be paid, the local authority shall take into account—

- (a) the financial resources available to the special guardian or, as the case may be, the prospective special guardian;
- (b) the amount required by the person falling within sub-paragraph (a) in respect of his reasonable outgoings and commitments, excluding outgoings in respect of the child falling within regulation 1(3);
- (c) the needs and financial resources of the child falling within regulation 1(3);
- (d) the expenditure necessary in legal costs, to include court fees, in respect of proceedings relating to a special guardianship order or to an application for an order for financial provision to be made to, or for the benefit of, the child falling within regulation 1(3);
- (e) the expenditure necessary for facilitating the child falling within regulation 1(3) having his home with the person falling within sub-paragraph (a), including any initial expenditure necessary for the purposes of accommodating the child, to include any necessary provision of furniture and domestic equipment, alterations to and adaptations of the home, provision of means of transport and of clothing, toys and other items necessary for the purpose of looking after the child;
- (f) expenditure associated with the special educational needs or special behavioural needs of the child falling within regulation 1(3), including—
 - (i) the costs of equipment required for the purpose of meeting any special needs of the child;
 - (ii) the costs of rectifying any damage in the home where the child lives, where such costs arise out of the special behavioural difficulties of the child;
 - (iii) the costs of placing the child in a boarding school, where that placement is necessary to meet the special educational needs of the child; and
 - (iv) the costs of meeting any special needs of the child; and
- (g) expenditure on travel for the purposes of visits between the child falling within regulation 1(3) and a parent or relative of his.

(3) Financial support may not be paid to meet any needs in so far as—

- (a) those needs can be met by any benefit or allowance; and
- (b) such a benefit or allowance is payable or available to the person falling within paragraph (2)(a).

(4) Except where paragraphs (5) and (6) apply, the financial support payable by a local authority shall not include any element of remuneration for the care of a child falling within regulation 1(3).

(5) This paragraph applies where—

- (a) the prospective special guardian is the foster parent of the child falling within regulation 1(3);
- (b) the local authority consider that any fostering allowance paid to that person for fostering that child will cease upon the making of a special guardianship order; and
- (c) before a special guardianship order is made the local authority decide to pay financial support and determine that it is to be paid periodically.

(6) This paragraph applies—

- (a) at any time until the day (“the second anniversary”) two years after the date of the making of a special guardianship order; or

- (b) at any time after the second anniversary where, on the date on which the local authority decides to pay financial support, any of the circumstances specified in regulation 4(1)(a), (b) or (d) applies.

Notification of assessment

8.—(1) After carrying out an assessment under regulation 6 the local authority shall, in accordance with regulation 10—

- (a) supply the information specified in paragraph (2); and
- (b) give notice of the right to make representations as specified in paragraph (3).

(2) The information specified is—

- (a) a statement of the needs for special guardianship support services of the person whose needs were assessed;
- (b) whether the local authority proposes to provide special guardianship support services to the person;
- (c) the services, if any, which it is proposed to provide to the person;
- (d) where the assessment relates to the person's need for financial support—
 - (i) the basis on which that financial support is determined;
 - (ii) the proposed amount which would be payable;
 - (iii) any conditions which the local authority proposes to impose on the provision of that financial support in accordance with regulation 9(10); and
- (e) details in relation to the right to make representations in accordance with paragraph (3).

(3) The person notified in accordance with paragraph (2) shall have the right to make representations to the local authority concerning the proposal in paragraph (2)(b) within a period specified by the local authority.

(4) The local authority shall not make a decision under regulation 9 until—

- (a) the person referred to in paragraph (3) has—
 - (i) made representations to the local authority; or
 - (ii) notified the local authority that he is satisfied with the proposed decision; or
- (b) the period specified in the notice given under paragraph (1)(b) for making representations has expired.

Decision as to special guardianship support services

9.—(1) The local authority shall, having regard to the assessment, and after considering any representations received during the period specified in the notice given under regulation 8(1)(b),—

- (a) consider whether the person whose needs have been assessed has needs for special guardianship support services; and
- (b) decide whether any such services are to be provided to him.

(2) The local authority shall give notice of the decision under paragraph (1), and of the reasons for that decision, in accordance with regulation 10.

(3) Where the assessment relates only to the provision of information, the requirement in paragraph (2) to give notice shall not apply where the local authority do not consider it appropriate to give such notice.

(4) Paragraphs (5) to (10) shall apply where the local authority decide that financial support is to be paid.

(5) The local authority shall determine and shall notify in accordance with regulation 10—

- (a) in accordance with regulation 7, the amount that is to be payable;

- (b) the conditions, if any, which are to be imposed in accordance with paragraph (10) on the provision or use of that financial support;
 - (c) the date, if any, by which any conditions are to be met;
 - (d) the consequences of not meeting any conditions;
 - (e) where the financial support is to be paid as a single payment, the date on which the payment is to be made;
 - (f) where the financial support is to be paid in instalments or periodically—
 - (i) the frequency with which the payment will be made;
 - (ii) the date of the first payment; and
 - (iii) the date, if any, on which the payment will cease.
- (6) The notification under paragraph (2) shall also include information as to—
- (a) the method of determination of the amount of the financial support; and
 - (b) the arrangements for the review, variation or termination of the financial support;
 - (c) the responsibilities of the local authority under regulation 12 and of the special guardian pursuant to regulation 4(2) and paragraph (10).
- (7) Subject to paragraphs (8) and (9), financial support shall be paid as a single payment.
- (8) The person to whom the financial support is to be paid and the local authority may agree that the support shall be paid—
- (a) in instalments; or
 - (b) periodically
- on and until such dates as the local authority may specify.
- (9) Where the local authority decide that the financial support is to meet any needs which are likely to give rise to expenditure which is likely to be recurring, they may determine that that financial support shall be paid—
- (a) in instalments; or
 - (b) periodically,
- on and until such dates as the local authority may specify.
- (10) The local authority may impose such conditions as they consider appropriate upon the payment of financial support, which may include conditions as to—
- (a) the timescale within which and the purpose for which the payment should be utilised; and
 - (b) the requirement to comply with the agreement referred to in regulation 4(2).

Notices

10.—(1) Any information required to be supplied, or notice required to be given, under regulations 8, 9 and 12, shall be given in writing to—

- (a) where the person whose needs for special guardianship support services have been assessed is an adult, that person;
- (b) where the person whose needs for special guardianship support services have been assessed is a child and paragraph (2) applies—
 - (i) to the child; and
 - (ii) except where it appears inappropriate to the local authority to do so, to—
 - (aa) the special guardian or prospective special guardian;
 - (bb) where the child does not have a special guardian or prospective special guardian, the adult the local authority consider most appropriate;

- (c) where the person whose needs for special guardianship support services have been assessed is a child and paragraph (2) does not apply, to the person, if any, to whom subparagraph (b)(ii) applies.
- (2) This paragraph applies where—
 - (a) it appears to the local authority that the child is of sufficient age and understanding for it to be appropriate to give him such notice; and
 - (b) it does not appear to the local authority to be inappropriate to give him such notice.

Special guardianship support services plan

11.—(1) The circumstances prescribed for the purposes of section 14F(6)(b) of the Act are that the local authority decide to provide special guardianship support services to a person on more than a single occasion.

(2) Regulations 6 to 8 shall apply in relation to plans under section 14F(6) and this regulation as they apply in relation to an assessment under regulation 5.

(3) If the local authority considers it appropriate, for the purposes of preparing the plan, the local authority shall consult—

- (a) any person falling within regulation 10(1); and
- (b) where the person to whom the plan relates lives in another local authority area, that local authority,

and such consultation shall include discussion as to when the plan should be reviewed.

(4) Where it appears to the local authority that there may be a need for the provision of services to the person to whom the plan will relate—

- (a) by a Primary Care Trust; or
- (b) which fall within the functions of a local education authority,

the local authority shall consult that Primary Care Trust or local education authority, for the purposes of preparing the plan.

(5) The local authority shall provide a copy of the plan—

- (a) in accordance with regulation 10;
- (b) where paragraph (4)(a) applies, to the Primary Care Trust;
- (c) where paragraph (4)(b) applies, to the local education authority; and
- (d) where the person to whom the plan relates lives in another local authority area, to that local authority.

Review of the provision of special guardianship support services

12.—(1) Where the local authority provides special guardianship support services for a person which do not include financial support they shall review the provision of such services—

- (a) if any relevant change in the person's circumstances, including a change of address, comes to their notice; and
- (b) in any event, from time to time.

(2) Where the local authority provides special guardianship support services for a person which comprise, or include, financial support they shall review the provision of such services—

- (a) if any relevant change in the person's circumstances, including a change of address, comes to their notice; and
- (b) upon receipt of the annual statement referred to in regulation 4(2)(b).

(3) Regulations 6 to 8 shall apply in relation to a review under this regulation as they apply in relation to an assessment under regulation 5.

(4) The local authority shall, having regard to the review and after considering any representations received within the period specified in the notice to be given in accordance with regulation 8(1)(b)—

- (a) decide whether to vary or terminate the provision of special guardianship support services; and
- (b) review and, where appropriate, revise the plan.

(5) If the local authority decide to vary or terminate the provision of special guardianship support services, or revise the plan—

- (a) they shall give notice of their decision in accordance with regulation 10, which shall include the reasons for the decision; and
- (b) paragraphs (3) to (10) of regulation 9 shall apply to a decision under paragraph (4) as they apply to a decision under paragraph (1) of regulation 9.

(6) Subject to paragraph (7), where any condition imposed in accordance with regulation 9(10) is not complied with, the local authority may—

- (a) review, suspend or cease payment of financial support; and
- (b) seek to recover all or part of the financial support they have paid.

(7) Where the condition not complied with is the requirement to provide an annual statement in accordance with an agreement referred to in regulation 4(2), the local authority shall not take any steps under paragraph (6) until—

- (a) they have sent to the person who entered into the agreement a written reminder of the need to provide an annual statement; and
- (b) 28 days have expired since the date on which that notice was sent.

(8) Where, having taken the steps specified in paragraph (7), the local authority determine under paragraph (6) that payment of financial support should be suspended, they may lift that suspension upon receipt of the annual statement referred to in regulation 4(2)(b).

(9) The local authority shall cease payment of financial support with effect from the date that they become aware that the circumstances in paragraph (10) apply.

(10) The circumstances are that—

- (a) a special guardianship order has ceased to have effect, or has been revoked; or
- (b) the child in respect of whom the special guardianship support services are provided—
 - (i) has ceased to have his home with a special guardian or prospective special guardian;
 - (ii) is in receipt of income support under Part VII of the Social Security Contributions and Benefits Act 1992(a) or of jobseeker's allowance under the Jobseekers Act 1995(b); or
 - (iii) has begun full-time paid employment.

(a) 1992 c.4.
(b) 1995 c.18.

PART 4
MISCELLANEOUS PROVISIONS IN RELATION TO SPECIAL
GUARDIANSHIP

Relevant authority for the purposes of sections 24(5)(za) of the Act

13. For the purposes of section 24(5)(za) of the Act (persons qualifying for advice and assistance), the relevant authority shall be the local authority which last looked after the person.

Functions specified under section 26(3C) of the Act

14. The following are the functions under section 14F of the Act which are specified for the purposes of section 26(3C) of the Act (review of cases and inquiries into representations – special guardianship support services)—

- (a) financial support for special guardians referred to in regulation 3(1)(a);
- (b) support groups for children referred to in regulation 3(1)(b)(i);
- (c) assistance in relation to contact referred to in regulation 3(1)(c);
- (d) therapeutic services referred to in regulation 3(1)(d); and
- (e) assistance for the purpose of ensuring continuation of relationships referred to in regulation 3(1)(e).

Signed by authority of the Secretary of State for Education and Skills

XXXX

Name
Minister of State
Department for Education and Skills

SCHEDULE

Regulation 2

Reports – matters prescribed for the purposes of section 14A(8)(b)
of the Act

The following matters are prescribed for the purposes of section 14A(8)(b) of the Act.

1. In respect of the child falling within regulation 1(3)(b) or (c) (referred to in this Schedule as “the child”)—

- (a) name, sex, date and place of birth and home address;
- (b) nationality and immigration status;
- (c) physical description;
- (d) developmental needs, to include physical, educational and emotional needs and a report on the child’s health;
- (e) religious persuasion, racial origin and cultural and linguistic background;
- (f) details of any court proceedings relating to parental responsibility or maintenance for the child or relating to the child’s residence;
- (g) the extent of the child’s contact with members of the child’s family;
- (h) any placement with foster parents or any other care arrangements relating to the child;
- (i) education, to include any special needs; and
- (j) the child’s wishes and feelings about special guardianship.

2. In respect of the family of the child—

- (a) name, date and place of birth and home address of the child's parents, siblings and any other person the local authority considers to be relevant;
- (b) nationality and immigration status of the child's parents;
- (c) if the child's parent is a member of a couple, an assessment of the stability of that relationship and, if the parent is married, the date and place of marriage;
- (d) whether the child's father has parental responsibility for the child;
- (e) whether either parent is considered by the local authority to be likely to apply for orders under the Act in respect of the child;
- (f) physical description of the parents, siblings and any other person the local authority considers to be relevant;
- (g) religious persuasion, racial origin and cultural and linguistic background of the parents;
- (h) the occupations, past and present, and educational attainment of the parents;
- (i) the care arrangements in respect of any of the child's siblings who have not attained the age of 18 years;
- (j) the views of the parents in relation to the application for a special guardianship order in respect of the child; and
- (k) the reason why any of the information prescribed in the preceding sub-paragraphs is not available.

3. In respect of the prospective special guardian or, where two or more persons are jointly prospective special guardians, each of them—

- (a) name, date and place of birth and home address;
- (b) nationality and immigration status;
- (c) relationship to the child;
- (d) a physical description;
- (e) if the prospective special guardian is a member of a couple, an assessment of the stability of that relationship and, if the prospective special guardian is married, the date and place of marriage;
- (f) religious persuasion, racial origin and cultural and linguistic background of the prospective special guardian and willingness of the prospective special guardian to follow the wishes of the child or of the child's parent in relation to the religious or cultural upbringing of the child;
- (g) occupation, past and present, and educational attainment;
- (h) a report on the health of the prospective special guardian;
- (i) particulars of the prospective special guardian's home, to include details of income, comments on the living standards of the household and any wider family and environmental factors which may impact on the parenting capacity of the prospective special guardian;
- (j) previous experience of caring for children;
- (k) any past assessment as a prospective adopter, foster parent or special guardian;
- (l) reasons for applying for a special guardianship order;
- (m) parenting capacity, to include an assessment of the prospective special guardian's ability to bring the child up throughout the child's childhood;
- (n) details of three personal referees, no more than one of whom is a relative of the prospective special guardian, with a report of the referees' views in respect of the prospective special guardian; and
- (o) details of the proposed living arrangements for the child, if these are intended to change after a special guardianship order is made.

- 4.** In respect of the local authority which compiled the report—
- (a) name and address;
 - (b) details as to whether any of the information referred to in paragraphs 1-3 was initially obtained by the local authority otherwise than for the purposes of preparing the report and, if so, the purpose for which, and the date upon which, it was obtained;
 - (c) details of steps taken to verify the identity of the prospective special guardian;
 - (d) details of any past involvement of the local authority with the prospective special guardian, including any past preparation for that person to be a foster parent or adoptive parent;
 - (e) details of any assessment which the local authority has undertaken in respect of special guardianship support services for the prospective special guardian, the child or the child's parent;
 - (f) where section 14A(7)(a) of the Act applies and the prospective special guardian lives in the area of another local authority, details of the local authority's enquiries of that other local authority about the prospective special guardian; and
 - (g) details of the local authority's opinions as to whether the prospective special guardian would or would not be a suitable special guardian for the child.
- 5.** In respect of the conclusions reached in the report—
- (a) a summary prepared by the medical professional who provided the information referred to in paragraphs 1(d), and 3(j) on the health of the child and of the prospective special guardian;
 - (b) details of the opinion of the person making the report on—
 - (i) the implications of the making of a special guardianship order for the child;
 - (ii) how any special health needs of the child may be met;
 - (iii) whether the making of a special guardianship order would be in the best long-term interests of the child;
 - (iv) how any emotional, behavioural and educational needs of the child may be met;
 - (v) the effect on the child's parent of the making of a special guardianship order; and
 - (vi) if appropriate, the merits of the making of a placement order or an adoption order under the Adoption and Children Act 2002(a) or a residence order under section 8 of the Act in respect of the child; and
 - (c) details of the conclusions and recommendations of the person making the report on the issue of whether a special guardianship order should be made in respect of the child.

(a) 2002 c.38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of special guardianship. Provisions for special guardianship were inserted in the Children Act 1989 (“the Act”) by the Adoption and Children Act 2002.

Part 2 of these Regulations prescribes the matters which a local authority must deal with in a report to the court prepared pursuant to section 14A(8) of the Act when the local authority has received notice of a person’s application for a special guardianship order under section 14A(3) or (6) of the Act or has been requested by a court to conduct an investigation and prepare a report pursuant to section 14A(9) of the Act.

Part 3 of these Regulations makes provision for special guardianship support services. Special guardianship support services are defined by section 14F(1) of the Act as counselling, advice and information and such other services as are prescribed by regulations, in relation to special guardianship. Such services are prescribed in regulation 3(1) of these Regulations. Regulation 4 specifies the circumstances in which special guardianship support services in the form of financial support may be paid.

Regulation 5 specifies the persons who are entitled to an assessment of their needs for special guardianship support services. Regulation 6 specifies the procedure for an assessment and regulation 7 provides for the determination of the amount of financial support.

After carrying out an assessment, the local authority must give notice under regulation 8 as to any special guardianship support services that are proposed to be provided and as to the period within which representations may be made about the proposal. Regulation 9 makes provision for the local authority to make a decision as to whether any special guardianship support services are to be provided and for the notification of that decision. Regulation 10 makes provision about the supply of information and the giving of notices.

Where special guardianship support services are to be provided to a person, regulation 11 provides for the local authority to prepare a plan in accordance with which the services are to be provided. Regulation 12 makes provision for the review of special guardianship support services and for the revision of the plan.

Sections 24, 24A and 24B of the Act make provision for persons who qualify for advice and assistance under Part 3 of the Act. Section 24(1) and (1A) provide for specified persons in respect of whom a special guardianship order is, or was, in force to be persons who qualify for such advice and assistance. In such cases, regulation 13 of these Regulations, in conjunction with section 24(5)(za) of the Act, provides that the local authority having the duties and powers in sections 24A and 24B of the Act will be the local authority which last looked after the person.

Section 26 of the Act makes provision for the review of cases and inquiries into representations. Section 26(3) of the Act provides that every local authority is to establish a procedure for considering specified representations (including any complaints). Section 26(3C) of the Act extends that duty to any representations made by particular persons about the discharge of such functions under section 14F of the Act as may be specified in regulations. Regulation 14 of these Regulations specifies those special guardianship support services functions.