



A Policy Briefing on Family and Friends Care in England:

raising children within the wider family as an alternative to care

Prepared by
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Endorsed by:

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Background

Family and friends carers are typically grandparents, aunts, uncles, or siblings, who step in to care for a child because of parental difficulties, mental or physical ill health, domestic abuse, alcohol or substance misuse, imprisonment or bereavement. Sometimes the child has suffered neglect or emotional, physical or sexual abuse. Although they look after very vulnerable children who may be on the brink of the care system, these carers often receive little or no financial or practical support. They and the children they care for have been the forgotten families of family policy. We want to change that.

The Kinship Care Alliance is an informal network of voluntary organisations, local authorities and academics working with or having an interest in family and friends care. The Kinship Care Alliance campaigns for greater **recognition, respect** and **reward** for family and friends ('kinship') carers. The Kinship Care Alliance has been meeting since 2006 and is serviced by the charity Family Rights Group.

- There are an estimated 200,000-300,000 children living with family and friends carers in the United Kingdom. Less than 12000 of them are *looked after* children, conferring a right to support
- Family and friends placements are more stable than unrelated care placements
- Children feel loved and report high levels of satisfaction
- 3 out of 4 family and friends carers experience severe financial hardship
- A third are lone carers and 1 in 3 live in overcrowded conditions
- 3 out of 10 have a chronic illness or disability
- Only 1 in 6 (15%) of local authority foster placements in England are with family and friends carers
- 8 out of 10 people agree that family and friends carers should receive financial support.

Our proposals would not only assist children who are currently living in family and friends care arrangements, but we know from our direct work that, with the right support framework, more children who are currently in the care system could be living securely within their family networks. The latter would not only be beneficial to the outcomes for these children, but if it led to even a reduction of 5% in the care population, could reduce expenditure on the care system in England by over £100 million per annum, which could be very effectively reinvested at local and national level to develop and improve support to children in family and friends care arrangements.

1. INTRODUCTION

1.1 The Kinship Care Alliance is a group of organisations working with family and friends carers which subscribe to a set of shared aims and beliefs about family and friends care. Since 2006, members have been meeting regularly to develop a joint policy agenda and agree strategies to promote shared aims which are:

- to prevent children from being unnecessarily raised outside their family,
- to enhance outcomes for children who cannot live with their parents and who are living with relatives and
- to secure improved recognition and support for family and friends carers.

The Kinship Care Alliance is serviced by the charity Family Rights Group.

1.2 Whilst we continue to have serious concerns about the lack of effective support for family and friends carers, there have been some welcome developments since the *Kinship Care Alliance's* formation:

- The new Court protocol for managing care proceedings, known as the Public Law Outline,¹ and recent guidance to local authorities² recommend that, except in an emergency, all family and friends care options should have been explored before care proceedings are started.
- The Children and Young Persons Act 2008 includes the following provisions:
 - i) a duty to ensure that *looked after*³ children, who cannot return home, are, wherever possible and consistent with their welfare, placed with relatives who are approved as local authority foster carers, and hence are paid accordingly (s.8);
 - ii) the extension of the right of relatives to apply for a residence or special guardianship order in respect of children they have been caring for, for over a year, without needing the court's permission to make the application (s.36&38); and
 - iii) extension of the power of local authorities to provide cash support to children in need (s.24), thus making it easier for local authorities to provide limited financial support to family and friends carers when the children they are raising are assessed as being in need.
- The Department for Education's *Family and Friends Care: Statutory Guidance for Local Authorities* (2011), which:
 - i. requires every local authority to publish and publicise a policy on its approach to promoting and supporting the needs of children living with family and friends carers, whether or not they are looked after children;

¹ Judiciary of England & Wales/Ministry of Justice (2010) *The Public Law Outline: Guide to Case Management in Public Law Proceedings* www.justice.gov.uk/guidance/careproceedings.htm

² DCSF (2008) *Children Act 1989 Regulations and Guidance, Volume 1 Court Orders* www.justice.gov.uk/guidance/careproceedings.htm

³ A child is looked after when s/he is in care under a care or emergency protection order or when s/he is accommodated by agreement with the parents or others with parental responsibility (s.22 (1) Children Act 1989 (CA)).

- ii. provides guidance on the issues to be covered by the policy;
 - iii. provides detailed guidance on the needs of family and friends carers and the children they care for, and the role of local authorities in meeting those needs.
- The Department for Education's *Fostering Services: National Minimum Standards* (2011) which includes a specific standard (30) on family and friends care.
- The Care Planning, Placement and Case Review Regulations 2010, which:
 - i. enable a local authority in an emergency to place a looked after child with a family and friends carers for a temporary period of 16 weeks while the carer is assessed as a foster carer, provided basic checks have been done; and
 - ii. impose a duty on the local authority to support a looked after child returning to live with their parent or other person with parental responsibility.
- Benefit rules were amended in 2010 to provide that residence order and special guardianship order allowances are disregarded for the purposes of means testing for housing benefit and council tax benefit.⁴

1.4 Although these recent developments have strengthened support for family and friends carers and the vulnerable children they are raising, there remain important areas where support is lacking. This paper sets out the current context for family and friends carers, the latest guidance for local authorities, and recommendations for further action.

2. WHEN AND HOW DOES FAMILY AND FRIENDS CARE ARISE?

2.1 There are no official statistics of the total number of children living with relatives and friends but the estimated figure is between 200,000-300,000⁵ children. Analysis of the last census has found that there were 173,000 children being raised by a relative in 2001 in the UK, up from 69,000 in 1991⁶ (although this figure was for Great Britain rather than the UK). This represents approximately 1 in every 77 children. The same analysis showed that older children (especially 15-17 year olds) were over-represented among the kinship care population and children from some Black and Minority Ethnic communities were more likely than White children to be living with relatives – for example, 1 in 11 of Black African boys aged 15-17 were in kinship care.

2.2 Family members often start to care for a child because there is a crisis in the parental home. For example, there may have been incidents of violence, alcohol or drug misuse, mental or physical illness, disability, a death, separation, divorce, domestic abuse, imprisonment, or any combination of these. The children concerned are likely to have experienced trauma and possibly inadequate or inappropriate parenting as a result of being exposed to any of these circumstances.

⁴ The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2010

⁵ Richards A and Tapsfield R (2003) *Funding Family and Friends Care: The Way Forward* (Family Rights Group)

⁶ Nandy, Selwyn, Farmer and Vaisey (2011) *Spotlight on Kinship Care: Using census microdata to examine the extent and nature of kinship care in the UK at the turn of the Twentieth century* (University of Bristol)

2.3 Some relatives and friends who step in to care for the child in an emergency may be dealing with a situation that starts as a short term arrangement but becomes open ended with no clear indication as to how long it will continue. In many cases it becomes clear later that the children are with them indefinitely and many of them are left struggling to cope financially, emotionally and socially⁷.

Case study: Nadine and her siblings

Nadine is 24 years old, the oldest of four children. When her mother died she moved into her mother's housing association flat and took over her tenancy, in order to care for her younger sister (age 15) and brother (age 10). The children's father is in and out of prison and does not have parental responsibility for the children.

Although originally assured that the local authority would help, her requests for support have been rejected other than a grant of £40 for Christmas. Nadine is struggling financially to look after the children, using her very limited income to provide for her two siblings as well as herself. The social worker advised her to give up work, so that she could claim welfare benefits for her two siblings.

3. WHAT DO WE KNOW ABOUT OUTCOMES FOR CHILDREN IN FAMILY AND FRIENDS CARE?

3.1 Despite the lack of adequate support for such placements, there are well evidenced advantages⁸ for children who cannot live with their parents to being raised by family and friends, compared with unrelated foster carers:

- Children in family and friends care tend to be in more stable placements.
- Children feel loved and report high levels of satisfaction.
- Children overwhelmingly feel safe and secure when they are living with relatives, seeing these carers as people they can trust and rely on.
- Children placed within their family can more easily maintain a sense of family and cultural identity.
- Children have a sense of ordinariness about being raised by relatives or friends, and have normal expectations about the future.
- Contact with family members, including fathers, siblings and extended family, is more

⁷ Farmer E and Moyers S (2008) *Kinship Care: Fostering Effective Family and Friends Placements* (Jessica Kingsley)

⁸ Roskill C (2007) *Wider Family Matters* (Family Rights Group); Doolan et al (2004) *Growing up in the Care of Relatives and Friends* (Family Rights Group); Hunt J (2003) *Family and Friends Care*; Scoping Paper for Dept of Health; Broad, B (ed) (2001) *Kinship Care: the placement of choice for children and young people* (Russell House); Farmer, E. and Moyers, S. (2008) *Kinship Care: Fostering Effective Family and Friends Placements* (Jessica Kingsley); Hunt et al (2008) *Keeping them in the family: Outcomes for children placed in kinship care through car proceedings* (BAAF); Nixon, P. (2008) *Relatively speaking: developments in research and practice in kinship care* (Research in Practice); Ince, L. (2009) *Kinship Care: An Afro-Centric Perspective* (PhD University of Birmingham); Aldgate, J. (2009) *Living in kinship care: a child centred view* (Adoption & Fostering, 33, 51-63)

likely to be maintained.

- The children are well protected and their behaviour is perceived to be less of a problem.

3.2 These positive outcomes for children in family and friends care are achieved despite the adverse circumstances in which many such carers find themselves, and the lack of state support provided. It therefore seems reasonable to conclude that **these outcomes could be far better, and more children could be safely placed with family and friends, if there was proper investment in meeting these children and their carers' needs.**

4. WHAT ARE THE SUPPORT NEEDS OF FAMILY AND FRIENDS CARERS?

4.1 Analysis of the 2001 census⁹ found that the biggest group of kinship carers are grandparents, typically in their late 50s or early 60s, but a quarter are 65 or older. A third of the grandparents have a limiting long term illness or disability and most have no educational qualifications and are poor. Many are grandmothers who are widows or otherwise single.

4.2 The census analysis found that over a third of kinship carers in England and almost half in Northern Ireland are siblings, and they are typically sisters in their 30s, single and poor. A study of sibling carers¹⁰ found that they experienced financial difficulties and overcrowding, while facing the challenges of radically revising their life plans for work and study, adapting to a new role as a parental authority figure, and coping with their own emotions about the loss or incapacity of their parent that had made the arrangement necessary. Trying to get local authority support had usually been a protracted and frustrating process.

4.3 These findings are reflected in a comparison of related and unrelated foster carers. Family and friends foster carers are more likely to be older, in poorer health and in more disadvantaged circumstances when compared to unrelated foster carers, yet receive significantly less support. Farmer and Moyers (2008)¹¹ found that:

*“family and friend carers were significantly more disadvantaged than unrelated foster carers. Significantly, more were lone carers (27% v 14%) and they lived, at least initially, in overcrowded conditions (35% v 4%). In addition, many more kin carers had a disability or chronic illness (31% v 17%) and experienced financial hardship (75% v 13%)....The most pressing (need) was for **counselling and specialist help for children with severe and persistent behavioural and emotional difficulties.** They also required adequate financial payments to cover the costs of caring for the children. Some carers were in situations of severe financial hardship.”*

“they made sacrifices and incurred losses to take the children. Several relatives gave up their jobs to look after the children and this reduced their income and contact with colleagues who had become friends. This would also have an effect on their

⁹ Nandy S and Selwyn J (2011) *ibid*

¹⁰ Family Rights Group (2011) *Big Bruv, Little Sis*

¹¹ Farmer E and Moyers S (2008) *ibid*

pension entitlement later on. Many kin carers spoke to us about giving up their freedom. Grandparents had often just begun their retirement and had been enjoying going out with their friends and taking holidays. Taking on the children often meant foregoing holidays and postponing retirement indefinitely, so that the leisurely life they might have planned for their old age was never likely to be realised”.

“Another big loss was the ability to go out in the evenings ... This was even more of an issue for single carers who could not rely on partners to give them the occasional night off and could feel very lonely.”

“It is clear that kin carers would carry on well beyond the point at which many foster carers would end the placement, and this combination of extremely difficult behaviour and, in many cases, their own disabilities and ill health was a recipe for strain”.

They conclude *“carers’ commitment and willingness to continue against the odds benefits the children they are looking after, but the good outcomes for these children are sometimes achieved at the expense of the kin carers themselves.”*

4.4 Despite the benefits to children of maintaining contact with their parents¹², siblings and other significant people in their lives, **managing contact arrangements** can cause significant difficulties for family and friends carers (for example there may be tensions between the adults, or the children may experience confused emotions and display challenging behaviour, all of which needs to be worked through), yet they often receive little or no help in managing such arrangements¹³.

4.5 In some cases however, the inadequacy of support for children living in such arrangements not only has a detrimental effect on the carer but also on the child’s well-being and development, and can even cause the placement to break down and the children to end up in the care system.

New Statutory Guidance for Local Authorities on Family & Friends Care

- ✓ Local authorities should work with partner agencies and the voluntary sector to find ways to encourage peer support and access to support groups for family and friends carers, whatever their legal status.
- ✓ Local authorities can provide both formal and informal family and friends carers with support about how to manage issues such as those arising from contact or from caring for children with emotional or behavioural difficulties due to their earlier experiences.
- ✓ Local authorities should advise carers how to access targeted and specialist services which might be needed, such as the local Child and Adolescent Mental Health Services (CAMHS), which could offer therapeutic support.

¹² It has long been established that by far the majority of children who are looked after return home to their families whether during their minorities or after they leave care at 18 (Bullock et al, 1998) and that contact is the key to early discharge from care (Rowe et al, 1984). There is also evidence that, contact is important for children’s well-being even where they will never return to the parental home

¹³ Farmer and Moyers (2008) *ibid*

Case study: Polly and Bill and their granddaughter

Polly and Bill agreed to care for their granddaughter Sally who was unable to live with her parents due to child protection concerns from birth. Polly has had to take unpaid leave from her job to care for Sally; Bill doesn't work and receives incapacity benefit. Taking on the care of Sally has left them financially very stretched and they reluctantly approached the local authority for support. This was rejected by the local authority which asserted it was a private arrangement, even though the placement was organised by the social worker who had assured them finances would be "sorted out" after the child's birth, and formed part of the child protection plan.

5. WHAT IS THE LEGAL STATUS OF CHILDREN IN FAMILY AND FRIENDS CARE AND WHAT ARE THE IMPLICATIONS FOR THE CHILD AND CARER'S ENTITLEMENT TO SUPPORT?

5.1 There are a range of possible legal options for a child living with a family and friends carer:

- a private arrangement with no legal order,
- a residence or special guardianship court order or
- the child is *looked after* by the local authority.

95% of children who live with a family or friends carer are in the first two categories.

5.2 The child is living with the carer under a private arrangement

5.2.1 This is a private arrangement between the parents and the carer and in law the carer cannot make any significant unilateral decisions about the child¹⁴. In theory, the parent can remove the child at any time.

5.2.2 Access to support:

- The local authority has no duty to support the child, but has the power to provide support services if the child is assessed as being a child *in need*.
- The carer can apply for child benefit and child tax credit for the child and other means tested benefits.
- If at least one of the child's parents has died, the carer may additionally be able to claim Guardian's Allowance (£14.75 a week per child), but only in narrowly defined circumstances.

5.2.3 Some private arrangements arise because relatives take precipitate action to prevent children unnecessarily entering the care system. If, for example, a local authority suspects a child is at risk of harm, sometimes arrangements will be made between the parents and relatives with the strong encouragement of the local authority that the child goes to live with relatives. Such children are clearly very vulnerable, but because the relative has stepped in, the child does not become looked after i.e. part of the care system. Because family and friends carers with private arrangements do not receive adequate support, this can create a perverse incentive for a child to enter the care system, contrary to the spirit of the Children Act 1989.

¹⁴ They do not have parental responsibility (as defined in s.3 Children Act 1989) for the child hence they do not have the right to make key decisions about his/her upbringing.

New Statutory Guidance for Local Authorities on Family and Friends Care

“No child or young person should have to become a looked after child, whether by agreement with those holding parental responsibility or by virtue of a court order, for the sole purpose of enabling financial, practical or other support to be provided to the child’s carer.” (Paragraph 2.19)

- ✓ Informal family and friends carers may need advice, guidance and counselling about how to manage issues such as those arising from contact or from caring for children with emotional or behavioural difficulties
- ✓ Support can include financial assistance or assistance in kind (s.17(6) Children Act 1989)
- ✓ Financial support under s.17(6) can now be ongoing
- ✓ The local authority should have clear eligibility criteria for access to s.17 support

5.3. The carer has obtained a residence order for the child from court.

5.3.1 This gives the carer parental responsibility¹⁵ for the child, which means they can make most decisions about the child. The residence order may have been granted despite the parents contesting the order, in which case the carer may have incurred significant legal costs (see section 6.5). If the child is living with the carer because of concerns about the parents’ ability to care for the child, then the local authority may strongly encourage the carer to apply for the order.

5.3.2 Access to support

- The local authority has a discretionary power (but is not required) to pay a residence order allowance¹⁶. The criteria used and rates paid vary significantly across the country and even within authorities.
- The local authority has no duty to support the child, but has the power to provide support services if the child is assessed as being a child *in need*.
- The carer can apply for child benefit and child tax credit for the child and other means tested benefits.

5.4. The carer has obtained a special guardianship order for the child from court.

5.4.1 This order applies until the child is 18 and a parent cannot apply to revoke it before then unless the court gives them permission which is dependent on them proving a significant change in circumstances since the order was made. It gives the carer ‘exclusive’ parental responsibility. However parents also retain their parental responsibility as well and, although they cannot exercise it in relation to most aspects of their child’s care there

¹⁵ As defined in s.3 CA 1989

¹⁶ schedule 1, para 15 CA

are some decisions about which the special guardian must still consult parents e.g. change of name or placement for adoption. The local authority may encourage the carer to apply for a special guardianship order if they have child protection concerns about the child living with his/her parents or the child is currently in care.

5.4.2 Access to support

- The local authority has a discretionary power, but is not required, to pay a special guardianship allowance¹⁷, subject to means testing.
- The local authority has no duty to support the child, but has the power to provide support services if the child is assessed as being a child *in need*.
- If the child was looked after before the order was made, the local authority has a duty to make an assessment of need for support services.

The carer can apply for child benefit and child tax credit for the child and other means tested benefits.

New Statutory Guidance for Local Authorities on Family& Friends care

- ✓ Family and friends carers with a residence order or special guardianship order may need advice, guidance and counselling about how to manage issues such as those arising from contact or from caring for children with emotional or behavioural difficulties
- ✓ Support can include financial assistance or assistance in kind (s.17(6) Children Act 1989)
- ✓ Financial support under s.17(6) can now be ongoing
- ✓ The local authority should have clear eligibility criteria for access to s.17 support including financial support to children living in family and friends care
- ✓ It is not intended that children who were not looked after before a special guardianship order was made should be disadvantaged by that fact
- ✓ In calculating any ongoing financial support for a child subject to a special guardianship order, a local authority should have regard to the fostering allowance that would have been paid if the child had been fostered

5.5. The child is looked after by the local authority

5.5 1 When a local authority has concerns about a child's safety and well-being, and they decide it is unsafe for the child to remain at home, then, unless they can place the child with the other parent, they should prioritise placing the child with a relative or friend who is approved as a local authority foster carer¹⁸ before unrelated foster carers, where this is consistent with the child's welfare¹⁹. The local authority must have the necessary authority, derived from either:

- the parents agreeing to the plan (in which case the child is *accommodated* under s.20 Children Act 1989) or
- where such agreement is not forthcoming, they have been granted a care order by a court (in which case the child is *in care*).

¹⁷ schedule 1, para 15 CA

¹⁸ Whether temporarily under Regulation 24¹⁸ or as a long term foster carer in accordance with Fostering Services Regulations 2011

¹⁹ S.22C Children Act 1989

5.5.2 In either of these circumstances, the child is *looked after* and the local authority must assess and approve the relative or friend as a foster carer in order to place the child with them. If the relative, friend or other connected person is not yet a foster carer, the local authority can still place the child with them temporarily after a basic assessment, but must carry out a full assessment to approve the person as a local authority foster carer within 16 weeks (24 weeks in exceptional circumstances).²⁰

5.5.3 Only 1 in 6 (15%)²¹ of local authority foster placements in England are with family and friends carers.

5.5.4 The Public Law Outline²² requires authorities to demonstrate that they have considered family and friends carers before care proceedings are started and the court is also charged with identifying potential family and friends carers at the First Appointment (i.e. at the beginning of the case).

5.5.5 Family Group Conferences are an effective way of identifying and enabling family members to come forward as potential carers. A family group conference is a family-led decision making meetings involving all those who are significant in the child's life. These can occur before, during or after proceedings to help identify family carers where a child cannot remain at home.

Statutory Guidance for Local Authorities

- ✓ A Family Group Conference should be considered as a valuable tool to engage families in planning as soon as it is thought possible that a child may need to become looked after.
- ✓ Every local authority should have in place arrangements to offer families a Family Group Conference especially at an early stage.

5.5.6 Access to support

- Foster carers are entitled to receive a fostering allowance and other support²³.
- Family and friends carers who are approved as local authority foster carers are entitled to receive the same fostering allowance as unrelated carers.²⁴
- The child will have their own social worker and should have regular reviews and receive support to meet their identified needs.

²⁰ Care Planning, Placements and Review Regulations 2010, reg 24 & Schedule 4

²¹ DfE Children looked after in England, year ending March 2011

²² Judiciary of England & Wales/Ministry of Justice (April 2010) *The Public Law Outline: Guide to Case Management in Public Law Proceedings*

²³ as required by s.23 (2) CA 1989 and the Fostering Services Regulations 2002, Regulations 17, Department of Health 2002.

²⁴ The Queen on the application of L and others v Manchester City Council; the Queen on the application of R and another v Manchester City Council [2001] Family Law Reports 43. In this case Munby J held that family and friends carers should be paid the same rate of fostering allowance by the local authority as unrelated foster carers. This is now reinforced by the *Fostering Services: National Minimum Standards* (Department for Education, 2011)

New Statutory Guidance for Local Authorities on Family & Friends Care

- ✓ Whether a child is accommodated under s.20 or needs support under s.17, “*where the local authority has instigated the arrangement for a child to live with a friend or relative, the local authority should provide an appropriate range and level of support for those arrangements.*” (Paragraph 3.16)
- ✓ Family and friends foster carers may need advice, guidance and counselling about how to manage issues such as those arising from contact or from caring for children with emotional or behavioural difficulties.
- ✓ If a child becomes looked after in an emergency, a Family Group Conference should be considered to identify family members who may be able to come forward as foster carers or provide a safe route out of care.

6. Ongoing problems for family and friends carers

Financial discrimination against family and friends carers who are approved as local authority foster carers

6.1 Family and friends foster carers face financial discrimination in some local authorities: a survey in 2007-8 found that 25 authorities admitted to paying their family and friends foster carers at a lower rate than their other foster carers²⁵. Standard 30(10) of the *Fostering Services: National Minimum Standards* (2011) clarifies that they are entitled to equal financial and other support.

Local authority claims they are not foster carers

6.2 There is widespread poor practice on the issue of whether a child is looked after.²⁶ Many local authorities argue that the child they have placed with a relative is not looked after, but rather that the arrangement was a private one made between the parent and the carer concerned, which they merely facilitated. Hence they assert they are not under any duty to support and monitor the placement.²⁷ However, the Court of Appeal has confirmed that where a local authority has been involved in arranging a placement, the child must be treated as being looked after by the local authority unless there was an *explicit* agreement to the contrary between the social worker and the carer at the time the placement was made.²⁸

New Statutory Guidance for Local Authorities on Family & Friends Care

- ✓ A child who is looked after and placed with a relative, friend or other connected person in accordance with s22(c) Children Act 1989 continues to be looked after.

Inconsistent assessment of family and friends as local authority foster carers

²⁵ The Fostering Network Survey of allowances and fee payment schemes 2007-08: recommended minimum allowances.

²⁶ FRG's advice service regularly receives calls from family members in such circumstances where the local authority has refused to accept responsibility to support the placement

²⁷ See for example R (on the application of A) Coventry City Council [2009] EWHC 34 (Admin); R (Collins) –v- Knowsley MBC EWHC 2551 (Admin QBD) Family Law Dec 2008 p1270.

²⁸ *Southwark LBC –v- D* [2007] 1 FLR 2181, and hence the carer should be assessed as a local authority foster carer and should receive a fostering allowance and support to care for the child according to s.23 (2) CA.

6.3 Currently assessment depends on legal status rather than need, thus risking inconsistent and inappropriate assessments. Some family and friends carers are subject to full fostering assessments that are essentially geared to unrelated foster carers who have had no previous relationship with the child, which means that many of the strengths and support needs of family and friends carers can be overlooked. Other family and friends carers may not be assessed at all, despite the child's and carer's vulnerabilities.

6.4 Standard 30 of the *Fostering Services: National Minimum Standards* clarifies that when a foster carer is being assessed for approval for a specific child or children only, there is no need to consider their suitability to care for other children.

6.5 Family Rights Group has successfully piloted a specially designed strengths-based, participative model of assessment for family and friends carers. The assessment form is designed to encourage carers and social workers to work collaboratively together on the assessment and report. BAAF have also devised an assessment format known as Form C (Connected Person – Family and Friends Report) England. Both of these formats will provide the legally required information for temporary fostering approval, full fostering approval and special guardianship, but can be used for other types of assessment such as a viability study or a residence order assessment. The Fostering Network [Skills to Foster Assessment: Family and Friends Foster Care](#) links closely with the Training, Support and Development Standards for Family and Friends Foster Carers, enabling up to 70 per cent of the Standards to be met through collecting evidence for the assessment.

Managing Contact

6.6 Farmer & Moyers (2008)²⁹ found that although family and friends carers were more likely than foster carers to have a difficult relationship with the child's parents, they were also far more likely to be expected to supervise the child's contact with their parents, and it was far less likely that social workers would supervise the contact. This could make contact a difficult and distressing experience for children, but the carers were mostly left to manage these difficulties alone, without social work support.

Access to therapeutic support and support groups

6.7.1 Two recent studies³⁰ showed that family and friends carers were rarely offered the option of attending support groups specifically for them, although where it was suggested carers felt such a support group would be a useful way to address isolation and get information and support. Despite government guidance that "*local authorities should work with partner agencies and the voluntary sector to find ways to encourage peer support and access to support groups*",³¹ the Kinship Care Alliance is only aware of a small minority of local authorities which are actively promoting support groups.

6.7.2 Interim findings from a current study of family and friends care³² found that 71% of the children older than three were functioning abnormally when they were placed with their carer, with a further 9% being borderline. Three quarters of the carers in this study

²⁹ Farmer & Moyers (2008) *ibid*

³⁰ Farmer & Moyers (2008) *ibid*; Hunt et al (2008) *ibid*

³¹ Family and Friends Care: Statutory Guidance for Local Authorities (2011)

³² Oxford University/Family Rights Group: Family and friends care research project

who were raising teenagers felt that the child needed help, but this help was rarely provided. Farmer and Moyers (2008) also found that children with serious emotional and behavioural difficulties often received no direct work.³³

New Statutory Guidance for Local Authorities on Family & Friends Care

- ✓ When a foster carer is being assessed for approval for a specific child or children only, there is no need to consider their suitability to care for other children.
- ✓ A different approach may be needed to assessing family and friends foster carers compared to other foster carer applications, focusing on how the carers will meet the specific needs of the particular child concerned.
- ✓ Assessment should take account of the experience and strengths that the carers bring, and the support that they will need, and should balance the strengths of the carers arising from their position within the family network against any aspects which may make them less suitable.
- ✓ Assessment should also take account of the needs, wishes and feelings of the child, the likely length of the placement, the age of the child and if appropriate (as may be the case where the carers are older) the capacity of the wider family to contribute to the child's long term care.
- ✓ Family and friends carers may need advice, guidance and counselling about how to manage issues such as those arising from contact or from caring for children with emotional or behavioural difficulties.
- ✓ As well as ensuring information about local services is provided and easily accessible, carers will need to know how to access targeted and specialist services which may be required, such as special educational needs and CMHS

7. THE ADDITIONAL COSTS FOR FAMILY AND FRIENDS CARERS OF TAKING ON A CHILD

7.1 Parents are legally liable to support their children³⁴; relatives and friends are not³⁵. The legal responsibility to support children when their parents cannot therefore lies with the State, but in reality the additional financial as well as emotional costs regularly fall upon carers. These family and friends carers often already have existing responsibilities, for example caring for older relatives, and/or their own children.

7.2 There is no academic or government study which has analysed in depth the costs to family and friends carers of bringing up a child who cannot live with their parents. However, analysis by The Fostering Network found that the cost of caring for a foster child is fifty percent higher than the cost of caring for a birth child³⁶. These extra costs are rooted partly in the emotional distress that the children have often experienced, and which can be expressed in challenging and destructive behaviour, bedwetting and difficult eating habits. In addition, there are significant costs associated with maintaining contact with birth families and engaging with the social workers and health and

³³ Farmer & Moyers (2008) *ibid*

³⁴ s.1 Child Support Act 1991

³⁵ The only way in which they might become liable is if they adopted the child in which case they become the legal parents.

³⁶ The Fostering Network (2004) *Allowances for Foster Carers* (The Fostering Network); Oldfield N (1997) *The Adequacy of Foster Care Allowances* (Ashgate)

education staff who are involved with the child. This is why foster carers receive specific allowances from local authorities, paid at substantially higher rates than state benefits and tax credits.

7.3 Based upon our collective work with family and friends carers who are not foster carers, there are four key financial issues:

- The immediate costs of a child coming to live with the carer, often in an unplanned situation;
- The costs of applying for a legal order to provide the child with security and permanence;
- Lost income as a result of the carer reducing their working hours, foregoing career opportunities, losing pension rights or even giving up paid work;
- The actual ongoing costs of raising a child.

7.4 The immediate costs of a child coming to live with the carer, often in an unplanned situation

7.4.1 Many placements with family and friends carers occur in an emergency or initially as a temporary arrangement. Family Rights Group is aware from its advice line, its electronic family and friends care discussion board and its 2010 internet survey of over 200 family and friends carers³⁷ of many cases where children have arrived at the door of carers with nothing: no nappies, bottles, suitable clothing, toys or bedding. Carers rarely receive local authority section 17 payments to cover these initial costs. In the 2010 internet survey, a third of the carers had spent between £500-£1000 and over a further third had spent over £1000 when the children arrived. The items most commonly bought were clothes and shoes, beds and bedding, other furniture, school uniform and toys.

7.5 Costs of applying for a legal order, which may be contested

7.5.1 Some family and friends carers incur large legal costs when applying for a residence or special guardianship order to secure the care of children at risk of harm. The 2010 internet survey³⁸ by Family Rights Group found that carers' expenditure on legal costs ranged from less than £200 (where the respondents had kept costs low by representing themselves in court) to £38,000 for complex cases.

7.5.2 The majority of those who incurred substantial costs received no financial assistance. For example, in one case a grandmother and grandfather had incurred £24,000 of solicitors' and barristers' fees in the process of obtaining a Residence Order for their ten year old grandchild, during a protracted court case that involved drug tests on the mother and psychiatric reports. They did not receive any help with these costs.

³⁷ Family Rights Group (Jan 2010) The harsh reality – the financial situation of family and friends carers www.frg.org.uk

³⁸ Family Rights Group (Jan 2010) The harsh reality – the financial situation of family and friends carers www.frg.org.uk

7.5.3 Many family and friends carers don't qualify for legal aid because they have a small amount of savings put away for their retirement or have substantial equity in their home or earn a modest salary, any of which may take them outside the financial eligibility criteria.

7.5.4 Although local authorities have the power to provide assistance with legal costs where they encourage a family and friends carer to apply for a residence order or special guardianship order to safeguard the child without the child having to be taken into care, in many cases local authorities fail to provide this assistance.

7.6 Lost income as a result of reducing hours, foregoing career opportunities, losing pension rights or giving up paid work

7.6.1 In taking on the care of a young relative, some family and friends carers are forced to reduce their hours, or give up work completely. In the 2010 internet survey:

- A third of respondents had left or lost their job or taken early retirement
- A quarter of respondents had reduced their working hours or taken a lower graded job to cope with looking after the child/ren.

7.6.2 Unlike new birth parents or adoptive parents, family and friends carers are not entitled to statutory paid leave from employment when a child arrives. In some cases carers have lost their job because of the number of meetings that they are required to attend with statutory services about the child, particularly if the child has significant behavioural problems and is at risk or has been expelled from school. In some cases the social worker has made clear that the carer is expected to give up their job to look after a child, because of the child's needs and difficulties.

7.6.3 Giving up or reducing work commitments can have a dramatic immediate and long term impact on the carer's financial situation. Reducing hours means lost income, loss of working tax credit if hours drop below 16 a week, and loss of promotion prospects. Giving up work can mean loss of pension rights as well as income, and for some people this means having to draw state benefits for the first time. For older carers leaving their job may mean they will never be able to get back into the labour market.

"Like most we have had a dramatic change of life style. All 'retirement' plans gone. I had to give up work and if I try and return later I will have lost all seniority therefore will be on minimum wage"

– grandparent carer, Family Rights Group Discussion Board

7.7 The on-going costs of raising a child, who may have additional vulnerabilities

7.7.1 Family and friends carers often experience enormous financial strain. For many, the cost of providing for the children's day to day needs means giving up their own hopes of a comfortable and secure middle age and retirement. Some have to abandon plans to downsize their homes to fund their planned retirement, or have to spend their savings

moving to a bigger home or extending their home to accommodate the children. For those older family and friends carers who have retired, there is real anxiety as they see their hard-earned savings dwindle away, knowing that there is no prospect of getting back to work to achieve financial security for themselves and the children. They often try to protect the children from the worst effects of financial impact, choosing to go without things themselves so that they could spend more on the children. In this context, financial help from local authorities or from state benefits can make a great difference to their ability to cope financially.

“I had to leave a well-paid job, I struggle every day with bills, I go hungry to feed my grandson... we don't have holidays, I have to go without any social life to afford to keep him.” - Grandparent carer

“I lost my job as a direct result of having time off to attend court, care for the baby and attend his hospital appointments etc. My husband took redundancy and we had to sell our home and most of the furniture in order to pay the legal costs and fund a move of over 350 miles away to ensure the safety of our grandson... We went from a joint income of £76000 a year, a gorgeous home which we had worked hard for over 20 years to build - to having no home of our own, few possessions and living on an initial income of £9000.” – Grandparent carer

8. Inequities and complexities of the benefits system

8.1 As described above, what assistance, if any, carers are entitled to depends predominantly on the legal status of the child. But the situation is extremely complex, with officials and benefit administrators from local and central government agencies often struggling to interpret current rules. The Grandparents' Association benefits helpline has found that many family and friends carers underclaim benefits up to around £5,000 each per annum because of not knowing what they are entitled to.

8.2 As well as the complexity of the current system, there are inequities within the benefits system which disadvantage family and friends carers, namely:

8.2.1 Changes to **income support rules** mean that family and friends carers who are permanently raising children aged 5 or over outside the looked after system no longer qualify for income support but will be switched to Jobseeker's Allowance and must comply with specific job-seeking requirements. The responsibilities of taking on a child who isn't your own are recognised by the exemption from this rule given to foster carers, and to family and friends carers who are *temporarily* caring for a child under 16. It is proposed that this provision will continue under Universal Credit, although we are lobbying for this provision to be switched off for one year after the family and friends carer starts to look after the child.

8.2.2 **Guardian's Allowance** - whilst the weekly amount paid out as a Guardian's Allowance is small, nevertheless it is an important source of additional income to impoverished carers of children whose parents have died or where one parent has died and the other parent has

been sentenced to a custodial sentence with a minimum of 2 years left to serve or is in a hospital by court order.

8.2.3.1 However, a family and friends carer cannot receive Guardian's Allowance if the parent in custody has less than two years left of their sentence or is on remand. The needs of the child are no less whatever the terms of their parent's imprisonment. In one case, maternal grandparents were raising children whose mother was murdered by their father, but they did not qualify for Guardian's Allowance because the father was on remand in custody before sentencing.

8.2.4 The proposed **benefits 'cap'** of approximately £500 a week, and the **changes to housing benefit**, including the national overall cap of the Local Housing Allowance and the local cap at the rate for a four bedroom property, will have an unintentional detrimental impact on family and friends carers whose family size suddenly increases when they take on the care of someone else's children. Many family and friends carers already have dependent children or dependent elders in their household. Although most take in one or two children, some take in and look after large sibling groups. The combined household may overnight reach a size where it is affected by the total benefits 'cap' or the housing benefit changes, potentially pushing the family into poverty or forcing them to move from the area.

8.2.5 The **Education Maintenance Allowance** for 16-19 year olds in full time education has been abolished and replaced by a bursary fund administered by schools and colleges. Young people in care or who are care leavers have a guaranteed bursary, but equally vulnerable young people in informal friends and family care have to rely on the discretionary fund.

New Statutory Guidance for local authorities on Family & Friends Care

- ✓ Family and friends carers may need financial assistance for one-off expenditure, or on a more regular basis.
- ✓ The local family and friends care policy must identify how family and friends carers are made aware of the eligibility criteria for financial assistance in respect of children in need, when means testing applies, how to apply for any such financial help, and how and when decisions are made about eligibility.
- ✓ Where financial support is offered, a written agreement should be drawn up detailing the level and duration of the support that is to be provided, and the mechanism for review.
- ✓ Social care services should engage housing authorities and registered social landlords to ensure that their policies recognise the importance of the role performed by family and friends carers.
- ✓ Social care services should work with housing services to support the housing needs of family and friends carers whatever their legal circumstances.
- ✓ Whenever possible family and friends carers living in social housing should be given appropriate priority to move to more suitable accommodation if this will prevent the need for a child to become looked after.
- ✓ Local authorities have the power under section 17 of the Children Act 1989 to give financial support towards accommodation costs where they assess this as the most appropriate way to safeguard and promote a child's welfare.

9. THE COSTS THAT FAMILY AND FRIENDS CARERS SAVE THE STATE

9.1 Family and friends carers raising a child who cannot live with their parents do so because of the love and security they feel they can offer the child. But they also save the state the huge amount of money that would have to be spent if the child was taken into care.

9.2 According to the cost calculator for Children's Services designed by the University of Loughborough, the total cost of looking after a child without any additional support needs, who remained in the same local authority foster placement over a twenty-month time period, was £35,106. If the child had emotional and behavioural difficulties the total cost was more than six times higher: £215,756³⁹. If the child was in residential care, the standard unit cost was eight times higher than foster care.

9.3 All of these costs are saved when a vulnerable child is diverted from the care system by the intervention of a family and friends carer. A reduction of 5% in the care population could reduce expenditure on the care system in England by over £100 million per annum.

RECOMMENDATIONS

These recommendations are in three parts:

1. Financial support
2. Legislation to strengthen support for family and friends carers
3. Action for local authorities

1. Financial support

The support needs of children who are taken in by family and friends carers, and of the carers themselves, should be recognised. There are three key elements needed to support family and friends carers' financially:

- A national financial allowance for friends and family carers who care for children as an alternative to them being taken into care.
- Changes to the benefits system to support carers who would not be eligible for the national financial allowance.
- Help with legal costs.

1.1 National financial allowance

1.1.1 A national non-means tested, non-taxable financial allowance to cover the real costs of raising a child should be paid to relatives or other carers already connected to the child,⁴⁰ who take on the care of a child for more than 28 days continuously in the following circumstances:

³⁹ Centre for child and family, Loughborough University, *Research evidence issue 7*

⁴⁰ This could include family friends

- a) Where the child comes to live with the carer as a result of plans made within a section 47 Children Act 1989 child protection enquiry⁴¹; or
- b) Where a child comes to live with the carer following a section 37 Children Act 1989 investigation; or
- c) Where a carer has secured a Residence Order or Special Guardianship Order to avoid a child being looked after, and there is professional evidence of the impairment of the parents' ability to care for the child; or
- d) Where the carer has a Residence Order or Special Guardianship Order arising out of care proceedings; or
- e) Where the carer has a Residence Order or Special Guardianship Order following the accommodation of a child.

1.1.2 These criteria are designed to ensure that the financial allowance will only be received where:

- a) the carer is raising the child; and
- b) the parent is unable to care for the child and there is judicial or professional evidence of this.

1.2 Tax and benefits

1.2.1 Family and friends carers who are permanently raising a child should be treated on par with those who are taking on this role temporarily, and with foster carers, and should be given dispensation from **income support rules** which have recently changed and now require that if the youngest child they are looking after is aged 5 or over they do not qualify for income support and to qualify for Jobseeker's Allowance must comply with specific job-seeking requirements. Amendments are required to the Welfare Reform Bill so this dispensation also applies to Universal Credit when it is introduced in 2013.

1.2.2 The eligibility criteria for **Guardian's Allowance** should be amended to

- i. remove the requirement that a parent in prison must have a minimum of 2 years left to service on their sentence; and
- ii. remove the requirement that a parent in prison must be convicted and sentenced i.e. so it includes situations where one parent is dead and the other is in custody *on remand*.

1.2.3 Family and friends carers should be exempt from the proposed total **cap on welfare benefits**, just as it is proposed families caring for a disabled child will be exempt.

1.2.4 Family and friend carers should be eligible for a period of **paid leave from work** when the child comes to live with them, modelled on statutory adoption leave and pay.

1.3 Legal costs of family and friends carers

The rules for public funding for legal costs should be amended so that relatives and friends are entitled to public funding to cover their legal costs in order to secure the child's future with them, if their case meets the merits test. This could be evidenced by the one of the following:

- The child being the subject of child protection enquiries and the local authority stating that the child cannot remain with the parents in the current circumstances;
- The child being the subject of a s.37 investigation and the local authority stating that the child cannot remain with the parents in the current circumstances;
- The child being accommodated when the family and friends carer seeks legal funding with a view to taking on or securing their care with them;
- The child being subject to care proceedings when the family and friends carer seeks legal funding to take on or secure their care with them.

2. New legislation for effective support

A new Family and Friends Care Bill should put the following on a statutory footing:

2.1 The **definition of who is a child in need** in Children Act 1989 s.17 (10) should be amended to include "*(d) children being cared for by family members or friends*".

2.2. Local authorities should have a duty to establish **family and friends care support services**, including a dedicated family and friends care worker/team and the commissioning of services from the voluntary sector, for children who are being raised by family and friends carers on a long term basis (more than 28 days). These should be modelled on the duties on local authorities in respect of adoption and special guardianship support services.⁴²

2.3 Local authorities should have a duty to offer a **family group conference** to the child, their parents and extended family before, or, where this is not possible, as soon as reasonably practicable after a child becomes looked after.

2.4 Local authorities should have a duty to **collect and publish official statistics** of children in family and friends care to whom they provide support whether or not the child is looked after.

2.5 To enable family and friends carers to obtain parental responsibility without having to bring a case to court, parents (with parental responsibility) should be able to enter into a **parental responsibility agreement with a relative** (as defined in s.105 Children Act 1989), as has already been extended to step parents.

⁴² These were introduced by the Adoption and Children Act 2002

3. Good practice recommendations for local authority action

- 3.1 Local authorities should implement the statutory guidance on family and friends care in the spirit with which it is intended namely of providing support to family and friends carers irrespective of the legal status of the child.
- 3.2 Local authorities should consult with family and friends carers in their area about their needs and the services that would assist them in their task
- 3.3 Local authorities should liaise with other local agencies to ensure that family and friends carers can access and benefit from the services that they provide which will in turn reduce the burden falling entirely on local authorities. Examples include:
- Working with local colleges and schools to ensure that children living with family and friends carers are a priority group for discretionary bursaries that replace Education Maintenance Allowance.
 - Working with schools to raise awareness of children in family and friends care arrangements and to amend admissions policies so that all the children in the household (e.g. an aunt's birth children and the nieces she is raising) are in effect treated as siblings for admission purposes.
 - Working with housing departments and other social landlords to develop joint protocols which ensure that the needs of family and friends carers are prioritised.
 - Working with contact centres and mediation services to ensure their services can support family and friends carers with contact
 - Working with sure start to ensure to ensure their parenting support services are available to family and friends carers
 - Building on the work of Pact and several local authorities in London, Kent and the North East who working with prisons and the criminal justice system to provide early identification of children whose parent or carer is in custody, and who are in need of support.
- 3.4 Local authorities should signpost family and friends carers to sources of independent advice and advocacy to enable them to make informed decisions in taking on the care of a relative's child. Relevant agencies are listed in Appendix 1.
- 3.5 Local authorities should work with local carers and local voluntary agencies, Family Rights Group or The Grandparents' Association to set up and sustain support groups for family and friends carers in their area.

"I took on a lifelong financial burden nearly ten years ago. I have to pay for two instead of one for everything from my pension and savings... Tax credit payment and child benefit does not cover basic expenses let alone the essential extras (like school voluntary payments for activities). Children cost money until they are past eighteen years of age and it looks as if I will be doing it for that long. I think that I should be paid an allowance as are foster parents who provide less stability and are less reliable for long term care as they are strangers doing a job & not taking on a commitment." - Grandparent carer

Appendix 1: Organisations in the Kinship Care Alliance which provide free confidential advice to family and friends carers:

Family Rights Group: is the leading national in England and Wales that advises families whose children are involved with or need children's services because of welfare needs or concerns.

We promote policies and practices, including family group conferences, that help children to be raised safely and securely within their families, and campaign for effective support to assist family and friends carers, including grandparents who are raising children that cannot live at home.

- Contact FRG's advice line for further advice, on 0808 801 0366. It is open Monday-Friday 9.30am-3.30pm.
E- mail: advice@frg.org.uk.
- You can also visit www.frg.org.uk for information and our moderated discussion boards for family and friends carers.
- Family Rights Group has expertise in setting up local family and friends support groups and local family group conference services. To find out more email cleaves@frg.org.uk or ring 01733 751531

The Fostering Network is the UK's leading charity for everyone involved in foster care.

Fosterline, the confidential advice line for foster carers, provides independent, impartial advice about fostering issues. Fosterline is open from 9am to 5pm Monday to Friday (except bank holidays). If you can't get through, or it is outside opening hours, you can leave a message and a Fosterline Adviser will ring you back as soon as possible.

Fosterline t 0800 040 7675

E- mail: Fosterline@fostering.net

The Grandparents' Association is the national charity which supports all grandparents and their families. It provides advice and support to grandparents about caring for, or having contact with, their grandchildren. They provide free confidential advice including a specialist welfare benefits advice service and factsheets for grandparents.

They can be contacted at: Moot House, The Stow, Harlow, Essex CM20 3AG
Office: 01279 428040

Helpline: 0845 4349585

E-mail: info@grandparents-association.org.uk

<http://www.grandparents-association.org.uk/index.php>

Grandparents Plus is a national charity which champions the vital role of grandparents and the wider family in children's lives - especially when they take on the caring role in difficult family circumstances.

They offer free confidential advice and information on all aspects of welfare benefits and a range of other areas including employment, housing, debt, pensions, social care and education and they can signpost to other appropriate organisations

Advice line on 0300 123 7015. Lines are open Monday to Friday 10am – 3pm.

Email: advice@grandparentsplus.org.uk.

<http://www.grandparentsplus.org.uk/advice>

Prison Action and Care Trust (PACT): is a charity which supports people affected by imprisonment. They provide practical and emotional support to prisoners' children and families, and to prisoners themselves. A PACT scheme to support family and friends carers who are raising prisoners' children is being piloted in Holloway Prison. For more information see the kinship care support website: <http://www.kinshipcareuk.org.uk>