



Centre for
Child & Family
Justice Research



Investing in special guardianship: findings from a national study of supervision orders and special guardianship

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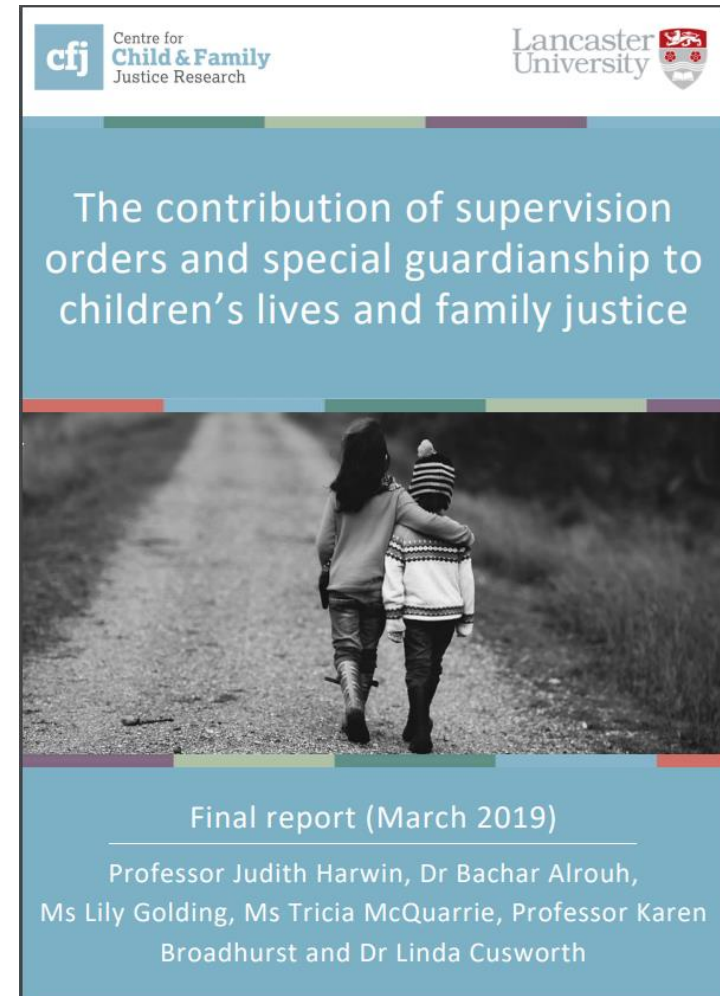
Leeds Children's Services
Masterclass
6th November 2019

Our report

The team:

- Professor Judith Harwin
- Dr Bachar Alrouh
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- Ms Tricia McQuarrie
- Professor Karen Broadhurst
- Dr Linda Cusworth

The study was funded by the Nuffield Foundation and supported by the President of the Family Division, Cafcass, DfE and ADCS.



Aims of the masterclass

To report on:

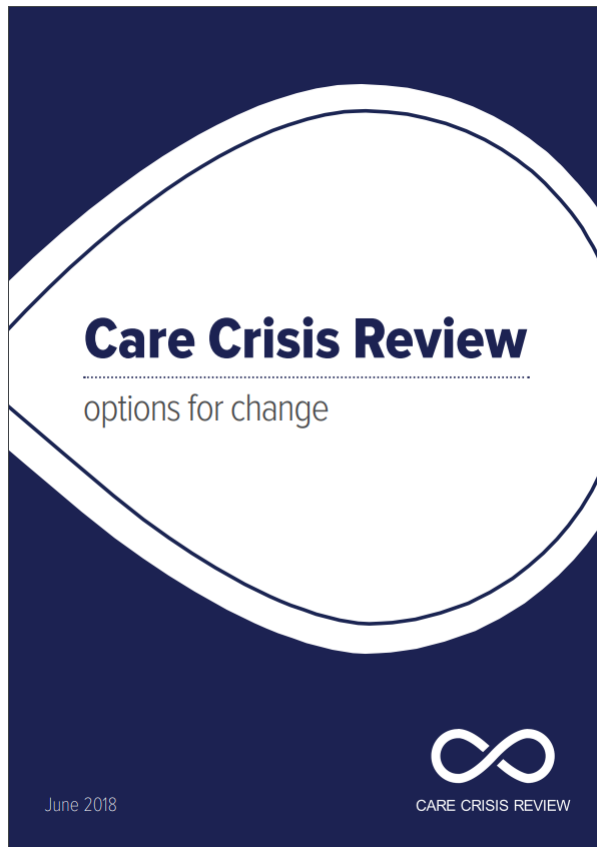
- Findings from our March 2019 report on special guardianship
- Our new report co-produced with CoramBAAF and funded by the Nuffield Family Justice Observatory
- Recommendations from the Public Law Working Group on special guardianship

To provide an opportunity to share best practice and concerns around special guardianship and ways forward

About special guardianship

- New route to legal permanence for children unable to live with their birth parents - first proposed in the *Prime Minister's Review of Adoption* in 2000; in Adoption and Children Act 2002
- Introduced in 2005 – it is a private law order
- Child leaves care system when an SGO is made
- Originally intended for:-
 - older children who don't want to legally separate from birth family
 - children with strong pre-existing links with proposed special guardians
 - unaccompanied asylum seeking children
- By 2015 concerns led to a DfE Review of Special guardianship


The current policy context



Care Crisis Review

options for change

June 2018



CARE CRISIS REVIEW



Nuffield Family Justice Observatory

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

Authors
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Special guardianship: a review of the evidence

Summary report



Public law
working group



Recommendations to achieve best practice in the child protection and family justice systems

INTERIM REPORT (JUNE 2019)

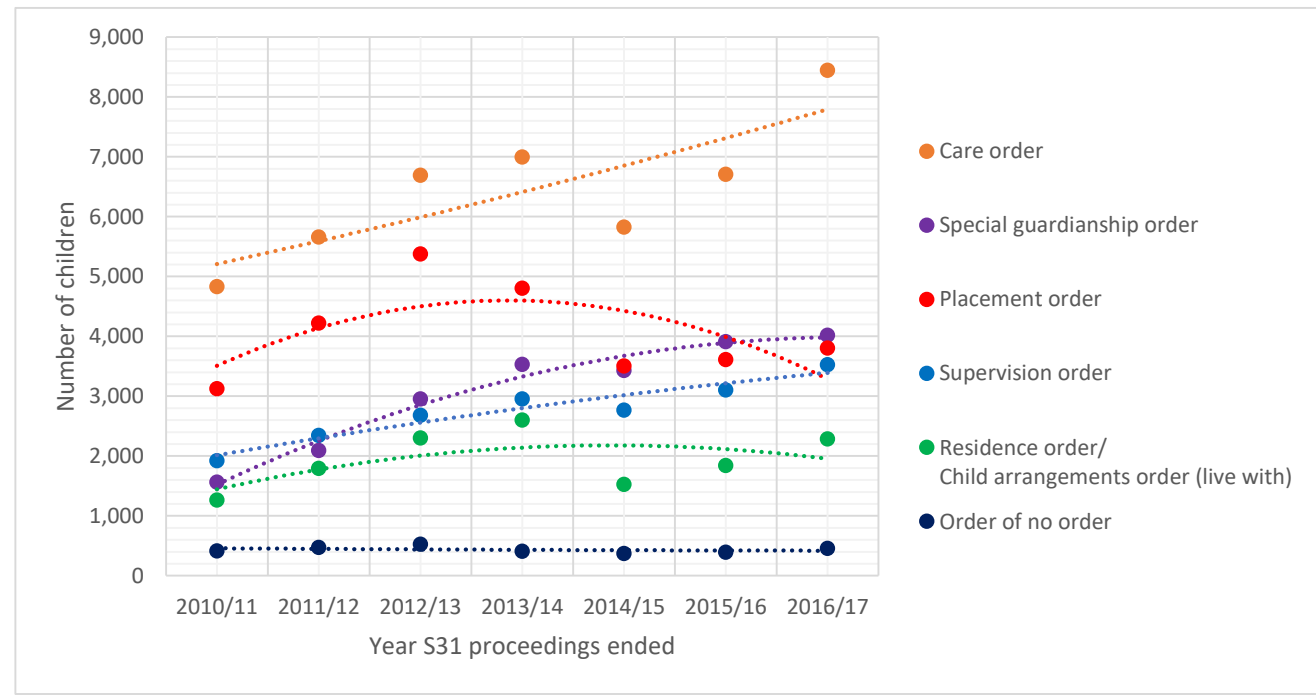
About our study of supervision orders and special guardianship (March 2019)

- National analysis of use of supervision orders and special guardianship and outcomes for children with policy and practice recommendations
- Intensive case file review in 4 local authorities
 - 2 Northern and 2 Southern
 - 107 children placed on special guardianship in 2014/2015 followed up for 3 years
- Focus group and interviews
 - with family justice professionals (89 participants)
 - with parents looking after children under a supervision order (5)
 - with special guardians (24)

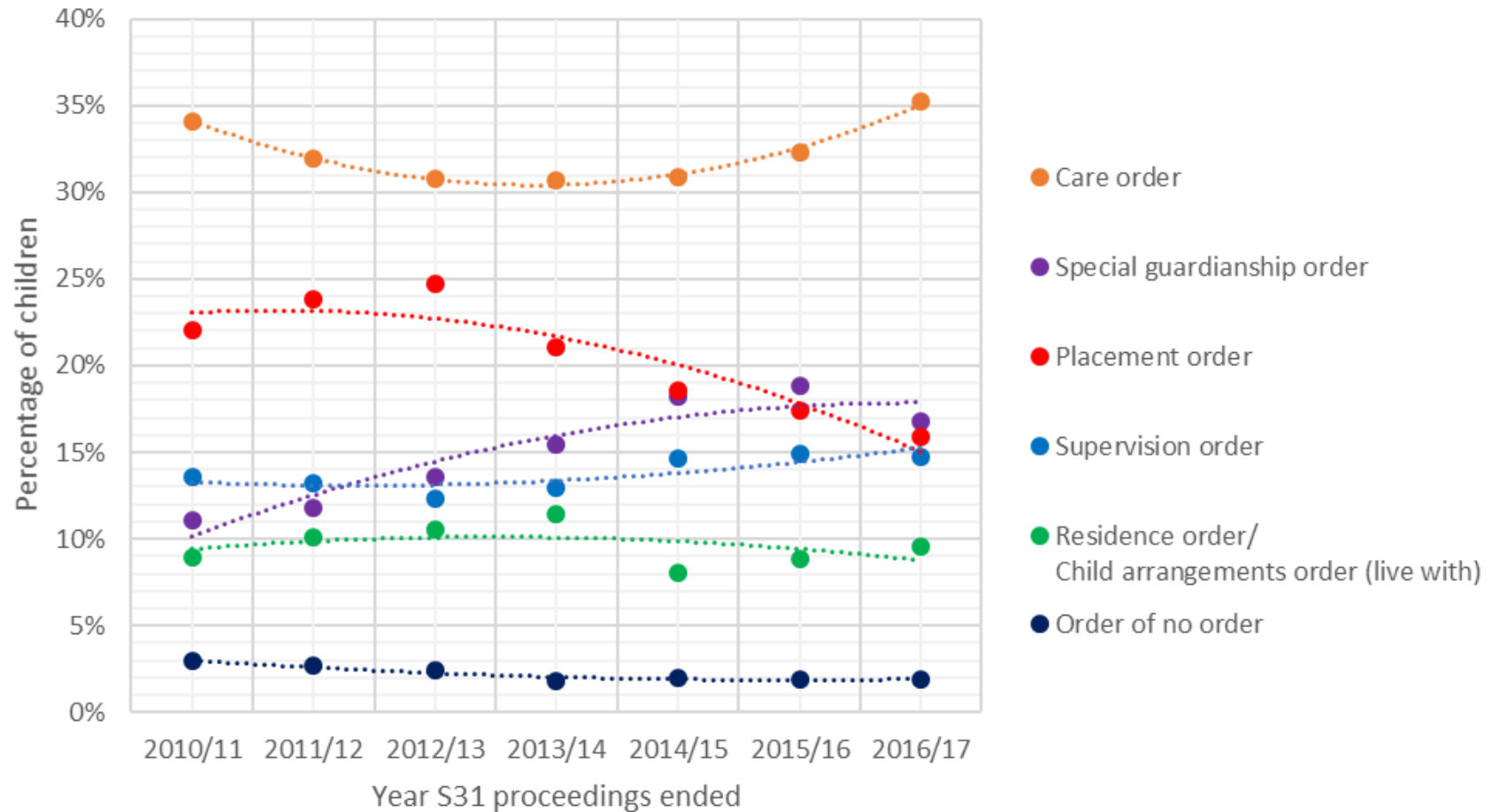
Findings



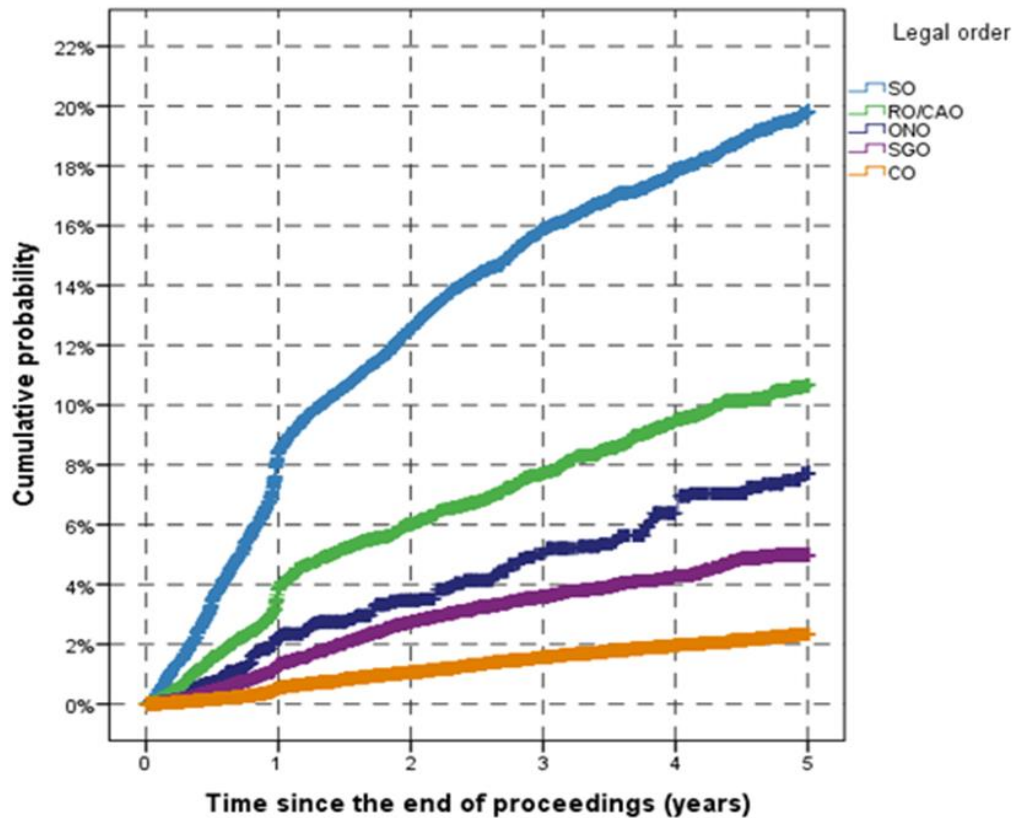
The number of children placed on SGOs and 5 other orders (2010/11 - 2016/17)



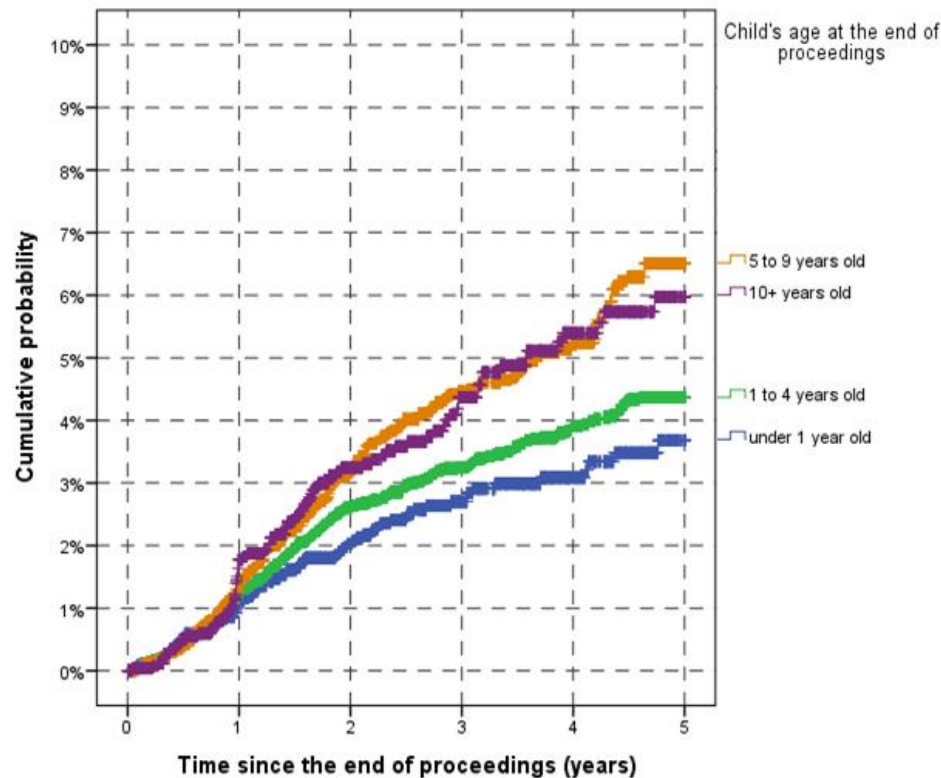
The percentage of children placed on SGOs relative to 5 other orders (2010/11 -2016/17)



Return to court for further s.31 proceedings within 5 years by legal order type



Return to court for further S31 proceedings within 5 years after a SGO, by age group



And some further national trends

- Only 1% of the children placed on an SGO had an application for this order in their s.31 proceedings
- The use of supervision orders attached to SGOs grew from 18% in 2010/11 to 30% in 2016/17
 - peaked at 35% of all SGOs made in 2013/14
- A supervision order attached to an SGO increases the likelihood of new s.31 proceedings within five years from 5% to 7%

Findings from the case file study



Source: <http://malloryminute.com/paper-paper-everywhere/>

Positive outcomes for the majority of children

(107 children from 75 birth families, placed with 77 special guardian families)

- 66% of children were less than 5 years old at start of proceedings
- Outcomes were positive for the majority of children
 - 6% of children experienced further neglect
 - 4% of children had further S31 proceedings
 - 10% of children had further placement change
- On-going difficulties for special guardians
 - housing and financial pressures
 - tensions between special guardians and birth parents over contact

Some practice issues

- 31% moved after the proceedings had ended. The placement had not been tested before the SGO was made.
 - The rest moved before (27%) proceedings started or during (42%) proceedings
- Family group conferences were held for only 37% of the children during the proceedings
 - more frequent in cases with a supervision order (48% v 28%)
- 81% of special guardians were known to the child at the start of the proceedings. Most were family or friends.
- Around 25% of the cases started as EPOs or removal under police powers
- 26% of the parents had children previously removed by the court

And some more practice issues: the use of supervision orders with an SGO

- There was a North/South divide in the use of supervision orders attached to special guardianship
 - 70% children in the North had a supervision order attached and 30% had a standalone SGO
 - 70% children in the South had a standalone SGO and 30% had a supervision order attached
- There was no difference in the rates of placement breakdown, return to court or the rate of emotional and behavioural difficulties in children (30%)

Discussion

- What have you found concerning from the findings so far? Please specify
- Are there any findings that don't apply to Leeds now? Please specify
- If the findings don't apply, what is Leeds doing differently? And are there best practices you would like to share with us?

Views on special guardianship



Professional perspectives - key issues

- Concern over the rigour of assessments, especially when compared to those for adoption
- The 26-week timetable can result in rushed assessments & premature decisions on placement suitability
- Courts vary in their willingness to extend proceedings beyond 26 weeks
- Views divided on the use of attached supervision orders
 - help to manage difficult contact
 - a misuse of the SGO or provide additional safeguarding
- Views divided on the pros and cons of making a care order at home instead of a final SGO

Special guardian perspectives

- Court experience was largely felt to be difficult and stressful

“they [the local authority] savaged through your life”...“things that were said were misinterpreted once it [the report] was printed.”

“My experience [in court], if I’m honest, wasn’t that bad. To be, to be pretty frank, it wasn’t bad. The only thing for me was I found it unbelievably intrusive the amount of information I was subjected to having to give”

Special guardian perspectives

- Access to legal advice and participation in court varied

“I was made party to proceedings the whole time. I was in there every time...at any point when they pointed out something that, or raised something that was incorrect, you could defend yourself, which I was able to do.”

“They went through the court procedures without me there, which I think is very wrong, and it was done deliberately. Because I was waiting and the social workers up there and everyone – no one contacted me. So, the case went ahead without me and then they sent the – and the case was closed. And if there’s any problem, I cannot go back to them because they turned around and said, look, the case is now closed.”

Special guardian perspectives

- Negative experiences during assessment and proceedings discouraged special guardians from subsequently seeking help from the local authority

“I was very happy to, like you said, to close that door, ‘cos I was angry...and then it wasn’t until problems started to unravel, you know, that you realise – I had to go back to them in crisis”.

“so hostile to them because of my experience” that she did not want to speak with the local authority, “let alone seek support”.

Special guardian perspectives

- Supervision orders were generally received positively by special guardians, although some felt they were still being ‘tested’

“What the supervision order did for us was it allowed me to go and ask questions of somebody who was there to support the children. So, it put in place meetings, child in need meetings we had every six weeks. And so, there is a group of professionals that come together, and we talk about the children’s progress, any issues arising, and we make a plan for what happens next and what support might need to be in place. And that has been invaluable to us.”

“...we’re a bit embarrassed and we don’t know if we’re putting a foot wrong, you know what I mean? We’re the ones walking on egg shells. Because I feel I’m my granddaughter’s last chance. You know, I’m sort of scared to put a foot wrong”.

Special guardian perspectives

- In some cases without an attached supervision order, special guardians felt “abandoned”

“The only support we got was a kind of social worker person who visited us every month for three months...after that there was nothing. They said we could contact the post adoption team, but I found that when I do contact them they say there is nothing they can support with. They couldn’t even help with the life story book”.

“they never say ‘once that child’s placed with you, all communication stops’”

Special guardian perspectives

- Housing and financial difficulties prevalent

“The health visitor at the time was so much on my side, bless her, she was giving me foodbank tokens, which for me, personally, I was finding really difficult because I’d just been working the last 10 years or so and I was quite happily, you know paying my own rent and paying – you know – it was a horrendous time. You – ‘cos I suffer SAD anyway, my depression got worse. It was just an awful, awful time. It really was. And the social workers were going ‘nothing to do with us, love’.”

“She [the social worker] told me that she would support me to get larger accommodation; her support was writing a letter to the council and that was it. I was in that two-bedroom property with my two children and an additional four children, because I took on my brother’s four children, one of whom has severe learning difficulties. I was sleeping in the sitting room. I suffered quite a bit with my health because of how I was sleeping.”

Special guardian perspectives

- Children presenting with emotional and behavioural difficulties place additional stress on special guardians

“My worries are that obviously each stage that these children go through, every developmental milestone, if you wanna call it, it brings something new to the table...because the bottom line is these – I’ve said it before and I hate the term – they’re broken children and you cannot deal with them in the same way you deal with children that aren’t broken, if you like.”

“But it’s upsetting when it comes to her asking – and I say, ‘oh yeah later, they’re at work, they’re at work’. And especially, like her daddy wasn’t there on her birthday and you know, I don’t know, I wonder what’s going through her mind. Especially when she sees mum and dad with a baby.”

Special guardian perspectives

- Contact with birth parents is an ongoing issue that special guardians feel ill-equipped to deal with

“Looking after the children is the easy part – it’s dealing with the parents - that’s where the bigger problem lies. For me I’d be quite happy if they’d just been put on contact once a year or something. You know, like, I think sometimes these children don’t benefit from having contact because the stimulus isn’t always there from the parents...then you’re the bad one if you cancel contact”.

“I don’t want them [parents] at my house. I want it to continue at a contact centre to be honest. Because he’s [dad] very volatile. He could come up, he’s had a drink inside him or drugs or whatever, and if things don’t go his way he’s gonna storm out, you know, or he’ll have a go at something that’ll happen”.

Discussion

1. How far do these findings chime with your own experiences with special guardians in Leeds?
2. How do you manage these issues with special guardians?
 - a) Assessment process
 - b) Court experience
 - c) Contact
 - d) Long-term support
3. How do you think practice can be changed to help overcome these difficulties?

The Re P-S Court of Appeal Case

-
- All parties had agreed that SGOs should be made in favour of the children's respective paternal grandparents.
 - But the judge was concerned that the children had not lived with proposed Special Guardians
 - So he made final care orders (not an SGO). He drew on informal guidance to support this decision
 - The court expected the LA to bring the case back and discharge the care order when satisfied with the SG placement, and make an SGO instead
 - The proposed Special Guardians were not made party to the proceedings and were not legally represented
 - If the grandparents were to apply for an Order they would have to have cared for the child for 1 year

The issues

- Was it lawful to make a care order so that the local authority could test the SG placement and then bring back the case to court to discharge the care order (if all went well)?
- What is the status and evidence base of informal guidance used in the decision of the court of first instance?
- What role should prospective special guardians have in care proceedings?

The judgment by the Court of Appeal

- It was not lawful to use care orders as an interim order because ‘the concept of a short-term order is flawed’
- The use of ‘informal guidance’ ‘...is not the same as authoritative guidance or a practice direction’
- The court of first instance had not ‘identified the evidence-based research upon which it relied, nor was it scrutinised
- The grandparents did not have effective access to justice and the resulting procedural fairness was ‘not in the best interests of the children’.

Rapid Evidence Review of Special Guardianship

Commissioned in response to the Re P-S case and need to produce evidence informed authoritative guidance

Link to report:

<https://tinyurl.com/y564zln8>

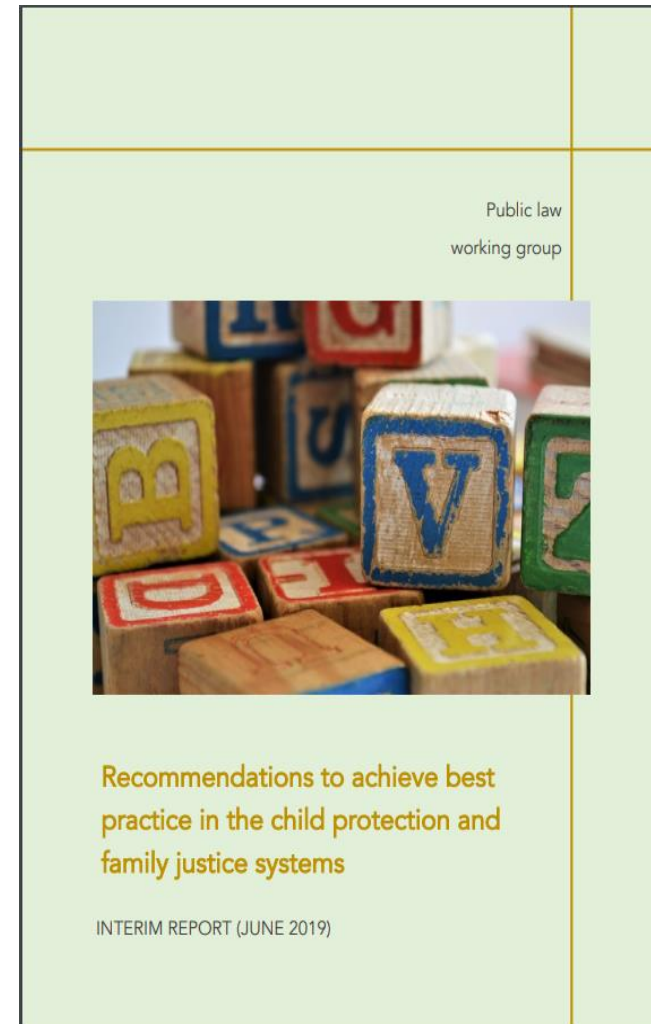


Rapid Evidence Review of Special Guardianship – some key findings

- High levels of **unmet need** – both children and their carers, including housing and finance.
- Treated as a '**Cinderella**' **option** regarding assessment and support, because this is 'family'- hence, considerable variability in experience.
- **Poor promotion of available support as well as availability of legal advice/status** and support compared to adopters/foster carers.
- Assessment does not sufficiently address the **prospective Special Guardians current relationship, or care of the child.**
- Assessment does not address the specific **risk and protective factors** in each proposed placement.

Public Law Working Group Interim Report: consultation – some recommendations

- More ‘robust’ & ‘comprehensive’ SGO assessments and support plans
- Timetabling by the courts to be realistic
- If insufficient time to test the relationship, extend the 26 weeks time limit
- Use FGCs as early as possible
- More preparation and training for special guardians
- Less use of supervision orders with SGOs
- More emphasis on parental contact
- No decision on use of interim SGOs



Where do we go from here?



Further information

The Centre for Child and Family Justice website:

<https://www.cfj-lancaster.org.uk/>

For information on our wide range of projects <https://www.cfj-lancaster.org.uk/projects>

The contribution of supervision orders and special guardianship to children's outcomes and family justice:

<https://tinyurl.com/SGOReport>

Care Demand and Regional Variability in England: 2010/11 to 2016/17:

<http://tiny.cc/caredemand>

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