



## Special Guardianship & Residency Order Policy

Document Status: Draft

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Originator: Anica Goodwin

Updated: Anica Goodwin

Owner: Anica Goodwin

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**Approved by Corporate Management Team / Appointments and Staffing**

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Classification: SEC1 - Routine

## Document Location

This document is held by Tamworth Borough Council, and the document owner is the HR Manager

Printed documents may be obsolete; an electronic copy will be available on Tamworth Borough Council's Intranet. Please check for current version before using.

## Revision History

Revision Date	Version Control	Summary of changes
September 17	01.01.03	New format and clarification of review period, new CIA
August 2022	01.01.04	Updated language to bring consistency with other policies

## Approvals Creation and Major Change

Name	Title	Approved
Anthony Goodwin	Chief Executive	June 14
TULG	Consultation	July 14
Appointments & Staffing	Approval	July 14

## Approvals Minor Change and Scheduled Review

Name	Title	Approved
25.05.17	Director of Transformation & Corporate Performance	May 17

## Approval Path

### Major Change

Originator  
Owner  
TULG  
CMT  
Apts & Staffing Committee

### Action

HR  
Head of Paid Service  
Consultative Group  
Corporate Approval  
Council Approval

### Minor Change

HR  
TULG  
Director

Submission  
Consultative Group  
Delegated Approval

## Document Review Plans

This policy/ procedure will be reviewed on a 3 yearly basis unless it has:

- A monetary value included within it, in which case an annual review will be required, and/ or
- A legislative change is required as directed by government.

Where this document is subject to a Major Change the Trade Union Liaison Group (TULG) are consulted as an advisory body.

## Distribution

The document will be distributed through Astute and will also be available on the Intranet and paper based copies.

## Security Classification

This document is classified as SEC 1 Routine with access restricted to Tamworth Borough Council Staff and business partners.

## 1. Introduction

Tamworth Borough Council recognises that, on occasion, employees may require special leave to undertake obligations or specific events outside of their working life. The use of annual leave or flexible leave may not be sufficient for these obligations or specific events.

The Council also recognises the need to retain existing employees, along with the valuable skills and knowledge gained.

This policy should be read in conjunction with the Council's Annual Leave and other Leave Policy and Right to Request Flexible Working.

## 2. Scope

This policy is available to all employees of Tamworth Borough Council.

## 3. Definition

### Special Guardianship Order

A special guardianship order is an order appointing one or more individuals to be a child's 'special guardian'. It is a private law order made under the Children Act 1989 (updated in 2004) and is intended for those children who cannot live with their birth parents and who would benefit from a legally secure placement. It is a more secure order than a residence order because a parent cannot apply to discharge it unless they have the permission of the court to do so, however it is less secure than an adoption order because it does not end the legal relationship between the child and their birth parents.

An employee can apply to be a child's special guardian when they cannot live with their birth parents and adoption is not right for them.

The employee would be responsible for looking after the child until they are 18 (unless the court removes the responsibility earlier).

The employee would make all day-to-day decisions about the child, for example, schooling and medical treatment. The employee would need consent from everyone with parental responsibility for the child before important decisions are made, such as:

- Changing the child's surname
- Putting the child up for adoption
- Taking the child abroad for more than 3 months
- The child having surgery for reasons other than improving health

#### **4 Who can apply**

The employee can make the application individually or jointly. The employee can apply if:

- They are already the child's legal guardian
- The child lives with the employee because of a child arrangement order
- The child has lived with the employee for 3 of the past 5 years
- The employee is the child's relative or a foster parent and the child has been living with them for a year
- The employee has the agreement of anyone named in a child arrangement as someone who the child will live with
- The employee has the agreement of all the people with parental responsibility of the child
- The employee has the agreement of the local council if the child is in care

#### **5 Residency Order**

A residence order is a court order 'settling the arrangements ... as to the person with whom a child is to live and gives parental responsibility for a child as long as the order continues'.

The residence order will not affect the child's legal relationship with their parents nor will it take away their parental responsibility. This means that you will share parental responsibility with the child's mother and also with their father if he has ever been married to the mother or he has acquired parental responsibility if they were never married.

Even though the employee has parental responsibility, some decisions can still be taken only by parents with parental responsibility. These include the right to agree or refuse to agree to an adoption order being made and the right to appoint a guardian for the child.

#### **6 Our Position**

TBC recognises the requirement for fairness and consistency when considering requests for special guardianship/residency order leave. All applications for special guardianship or residency order leave will be examined on an individual basis.

In authorising special guardianship or residency order leave, managers should consider: -

- all the circumstances surrounding the request, including alternative leave available to the employee

- what provisions for the child/children were in place prior to the order being granted (i.e. had they resided with the employee prior to the order being granted?)
- what arrangements the employee will need to make to settle the child/children into the new arrangements
- the need to ensure that services are minimally disrupted, and
- consistency of application of this policy throughout the Council.

Where arrangements are new (i.e., the child/children have not previously resided with the employee in their home) the full entitlement to Special Guardianship /Residency Order Leave will apply.

Managers should contact Human Resources for advice regarding the circumstances.

## **7 Special Guardianship and Residency Order Leave**

This is paid leave of up to 10 working days per order (which may cover more than 1 child) to allow an employee time:

- to make suitable adaptations to their home for children at short notice
- to settle children following the issue of an order
- to make suitable arrangements following the issue of an order to ensure schooling and/or childcare arrangements in place are suitable
- to attend court, case conferences or other meetings to assist transition

Part time staff will receive entitlement on a pro-rata basis related to their full-time equivalent status.

Leave must be taken within the first 3 months of the date of the order. A copy of the order (and invitation letters for any formal meetings) must be provided for recording on the employee's file.

The maximum amount may be broken down into half day blocks, as long as the cumulative total does not exceed the maximum stated above.

No employee can claim more than their contracted hours for any day where Special Guardianship/Residency Order Leave is taken.

## **8 Relationship to other leave**

The spirit of this leave is to support employees and their families during what are particularly difficult and stressful periods without impacting on the quality time and periods of rest necessary to ensure good health and work/life balance.

Time off for dependents is covered in the Annual Leave & Other Leave policy.

Flexible working is covered under the Right to Request Flexible Working policy.

All employees who have parental responsibility for children are entitled to take up to 18 weeks unpaid parental leave for each individual child before that child reaches the age of 18. The use of this leave may be considered alongside the statutory

entitlement to Parental leave (unpaid) and does not preclude future requests for adoption leave, should arrangements be made more formal and/or permanent.

In the unlikely event that a second order is granted for the same child (or children), a second allowance of leave would not normally be granted.

## **9 Appeal Process**

If the employee is dissatisfied with the decision, they have a right of appeal to the next level of line management. If the employee remains dissatisfied with the decision, they must lodge their appeal within 7 calendar days of receipt of the written decision, outlining their grounds for appeal, why they were dissatisfied with the initial response and remedy sought.



Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Special Guardianship & Residency Order Policy	
Date Conducted	January 2023	
Name of Lead Officer and Service Area	Jackie Noble HR	
Commissioning Team (if applicable)	N/A	
Director Responsible for project/service area	Anica Goodwin	
Who are the main stakeholders	Employees	
Describe what consultation has been undertaken. Who was involved and what was the outcome	CMT TULG Members	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)		
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input checked="" type="checkbox"/>
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x'	New	<input type="checkbox"/>
	Existing	<input checked="" type="checkbox"/>



which applies	Being reviewed	<input checked="" type="checkbox"/>
	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>

### Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

To ensure all TBC employees are treated fairly regardless of their protected characteristics in their entitlement to leave and payment relating to special guardianships and residency orders.

Who will be affected and how?

All employees who have responsibilities under special guardianships and residency orders. This policy provides guidance on the process and entitlements.

Are there any other functions, policies or services linked to this impact assessment?

Yes  No

If you answered 'Yes', please indicate what they are?

All employees  
Foster Carer Policy  
Right to Request Flexible Working  
Annual Leave & Other Leave policy

### Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation )
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of age

Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of disability
Gender Reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of gender reassignment
Marriage & Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of marital status
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of pregnancy and maternity
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of race
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of religion or belief
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sexual orientation
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sex
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of an employee being a carer
Those having an offending past	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any offence would be considered prior to any order being allowed.
Children	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Vulnerable Adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those who are homeless	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Mental Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Physical Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Other (Please Detail)	<input type="checkbox"/>	<input type="checkbox"/>	

#### Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

Impact Area	Details of the Impact	Action to reduce risk
<i>Eg: Families</i>	<i>Families no longer supported which may lead to a reduced</i>	<i>Signposting to other services. Look to external funding opportunities.</i>

	<i>standard of living &amp; subsequent health issues</i>	

**Part 5 - Action Plan and Review**

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

**If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why**

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome
	<b>Outcomes and Actions entered onto Covalent</b>			

Date of Review (If applicable) .....