

KINSHIP CARE POLICY, PROCEDURE AND GUIDANCE

1. Purpose

The purpose of this document is to provide policy and procedural guidance to staff in relation to the placement of children with their relatives and friends. This document should be read in conjunction with the following related departmental policies:

Family and friends care is endorsed in the White Paper, Care Matters: Time for Change (DfES, 2007). The key aim for Children's Services is to ensure that children are securely attached to carers capable of providing safe and effective care for the duration of their childhood.

The best permanency option for any child will be to live with their birth family; this may be with birth parent/s, or extended family. Sometimes family and friends may offer the best permanency option. These relationships may be legally secured through: Residence Orders and Special Guardianship Orders. Other possible forms of permanency arrangement are Adoption and Permanent Fostering.

2. Scope

It is difficult for any carer to repair a child's early, adverse experiences where these have featured poor attachment, violence, drugs or alcohol. A high level of care and understanding is required on the part of carers if the child is going to have the opportunity to become secure. Consequently sound assessments of carers and the support needs of children and carers are required.

Children's Services will seek to ensure that assessment processes will discriminate effectively between different types and level of need in relation to children who cannot live with their parents and that service/care plans are individually tailored to meet assessed needs.

Family and Friends care is one option set in the context of achieving emotional security for children and must be considered in all cases where it is evident that kinship care is in the best interests of the child.

Kinship care is used to describe all arrangements where the Local Authority is involved in providing a service to children and families in partnership with persons previously known to the child.

Where birth parents cannot look after their children, most families will find a solution from within their family network. They may need temporary or short-term help from children's services and this can be provided under s17 of the Children Act, 1989.

Some families will set up private fostering arrangements to solve their difficulties and these should be notified to the Local Authority under the private fostering regulations (see Private Fostering Policy and Procedures).

3. Legal Framework and Powers and Duties

3.1 Looked After children

Provision of accommodation under a full Care Order or Interim Care Order, the Local Authority will then share the parental responsibility of the child with their parents/caregivers (Section 31 of the Children Act, 1989).

A looked after child can only be placed with an approved foster carer but Regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010, allows a child to be placed with a Connected Person for up to 16 weeks or while the carer is being assessed as an approved foster carer.

The Local Authority has a number of duties towards children in its area as set out within the Children Act, 1989 and kinship care arrangements may be made under the following statutory powers and duties provide the legal basis for departmental involvement in a range of kinship care arrangements.

3.2 Children in Need

The Children Act placed a general duty on the Local Authority to safeguard and promote the welfare of children within their area who are in need and so far as is consistent with their welfare, to promote the upbringing of children by their families by providing a range and level of services appropriate to their needs. (Section 17(1) of the Children Act, 1989)

3.3 Accommodation of Children

Local Authorities shall provide accommodation for a child in need who appears to them to require it as a result of there being no person with parental responsibility for him/her, or because he/she is lost and abandoned, or because the person who has been caring for him/her is prevented from providing suitable accommodation or care. (Section 20 of the Children Act, 1989)

3.4 Restriction on duty to provide accommodation

A local authority may not provide accommodation under this section for any child if any person who –

- (a) Has parental responsibility for him/her and
- (b) Is willing and able to –
 - (i) Provide accommodation for him/her; or
 - (ii) Arrange for accommodation to be provided for him/her

(Section 20(7) Children Act, 1989)

3.5 Provision of Residence Order Allowances

Where a child lives, or is to live, with a person as the result of a Residence Order, a Local Authority may make contributions to that person toward the cost of the accommodation or

care of the child, except where the person is the parent of the child or the husband or wife of the parent of the child. (Children Act, 1989, Schedule 1 Para 15).

3.6 Special Guardianship Orders

Children subject to a Special Guardianship Order made under the provisions of the Adoption and Children Act, 2002 may also be placed with kin.

Special Guardianship Regulations, 2005 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review (March, 2010)

Financial support may be provided:

- (a) To facilitate arrangements for a person to become the special guardian of the child, where the Local Authority consider such arrangements to be beneficial to the child's welfare; or
- (b) To support the continuation of such arrangements after a Special Guardianship Order is made. (Special Guardianship Regulations, 2005, Section 2(6))

3.7 Private Fostering Regulations

It shall be the duty of every Local Authority to satisfy themselves that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted and to secure that such advice is given to those caring for them as appears to the Authority feels is needed. (Section 67(1), Children Act, 1989)

3.8 Immediate placement of a child with a relative or friend

A looked after child can only be placed with an approved foster carer, however, Regulation 38 of the Fostering Service Regulations, 2002 allows a child to be placed in a family and friends placement for up to 6 weeks or while the carer is being assessed as an approved foster carer.

Where a Local Authority are satisfied that the immediate placement of a child is necessary they may, for a period not exceeding six weeks, place the child with a person who has not been approved under Regulation 28, provided, after interviewing the person, inspecting the accommodation and obtaining information about other persons living in the household, that the person is a relative or a friend of the child under Regulation 38 if the Family Placement Regulations, 1989. (Regulation 38 of the Fostering Services Regulations, 2002)

4 Provision of accommodation and maintenance by the Local Authority for children whom they are looking after

It shall be the duty of any Local Authority looking after a child when -

- (a) He/she is in their care, to provide accommodation for him/her and
- (b) To maintain him/her in other respects apart from provided accommodation for him/her.

3.9 Duty to place with relatives and friends

Subject to any regulations made by the Secretary of State for the purposes of this subsection, any Local Authority looking after a child shall make arrangements to enable him/her to live with –

- (a) A person falling within subsection (4) or
- (b) A relative, friend or other person connected to him/her.

Unless that would not be reasonably practicable or consistent with his/her welfare.

(Section 23(6), Children Act, 1989)

This document should be read in conjunction with statutory guidance and legislation including but not limited to, the following –

Replacement Children Act, 1989 Guidance on Private Fostering, DfES 2005

Special Guardianship Guidance, DfES 2005

Adoption Guidance: Adoption and Children Act, 2002 DfES 2005

Fostering Service Regulations, 2002

National Minimum Standards

Children Act, 1989

Children Leaving Care Act, 2000

4 DEFINITION

The different types of placements that arise under this range of legislation can be usefully sub-divided into the two categories of private or public care. The broad distinction between the two groupings is as follows –

- Private Kinship Care arrangements are placements made by parents with or without Local Authority support and assistance
- Public Kinship Care arrangements are placements made in respect of looked after children

4.1 PRIVATE KINSHIP CARE ARRANGEMENTS

Children placed under this category are not looked after children. Types of placements within this category –

- Children placed with close relatives by parents at the parent's own initiative
- Young people aged 16+ who are living with a relative under their own volition
- Children and young people placed with friends by parents for a period less than 28 days
- Children placed by parents with friends or non-close relatives under Private Fostering Regulations

- Children living with relatives and friends subject to interim or full Residence Orders (but where these arrangements have been made as part of care proceedings then some considerations that apply to public kinship care arrangements are relevant here).

Clarity of accountability for children's placements requires that all parties have a clear understanding of the status of placements. Staff involved in facilitating the making of kinship placements will need to ensure that parents and others fully understand their key role in making these arrangements.

It is important to appreciate that private kinship placements can only be made by the parent(s) or others with parental responsibility. This remains the case even in those circumstances where there is a high level of departmental involvement in facilitating the placement.

It follows from the above that, in most respects, the primary responsibility for any private placement resides with the parent. This is absolutely the case in those circumstances where the child is placed at the parent's own initiative in circumstances where the department has no other statutory duty to support and monitor the placement. However, the situation is more complicated, in practice, if the department chooses to support the placement with a level of ongoing funding (or the placement falls within the remit of the private fostering regulations.)

In the process of making placements, it may be implied that the department is giving a degree of sanction to the placement and a higher level of departmental accountability can therefore be assumed. This suggests that the level of assessment and monitoring of such placements should be higher than in the circumstances where the Local Authority has no financial involvement.

Private kinship care placements of children with friends, non-close relatives or other persons known to the child that last longer than 28 days fall within the remit of the Private Fostering Regulations. The Local Authority has a duty to provide a defined level of monitoring and review of all placements under these regulations, irrespective of whether

any departmental funding is provided (see separate guidance for full details and requirements of Private Fostering Regulations).

In some exceptional circumstances, an authority may make payments under Section 17 of the Children Act, 1989, in respect placements. In these circumstances, accountability will continue to be shared but, if anything more than a one-off payment is made, it may be reasonably be implied that with the decision to fund the authority assumes a level of responsibility for the placement that is akin to the level of responsibility that it would have under Public arrangements. It follows from the above, that the arrangements for assessment, approval, monitoring and support of the placement should be brought into line with arrangements for approving, monitoring and supporting a local authority foster carer by bringing the child into the looked after system.

4.1

PUBLIC KINSHIP CARE ARRANGEMENTS

Children placed under this general category are looked after children. Children who are subject to interim or full Care Orders or accommodated under Section 20 of the Children Act, 1989 are looked after children can only be placed in this category. Any placements made in respect of looked after children are required to meet with regulatory requirements arising from the Children Act.

- Placements with relatives and friends under Regulation 38 of the Fostering Services Regulations, 2002
- Placements with relatives and friends who have been formally approved to care for a specific child under Regulation 28 of the Fostering Services Regulations, 2002
- Placements with parents under the Placement with Parents Regulations
- Children subject to care proceedings where they are not et subject to a full or interim care order but are living with or placed with relatives or kin may need to be considered under this category

Accountability for the placement of looked after children clearly resides with the department in its role as the placing authority.

Looked after children cannot be placed with carers on a private basis.

6. Principles

- There are unique advantages for children in experiencing normal family life in their own birth families and every effort should be made to preserve the child's home and family links.
- If young people cannot remain at home, placement with relatives or friends (kin) should be explored before other forms of placement are considered.
- If young people have to live apart from their family of origin, both they and their parents should be given adequate information and helped to consider alternatives and contribute to the making of an informed choice about the most appropriate form of care.
- Parents should be expected and enabled to retain their responsibilities and remain as closely involved as is consistent with their child's welfare, even if that child cannot live at home either temporarily or permanently.
- Admission to public care by virtue of a compulsory order is in itself a risk to be balanced against others. So also is the accommodation of a child by a local authority. If out of home placement is necessary, the least coercive legal status consistent with meeting the child's needs should be the first choice; likewise the least restrictive placement.
- Continuity of relationship is important. Attachments should be respected, sustained and developed.
- A change of home, caregiver, social worker or school almost always carries some risk to a child's development or welfare.
- A child's age, sex, health, personality, race, culture and life experiences are all relevant to any consideration of needs and vulnerability and have to be taken into account when planning or providing help.
- Corporate parenting is not good enough on its own. Every child and young person needs at least one individual to who he/she is 'special', who retains responsibility

over time, who is involved in plans and decisions and who has ambitions for the child's achievement and full development.

- Processes for assessing, approving and supporting kinship carers should be as rigorous as arrangements made for assessing and approving non-related carers.
- Local Authorities have a duty to support placements that they have made or are funding. The level of monitoring, support and funding provided to the range of kinship care arrangements should be based on an assessment of the child and carer's needs and clarity about the status of and accountability for the placement.
- Children's welfare is best promoted when the Authority is able to work in partnership with parents and other relevant agencies. All care plans should take account of the parents and children's views.
- Partnership with parents is best promoted through fair and open practice and takes account of individual differences, provides information to children and parents on their options and rights and treats all members of the community with respect as fellow citizens.
- In exercising this policy a balance should be achieved between the developmental duty to ensure that children are safeguarded and the requirement that authorities do not intrude unnecessarily in family life. (Human Rights Act, 1998, and Children Act, 1989)

7 Practice Considerations

Recent recommendations from research undertaken by DCSF and Oxford University (*DCSF Research in Brief Keeping them in the family; outcomes for abused and neglected children placed with family or friends carers through Care Proceedings.*

(*J.Hunt, S Waterhouse, E. Lutman, March, 1998*) outlined the following implications –

- Social Workers must actively 'map' the extent of significant relatives or friends to explore family and friends care at an early stage and use legislation to seek out relatives even where parents refuse;
- There must be clear recording on files referencing the efforts made to secure a family and friends placement and reasons for not pursuing this option;
- The significance of the age of the child at placement means that placements of children over 5 years should be regarded prima facie in need of more support;

- Use of the *Assessment Framework* and in particular the '*Strengths and Difficulties Questionnaire*' could assist Social Workers in identifying those children who are struggling;
- Where placements have terminated, reviews should be convened to assess the lessons to be learned from the breakdown;
- The assessment of family and friends carers is acknowledged as being different from assessing unrelated carers and will therefore will be undertaken by specialist workers;
- Decisions not to approve family and friends carers must be evidence based;
- Effective assessment of the parenting capacity of family and friends carers will lead to better identification of the support they require, their training needs and potential need for respite care;
- Family and friends carers will be financially supported in accordance with the fostering rates;
- Often contact with the birth family is difficult, contact issues must be considered at the assessment stage and facilitated through written agreements and signposting to additional sources of support independent of the Local Authority, where appropriate.

8. Funding of Kinship Care Placements

8.1 Kinship Care Placements made without Local Authority involvement

Parents can elect to place their children with relatives for as long as they choose or with friends for a limited period without the involvement of the Local Authority (after 28 days, Private Fostering Regulations apply).

Young people may similarly may elect to live with relatives, with or without parental consent once they have reached the age of 16.

The responsibility for funding these placements rests entirely with the parents and/or others with parental responsibility. Under these circumstances, unless there are other reasons, the Local Authority need not become involved or alternatively could choose to withdraw.

8.1 Kinship Care Placements made by parents supported by payments from Section 17 of the Children Act, 1989

If a child's needs can be met with a family member or friend the Local Authority may **in exceptional circumstances** and with the agreement of the parents, provide financial support to the placement under Section 17 of the Children Act, 1989 rather than accommodate the child under Section 20 of the Children Act, 1989 as long as this is consistent with the welfare of the child. Under these circumstances, financial support under Section 17 could range from a one-off payment to the provision of an agreed level of financial support for a limited period of time.

In the process of making a decision about the funding of placements under Section 17 the Local Authority will have regard to the following criteria –

- [One-off Payments under Section 17](#)

One-off payments made in respect of costs arising during the course of a child's private kinship placement will be in accordance with the criteria outlined in the department's policy on financial support under Section 17.

- [Provision of funding for child maintenance costs for a limited time period](#)

Payment for the child maintenance costs may be made, at the Local Authority's discretion under Section 17, for a time-limited period, in **exceptional circumstances**, where an assessment has concluded that a. Financial assistance is required to meet the child or young person's needs and to promote and safeguard his/her welfare and

b. The Local Authority would have to accommodate the child/young person under Section 20 of the Children Act, 1989 if no financial assistance was provided and there is clear evidence that the child's needs are likely to be met without the provision of accommodation under this Section and

c. A financial assessment indicates that no person(s) with parental authority is able to fund the placement and the placement cannot be funded by recourse of the national benefits system.

The level of any allowance payable will be based on Income Support for the child minus any relevant deductions.

8.2 Kinship Care placements where the child is subject to an interim or full Residence Order

Any payments made in relation to children subject to a Residence Order will be in accordance with local authority policy in relation to the payment of Residence Order allowances. For children subject to an interim Residence Order, no residence order allowance is payable in exceptional circumstances, Section 17 payments may be made.

8.3 Kinship Care Placements under Private Fostering Regulations

The responsibility for funding private fostering arrangements resides with the parent(s) or others with parental responsibility. In some very exceptional circumstances, an authority may make one-off payments under Section 17 in respect of children placed with kinship carers under the Private Fostering Regulations. Payment should only be made if the criteria for making Section 17 payments are met. Prior to agreeing any payment to a kinship carer working under these regulations, steps should be taken to ensure that the parents and others understand their key role in making these arrangements, that the arrangements meet the child's needs and consideration has been given to the question "Is the Authority sufficiently involved in arranging or financing the arrangement for the child more properly to be deemed a look after child within the meaning of the Children Act, 1989"?

8.4 Kinship Care placements in respect of looked after children

Kinship placements of looked after children will be funded in accordance with the National Foster Care Standards and with departmental policy for the payment of fostering allowances. All foster carers including kinship carers are paid a level of allowance in line with the allowance for foster carers.

A child is deemed to be looked after when they have been –

- Accommodated under Section 20 of the Children Act, 1989
- Made the subject of a Care Order or Interim Care Order (Sections 31 and 38 of the Children Act, 1989)
- Placed in Police Protection (Section 46 of the Children Act, 1989)
- Arrested and Detained (Police and Criminal Evidence Act, 1984)

- Remanded by the Court (Children and Young Persons Act, 1969) and then accommodated under Section 21 of the Children Act, 1989
- Held in Secure Accommodation (Section 25 of the Children Act, 1989)

In certain situations, it will not be possible to complete the full Regulation 27 (Assessment of prospective foster carers) fostering approval process of the kinship carers before the placement begins and in these cases, the procedure required for a Regulation 38 (emergency and immediate placements) placement will need to be followed in order to allow the child's immediate placement with the carer.

8.5 Regulation 38 Placement with Relatives and Friends

Regulation 38 allows the Local Authority to make an immediate placement with a family or friend carer who is not yet approved as a Local Authority Foster Carer whilst an assessment of the child's needs is undertaken and/or the kinship carer is being assessed as a foster carer.

It is important to remember that Regulation 28 placements last only for an initial period of up to 6 weeks beginning from the date the child is placed with the carer. Within a six week period the viability assessment (Part A and Part B) must be submitted to the Family Placement Panel, to gain recommendation for a full assessment to be completed within an additional 16 weeks. The Panel will ensure that the National Minimum Standards are adhered to subject to viability report recommendations.

If the Panel are unable to recommend the progression due to concerns regarding the Standards and/or Safeguarding Procedures, the child should either return home to his or her parents (if this is appropriate and in the child's best interests) or longer term placement options for the child's care must be implemented. If not, the allocated social worker must be able to demonstrate to the Panel the progress of the Care Plan and the reasons for the delay.

