



Report on

**Freedom of information survey of local authority
policies on family and friends care**

conducted by

**Family Rights Group in association with the
University of Birmingham**

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CONTENTS:

Summary of key findings

- 1. Introduction**
- 2. Research evidence on family and friends care**
- 3. Legal and policy context for family and friends care**
- 4. The analysis of the Freedom of Information survey**
- 5. Recommendations**

Appendix A Freedom of information request sent to local authorities

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SUMMARY OF KEY FINDINGS

Key findings of the Freedom of Information survey

Policies and procedures

- The vast majority (69%) of local authorities do not have a written coherent approach to family and friends care.
- 52% of local authorities who stated that family and friends care should be the first option for children in need of alternative care had no policy on family and friends care.
- Despite these children being extremely vulnerable and many local authorities encouraging such placements most local authorities (57%) do not have a policy for children who are being raised by family and friends outside the care system.
- There are significant regional variations between authorities having a clear policy for children who aren't *looked after* living in family and friends care arrangements, with 80% or more of authorities in the North East and Yorkshire/Humberside not having a policy.

Dedicated family and friends care post:

- Most local authorities (61%) do not have any dedicated family and friends care posts.
- Dedicated family and friends care posts may have influenced the coherence of the authority's approach.

Family and friends foster carers (looked after children)

- Only 10% of local authorities are committed to providing family and friends carers of *looked after* children the same level of non-financial support as unrelated foster carers.
- 9% of local authorities are explicitly paying family and friends carers who are raising *looked after* children less than unrelated foster carers, despite this being unlawful.
- 9% of local authorities are explicitly paying family and friends carers in emergency placements of *looked after* children a lower rate than they pay once the carer is approved as a foster carer.
- Most local authorities are failing to commit to a policy or rate at which they pay family and friends carers in emergency placements of *looked after* children.
- 89% of local authorities did not mention support for family and friends carers with legal fees where there are ongoing issues concerning the child's legal status.

Family and friends carers (non-looked after children)

- Just over half of local authorities (52%) have no guidance on the assessment of relatives caring for a child outside the *looked after* system
- A significant minority (42%) has no guidance on the assessment of wider relatives and friends who fall within the definition of private foster carers
- 62% of those authorities responding either did not mention non-financial support for children in family and friends care placements outside the care system or failed to describe any eligibility criteria for such support
- 85% of authorities lack explicit eligibility criteria stating which family and friends carers of children outside the care system are eligible for financial support and at what rate.

Residence orders:

- Only 27% of authorities who responded had a residence order policy that specifically addressed family and friends carers
- 87% of local authorities' policies on residence orders did not provide details of what non-financial support could be available to carers and children
- In 64% of local authorities, policy guidance about the provision of financial assistance informed carers that this would be subject to an assessment of their financial circumstances, but most did not describe how this would be calculated.
- In only 25% of responses was eligibility for a residence order allowance explicitly based upon the child's needs.
- A majority of authorities failed to provide clear criteria in their policies as to which carers might be assisted with legal fees to apply for a residence order.

Special Guardianship orders:

- Despite regulations that local authorities should provide a range of specified special guardian support services, 41% of authorities responding made no mention of non-financial support for special guardians, or if they did they gave no specific details of what they provide.
- 19% of local authorities made no mention of special guardianship financial support or were unclear about the amount they will pay.
- 41% of authorities who informed FRG that they assist special guardians with legal fees, didn't include such a statement within their policy documents, thus carers in their authority were unlikely to be aware of the authority's potential willingness to assist them.

Costs of family and friends care

- Less than a third of local authorities provided information on numbers of children in family and friends care arrangements who they supported, indicating such data isn't routinely collected. Even fewer provided data on number of carers assisted
- Budgets supporting children in family and friends care under a residence order averaged £3800 per case, where support was provided
- Budgets supporting children in family and friends foster care averaged £6300 per case.

1. INTRODUCTION

Family members, such as grandparents, aunts or uncles, 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. 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 are left struggling to cope financially, emotionally and socially¹, receiving little, if anything, from the state to meet the child's needs.

There are no official statistics of the number of children living with relatives and friends but the estimated figure is between 200,000-300,000² children, only 6,900 of whom are *looked-after* children³, the rest being cared for by relatives and friends, often as an alternative to being admitted into the care system. Recent legal and policy developments suggest that this figure is likely to significantly increase in the future. In the last few years, there has been a strong lead from government, supported by a cross party consensus, that children who cannot live with their parents should live with their relatives or friends, wherever possible as long as they are safe, rather than going into care.⁴

In 2007 Family Rights Group sent a questionnaire to all local authorities in England and Wales, under the Freedom of Information Act 2000 specifically about family and friends care. It asked each authority to provide its policies for working with, assessing and supporting family and friends carers and the children they are raising, information on dedicated staffing and data on the numbers of children and carers assisted by legal order and budget spent (see Appendix A for the Freedom of Information questions sent to all local authorities in England and Wales). There was an 83% response from English authorities and Welsh authorities.

The information and data have been analysed by the University of Birmingham in conjunction with Family Rights Group.

The analysis reveals that currently services provided to family and friends carers, and the children they are raising, vary substantially across the country and are often grossly inadequate. A few authorities are extremely active in promoting and supporting such arrangements even when they are not legally obliged to, whilst others seek to avoid providing support wherever legally possible. The majority of authorities have no coherent written approach to family and friends care, in particular there is an absence of written policies, procedures or guidance on assessment and financial and practical support for the vast majority of children being raised by family and friends carers outside the care system. Further details of the survey's findings

¹ Farmer E and Moyers S (2008) *Kinship Care: Fostering Effective Family and Friends Placements* (Jessica Kingsley)

² Richards A and Tapsfield R (2003) *Funding Family and Friends Care: The Way Forward* (Family Rights Group)

³ Department for Children Schools and Families: Children looked after in England (including adoption and care leavers) year ending 31 March 2008
<http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000810/index.shtml>

⁴ Further information about the steps taken by Government can be read in the accompanying Good Practice Guide, FRG

are set out in Chapters 4. The research on and legal context of family and friends care are discussed in Chapters 2 and 3.

The report's analysis confirms the existence of a post code lottery in the approach and support available to family and friends carers and the children they are raising. The findings confirm the recommendations of the Kinship Care Alliance, an informal network of organisation led by Family Rights Group, for a national financial allowance for carers raising children who cannot live with the parents and the urgent need for clear policies and systems to be in place in **every** local authority to ensure that family and friends care arrangements are appropriately assessed and supported.

To be read in conjunction with this report:

- is a good practice guide produced by Family Rights Group which has been developed to assist local authorities in this task
- a policy briefing on family and friends care from the Kinship Care Alliance, setting out recommendations

Also of importance is the forthcoming government guidance on family and friends care to be issued by government as part of the revisions to the Children Act 1989 guidance.

Note on terminology

“Family and friends care” is also sometimes known as “kinship care” or “relative and friends care”, and all three terms were used by local authorities in their responses to us. “Family and friends care” is our preferred term, and the one which we shall use, unless quoting a publication or local authority policy.

2. RESEARCH EVIDENCE ON FAMILY & FRIENDS CARE IN THE UK

A body of UK research evidence has been accumulating, if intermittently, over the last 25 years, demonstrating the potential benefits for children of living with family or friends when they cannot be raised by their parents. These studies have often come to very similar conclusions about the potential value to children of these placements. Two important studies published in 2008⁵ have looked in depth at the characteristics of family and friends placements, providing detailed information about family and friends carers, the children they are raising, and the issues which these families face.

2.1 Characteristics of children in family and friends care

Farmer and Moyers⁶ compared children placed with family and friends carers with children placed with unrelated foster carers. They found that the two groups of children were remarkably similar in terms of the pre-placement adversities they had faced. The numbers of children in both groups who had experienced different forms of abuse, whose names were on the Child Protection Register when they were placed, who had been exposed to domestic violence or who had been bullied or scapegoated were very similar. However, there was a marked difference between the two sets of carers, with the family and friends carers far more likely to be facing life adversities – such as financial hardship, overcrowding and health problems – than the unrelated foster carers.

Hunt, Waterhouse and Lutman undertook a research study of children placed with family and friends carers through care proceedings⁷. In comparison with a group of children placed with non-relatives at the end of proceedings, they found that the children in the two groups were “*extraordinarily similar*”, although “*if anything, the kin-placed children had experienced rather more adversities.*”

2.2 Outcomes for children in family and friends care

Despite the significantly lower levels of social work support offered to family and friends carers, and the adversities experienced by many of the carers, the **outcomes for children placed with them were comparable with the children placed with unrelated foster carers**, across a range of measures, such as health, school attendance, school performance, having a positive view of themselves, social relationships and progress in dealing with social and behavioural problems⁸.

This reflects findings of earlier research. Rowe et al⁹ in their study of 200 children in long-term foster care discovered that 55 of those children were placed with relatives. A comparison between those fostered with relatives and those fostered with non-relatives showed, contrary to the researchers' expectations that “*children fostered by relatives seemed to be doing better in virtually all respects than those fostered by others.*” The study noted “*a wide variation between the five study authorities in the proportion of children in related foster homes*”, ranging between 11% and 44% of the

³⁰ Farmer, E and Moyers, S. (2008) *Kinship Care: Fostering Effective Family and Friends Placements* (Jessica Kingsley); and Hunt, J., Waterhouse, S. and Lutman, E (2008) *Keeping them in the family: Outcomes for children placed in kinship care through care proceedings* (BAAF)

⁶ Farmer and Moyers *ibid*

⁷ Hunt et al, *ibid*

⁸ Farmer and Moyers *ibid*

⁹ Rowe, J., Cain, H., Hundleby, M. and Keane, A. (1984) *Long-Term Foster Care* (BAAF)

sample in different authorities. There seems to have been a willingness by social workers in some of these authorities to arrange for the carers to be given the legal status of foster carers, which would ensure that they would receive the support they needed: “34 [from 55 children] were cases in which the local authority had taken the children into care in order to make boarding out payments and to provide more security for children who were already living with relatives.” This is in stark contrast to the practice guidance in many of the policies received in response to the much more recent FOI study of local authorities by FRG, which appear to have the aim of keeping as many children out of the care system as possible.

Hunt et al identified the **factors most likely to be associated with good outcomes for children placed with family and friends**. These included:

- Children are likely to fare better if they had fewer difficulties prior to placement, if they have previously stayed with the same carer, or if there is a favourable assessment of the carer’s parenting capacity at the time of the proceedings¹⁰.
- Surprisingly, in 15 out of 16 cases where either the local authority or the guardian was opposed to the placement at any point, the placement lasted for as long as the child needed, and in most cases the child was provided with good quality care. This is of interest, because some local authorities have policies which state that they will not pay a special guardianship allowance or residence order allowance unless they support the order being made. The practical effect of this is that some carers who are providing good quality care, despite the authority’s earlier presumptions, are having to struggle financially to the detriment of the child.

In their **interviews with children** placed with family and friends carers, Hunt et al concluded that for the children family and friends care was a very positive placement choice. The children all felt a sense of safety, and almost all considered themselves close to their carer and siblings, and “displayed a real sense of permanence”. The children also “recounted a sense of ordinariness”, were optimistic about how they were managing, and had normal expectations about their future.

Doolan et al¹¹ also found the children in their study talked about being happy and well cared for by their family and friends carers, and often attributed this to having a good relationship with the carers beforehand, or having stayed with them previously. However, the children were not consulted about being moved to relatives or friends, and sometimes only found out that this was happening on the day the move occurred.

It was not the remit of the studies to examine the policies of the local authorities to which these children and carers were all known. However, the studies do draw conclusions and make recommendations on the formulation of public policy, for both local and national government. There is broad agreement between the studies on a number of significant issues, including support

2.3 Support services for family and friends placements

There is general agreement in all the studies about the low level of support that is offered to family and friends carers, as compared to non-relative carers. From Rowe et al’s comment (1984) that “social workers usually gave these cases low priority”, to

¹⁰ Hunt et al, *ibid*

¹¹ Doolan, M., Nixon, P. and Lawrence, P (2004) *Growing Up in the Care of Relatives or Friends* (Family Rights Group)

Farmer and Moyers' observation (2008) that "*significantly more kin carers received low levels of support as compared with unrelated carers*", there is a ***persistent theme of family and friends carers not receiving adequate support***, even though the children they are looking after are very similar to children in unrelated foster care in terms of behavioural difficulties and their levels of need.

Broad et al¹² reported that "*carers wanted more visits, improved and much more consistent communication, and phone contact with social services.*" Carers in this study identified specific issues that they wanted to discuss with social workers, such as parenting of the young person, and wider family relationships. Carers described problems in getting the help they needed in response to specific requests, such as daytime activities for young people not in school, and help with moving to larger accommodation. Hunt et al (2008) judged that there were service gaps for needy children, even when the local authority was still involved, and felt that better provision could have stopped some placements from terminating prematurely.

Family and friends carers often did not know what support services existed, and were reluctant to ask for help.¹³ Poor support was provided to carers living outside the local authority.¹⁴ When difficulties arose in a placement where the local authority had pulled out as things seemed to be going well, the carers did not always know how to make contact if they then needed help.¹⁵

These findings, about the low level of support which local authorities provided, and the lack of clarity by carers about the services they could receive, are hardly surprising in light of local authorities' responses to the Freedom of Information questionnaire. Where authorities did provide guidelines on support, this was often limited in scope to *looked after* children in foster carer but not children 'in need' placed with family and friends carers. Policies were also often very vague about the details of the services which could be provided and whether family and friends carers of children outside the care system would be able to receive such support.

However, given that, despite a lack of adequate support, children in family and friends care fare in many respects as well as if not better than child living with unrelated foster carers, it seems reasonable to speculate that their outcomes would be substantially improved and indeed would exceed those with unrelated carers if more adequate support was available.

2.4 Financial support for family and friends carers

Both Hunt et al and Farmer and Moyers found ***significant numbers of the carers in their studies were struggling financially***. Farmer and Moyers found that 75% of the carers in their study were judged to be experiencing some financial hardship.¹⁶

Both studies noted that family and friends carers with residence orders were likely to be less well off than family and friends foster carers. Farmer and Moyers (2008) reported that "*When carers had been assessed as foster carers, over time social workers tried very hard to persuade them to apply for residence orders. The impetus for this was sometimes a view that the care order could be discharged and appeared*

¹² Broad B, Hayes R and Rushforth C (2001) *Kith and Kin: Kinship Care for vulnerable young people* (NCB/Joseph Rowntree Foundation)

¹³ Farmer & Moyers, *ibid*.

¹⁴ Hunt et al, *ibid*

¹⁵ Hunt et al, *ibid*

¹⁶ Farmer & Moyers, *ibid*

to be encouraged as a cost-saving initiative and to reduce the numbers of children in care. These approaches occurred even when carers clearly needed help with parents who were undermining the placement or with contact difficulties. The effect would be to end social work visits and to move carers to a payment system which was discretionary and set at lower rates than the fostering allowances. This was not always made clear to kin carers." Forty-nine of the grandparent carers in Richards' study¹⁷ (2001) had been granted a residence order with the involvement of the local authority, but only 23 were receiving a residence order allowance. Local authorities often appear to use their discretion over the payment of residence order allowances to avoid providing or in order to reduce the level of financial support to family and friends carers, regardless of the child and carer's need.

Hunt et al (2008) and Farmer and Moyers (2008) both studied local authority support for family and friends carers before the introduction of special guardianship orders. However Ananda Hall's study¹⁸ of the first twelve months where special guardianship was available as a legal order examined 68 cases where special guardianship orders were made, of which 87% were made to family and friends carers. Hall noted that financial support emerged as *"a key difficulty besetting the implementation of special guardianship."* The study found a *"lack of consistency between local authorities as to the acceptance of responsibility, disparity in the calculation of support packages (with many local authorities lacking written policies or guidelines in this respect) and unreliability over continuation of payments in the future on the whim of local authority budgets."*

Farmer and Moyers (2008) found that even when family and friends carers were approved as foster carers they were likely to receive less overall, as the local authorities did not provide them with additional allowances which they paid to unrelated foster carer. This is despite the Manchester judgement¹⁹ in which Munby J held that is unlawful to discriminate against family and friends foster carers by paying them a lesser amount as a fostering allowance than unrelated foster carers.

2.5 Contact

The studies found that ***children placed with family and friends were likely to be in touch with at least one parent²⁰, and were more likely than children in unrelated foster care to be in contact with aunts, uncles and cousins: where they were placed with paternal relatives they were also more likely to be in touch with their fathers²¹***. Children placed with family and friends were far more likely to live close to where their parents lived than those placed with unrelated foster carers, making the logistics of contact potentially easier, and making it more likely that children could enjoy continuity in arrangements for their education and healthcare.

¹⁷ Alison Richards (2001) *Second Time Around: A survey of Grandparents raising their Grandchildren* (Family Rights Group)

¹⁸ Ananda Hall (2007) *Special guardianship and permanency planning: a missed opportunity?* (Dissertation submitted in application for MA in Child Studies, King's College, University of London)

¹⁹ 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 [2002] 1 FLR 43]. This is discussed further in the next chapter.

²⁰ Hunt et al, *ibid*

²¹ Farmer & Moyers, *ibid*

Where contact with parents was supervised, **family and friends carers were far more likely than foster carers to do the supervision**, even though the relationship between the carers and the parents was often difficult.²² Contact with parents is potentially beneficial for children who have to live away from their parents.²³ Children and practitioners both reported that contact could benefit children by enabling them to maintain their family links and sense of identity. However, for children to benefit the contact should be structured and feel safe for the child, which may require practitioners to supervise the contact. Unfortunately, too often the latter support is not available to children in family and friends care arrangements. Both recent studies did report that problematic contact with parents could have a negative effect on some children, and one noted that in a “*substantial minority of cases appeared to be entirely negative for the child*”.²⁴ Both studies suggested that consideration needs to be given more often to terminating or controlling contact when it is detrimental to children.

2.6 Assessment

Both recent studies have raised **issues about the suitability of the processes used by local authorities to assess family and friends carers**. The studies raise the question of whether family and friends carers should be assessed in the same way, and subject to the same standards, as unrelated foster carers. Carers are reported as querying the need for a prolonged, in-depth assessment, when they are already caring for the children.²⁵ Farmer and Moyers (2008) recommend consideration of other assessment formats such as a strengths-based model, which “*would be a major improvement as long as needed services are actually provided.*”

Hunt et al observed that **social workers were not good at predicting future problems in their assessments**: “*Problems which had been anticipated rarely materialised; problems which arose had rarely been flagged.*”²⁶ However, they were more successful in their assessments of parenting skills, and an assessment of carers as having a positive evaluation of their parenting skills was likely to lead to good outcomes for children placed with them.

The studies also raised **issues about the threshold for approval as a carer**: “*Carers who would not have been approved as non-relative carers because of health, age, accommodation or past offences were nevertheless able to provide a good standard of care. It is important that kin with high levels of need or background difficulty are not too readily excluded from being approved as foster carers and from being assisted financially and practically.*”²⁷ In some cases, carers who were judged not to meet the standards for approval as foster carers, maybe because of ill health or inadequate housing, were encouraged to apply for a residence order instead, which meant that ironically these vulnerable carers and children would receive less support than if they were fostering.²⁸

²² Farmer & Moyers, *ibid*

²³ Catherine Macaskill (2002) *Safe Contact* (Russell House Publishing); Quality Protects Research Briefing #2 (2000) *Placement Stability* (Dept of Health, Research in Practice, Making Research Count)

²⁴ Hunt et al, *ibid*

²⁵ Farmer & Moyers, *ibid*

²⁶ Hunt et al, *ibid*

²⁷ Farmer & Moyers, *ibid*

²⁸ Farmer & Moyers, *ibid*

Because of the specialised nature of the task of assessing family and friends carers, the **studies recommend that these assessments should be carried out by specialist workers.**²⁹ In addition, “it may be that either specialised placement panels are needed or that existing panels need some training about the distinctive features of kinship care if they are to facilitate these placements without compromising on assessing risk. Such training needs to ensure that the normative assumptions based on the characteristics of non-relative foster carers or adoptive parents do not become a barrier to a full understanding of the strengths and potential of kin carers.”³⁰

2.7 Poor quality placements

Both Farmer and Moyers and Hunt et al recognised that a **small minority of the placements in their studies were not adequately meeting the needs of the children placed.** The number of children actually abused in family and friends foster placements was small: in Farmer and Moyers’ study, the proportion of children experiencing abuse was the same in family and friends care as in unrelated foster care at 4%, but the family and friends carers experienced more false allegations, often from parents who did not agree with the placement. Farmer also found that placements which were unsatisfactory were likely to continue for longer where the children were placed with family or friends carers. Hunt et al’s findings were similar, but they identified some reasons why this happens. It was sometimes due to the lack of a viable alternative placement for the child, a wish to continue a placement with a sibling who was faring better, or the child’s wish to return to the placement after being moved. It was the view of Hunt et al that poor quality placements being allowed to continue for no reason was not a common problem.

²⁹ Hunt et al, *ibid*

³⁰ Farmer & Moyers, *ibid*

3: LEGAL FRAMEWORK FOR FAMILY AND FRIENDS CARE

When there is a crisis in the family, relatives and friends often rally round to make sure the children are well looked after, and often make arrangements between themselves to look after children until the crisis has passed. Mothers, and most fathers³¹, have parental responsibility which gives them the authority to make such private arrangements. The local authority only becomes involved if there are welfare or protection issues with which the family needs support or intervention, or if the arrangement falls within the definition of private fostering³².

The Freedom of Information (FOI) survey asked local authorities for details of their policies relating to family and friends care, both how these arrangements are made and what support is offered. Not surprisingly, the findings show that these policies vary according to the legal status of the arrangements, including the following:

- children who are *looked after* by the local authority (whether in care or accommodation) and placed with relatives or friends who are approved as local authority foster carers on a short or long term basis, or
- children who are living with such carers as a result of a private arrangement between the parents and the carer in which local authority may, but is not necessarily involved, or
- children who are in a nebulous arrangement whereby the local authority asks a relative or friend to help out by caring for a child following a crisis in the parental home but then withdraws, asserting that the child is not *looked after*, and/or
- children who are living with relatives or friends under a residence or special guardianship order.

There are consequences in terms of access to support services and the carer's ability to make decisions about care of the child which flow from the legal status of each of these types of arrangement. These are discussed below.

3.1 Children who are looked after by the local authority and placed with family or friends:

A child is *looked after* when they are in care under a care or emergency protection order or when they are in accommodation by voluntary agreement with the parents/those with parental responsibility³³.

³¹ A father has parental responsibility if he is or has been married to the mother at any time since the birth of the child (s.2 CA 1989); if he is registered as the child's father on the birth certificate (since 1.12.03); and if he has acquired it by formal legal agreement with the mother or by court order (s.4 CA 1989 as amended)

³² A private fostering arrangement arises where a person is looking after or proposes to look after a child (who is not their own) for a period which is or is intended to be more than 28 days, who is neither a LA foster carer, nor a relative within the meaning of s.105 CA i.e. not a grandparent, sibling, aunt or uncle (half or full blood or by affinity) or step-parent (including civil partners). According to the Private Fostering Regulations and Guidance there is a *requirement for notification of intended placements* or placements made in an emergency, which the local authority is then required to *monitor/investigate*. This involves initial *inspection of premises and suitability of the carer*, information about health education etc. and a requirement to *visit at regular intervals* of not more than 6 weeks in first year, less frequently thereafter.

³³ (s.22(1) CA).

When a child is *looked after* in the care system, there is a duty on the local authority to place a child with ...'a relative/friend provided it is reasonably practicable and consistent with the child's welfare' (s.23 (6) CA³⁴). This is consistent with the aims of new government guidance (issued in conjunction with the Public Law Outline³⁵) to consider wider family options before issuing care proceedings³⁶ and the right to respect for family life in Article 8 of the European Convention on Human Rights. Such a placement can be made in an emergency with only minimal checks being carried out for up to 6 weeks; thereafter that person must be formally assessed and approved as a local authority foster carer in accordance with the Fostering Services Regulations 2002 for the placement to continue lawfully.

A relative or friend caring for a child in this context is required to enter into a fostering agreement with the local authority which includes mutual expectations and terms of the placement, including social work and other support to be provided. S/he is able to make decisions about day to day care but, in relation to important decisions about the child's upbringing, must refer back to the local authority. In every case concerning a child who is looked after, the local authority must consult with the child's parents/significant others in relation to all decisions about the child (s.22 (4) & (5) CA) and, where the child is accommodated, the local authority must also obtain the consent of a person with parental responsibility³⁷ to the care plan³⁸ and all important decisions about the child. This can seem quite onerous for a relative or friend caring for a child as s/he has little autonomy, but it reflects the fact that in such an arrangement s/he does not have parental responsibility for the child.

Despite evidence in the FOI survey that practice is sometimes to the contrary, such a carer has the same right to financial and other support as unrelated foster carers (s.22 (2) CA). This is confirmed by the Manchester case³⁹ in which Munby J held that it is unlawful to discriminate against family and friends foster carers by paying them a lesser amount as a fostering allowance than unrelated foster carers. The child is also entitled to support from the local authority when s/he leaves care provided s/he falls into one of the categories outlined in the Children (Leaving Care) Act 2000.

However, this legal arrangement and associated entitlement to support is dependent on the child being *looked after* in the care system, and thus accounts for only a very small minority of family and friends care placements, not least because children will

³⁴ This provision will be replaced by the new duty on the local authority to consider relatives who are foster carers as a first choice to look after children in the care system where child cannot return home to their parents when s.22C CA (as amended by s.8 CYPA) is implemented.

³⁵ The Public Law Outline is new guidance issued to courts on the management of care proceedings. It can be found at: <http://www.justice.gov.uk/guidance/careproceedings.htm>

⁴⁴ DCSF, Children Act 1989 Regulations and Guidance, Volume 1 Court Orders, chapter 3 <http://www.justice.gov.uk/guidance/careproceedings.htm>

³⁷ Parental responsibility is defined as: "All the rights, duties, powers, responsibilities and authority, which by law a parent has in relation to the child and the administration of his or her property." (s.3(1) CA 1989). This includes consent to medical/dental treatment and school trips, what religion s/he will follow, agreeing to the child being taken outside the UK etc. One or more people can have parental responsibility at the same time. Mothers and most fathers have parental responsibility but if the local authority has a care order or there is a special guardianship order in force, the local authority/special guardian can override the parents' decisions.

³⁸ Regulation 3 Arrangement for Placement of Children Regulations 1991

³⁹ 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 [2002] 1 FLR 43

often have gone to live with family and friends carers, in an emergency, to *avoid* them having to go into care. This is discussed further below.

3.2 Children living with relatives or friends as a result of private arrangements made directly between the parents and the carer:

As stated above, in some cases, arrangements for a child to go and live with a relative or friend are made directly between the parents and the carers, either as a result of private discussion or as a result of a Family Group Conference. The local authority may have been involved in referring the family to a Family Group Conference and in agreeing to any subsequent plan made by the family, but they may not be directly involved in making the placement with the family member.

In these circumstances, if the carer does not apply for a residence or special guardianship order, then s/he will not have parental responsibility for the child. His/her ability to make decisions about the child's care is therefore limited to day to day matters⁴⁰ and s/he must refer back to the parents or others with parental responsibility for all important decisions about his/her care⁴¹.

In terms of financial support for the placement, the parents are legally liable to support the child⁴²; conversely the carer is not liable to maintain the child although they may do so in practice. However, the very nature of these placements, which commonly arise out of parental tragedy, trauma or abuse, means that the parents are often unable to provide, and the carers' only other sources of financial support are

- state benefits, including child benefit and child tax credit depending on their circumstances, and,
- where the child is assessed as being in need, discretionary support from the local authority under s.17 (6) CA⁴³.

The local authority also has discretion to provide other practical and emotional support, for example social work support, if the child is deemed to be in need, following an assessment, under s.17 CA⁴⁴. However, in reality many family and friends carers cannot access such support, despite the child often having acute emotional and behavioural problems, because the local authority's eligibility criteria for children in need are restricted to cases which border on child protection, hence do not apply to them because they are now providing safe care for the child.

⁴⁰ s.3(5) CA 1989

⁴¹ ss. 2 & 3 CA 1989. See also footnote 15.

⁴² s.1 Child Support Act 1991

⁴³ Currently this can only be provided in exceptional circumstances. However this restriction will be removed when s.24 Children and Young Person's Act 2008 is implemented.

⁴⁴ The definition of a child in need is set out in s.17(10) CA and includes a child who is aged under 18 and:

- who is unlikely to achieve or maintain a reasonable standard of health or development without the provision of appropriate services by a local authority; or
- whose health or development is likely to be significantly impaired or further impaired without the provision of appropriate services by a local authority; or
- who is disabled.

3.3 Children who are placed with relatives or friends by the local authority which then treats them as not being looked after

It is increasingly common practice for the local authority to ask relatives or friends to look after a child in response to a crisis in the parental home which makes it unsafe for the child to remain with his/her parents. This often happens in the context of child protection enquiries (under s. 47 CA, sometimes with the police being involved), and as an alternative to children being placed with unrelated foster carers, without any court proceedings being initiated and sometimes without the parents being actively involved in making the arrangement. Such placements may be made in an emergency, with little or no planning of the placement involved, yet frequently become the long term or permanent arrangements by default.

Whilst the aim of placing children within their family network is entirely consistent with the policy initiative from government outlined above, the local authority frequently argues that:

- Ø it does not need to remain involved, and the child is not *looked after*, deeming it to be a private arrangement between the parent and the carer concerned, which they merely facilitated.
- Ø it is not under any duty to support and monitor the placement or promote the child's welfare, with the result that the support needs of the child and carer are not met⁴⁵.

It should be noted that this practice has been held to be unlawful: the Court of Appeal has confirmed that where the local authority has been involved in making such a placement and has not agreed otherwise with the carer, the child should be treated as being looked after by the local authority. In such circumstances the family and friends carer will be a local authority foster carer and be entitled to receive a fostering allowance and support to care for the child according to s.23 (2) CA⁴⁶. However many local authorities still seek to avoid this legal status for the child, at least in part because of the resource commitment involved.

Neither the carer nor the local authority has parental responsibility for the child in these circumstances, since no court orders have been made conferring it. The carer may do what is reasonable to safeguard and promote the child's welfare (s.3 (5) CA) but should in theory refer back to the parent or other person with parental responsibility about significant decisions. Yet in practice such carers find that the local authority will frequently stipulate to the carer that they must not allow the parent contact with the child without their agreement or supervision. This is complicated for the carer to implement because s/he is purporting to prevent the parent who does have parental responsibility from seeing their child. This situation is sometimes resolved by the carer applying for a residence order or a special guardianship order.

3.4 Residence orders:

A family and friends carer wishing to have more autonomy in their care of the child often decides, or is encouraged by the local authority, to apply for a residence order.

⁴⁵ Tapsfield, R (2001) 'Kinship Care: A Family Rights Group Perspective'. In Broad, B (ed.) (2001) *Kinship Care: the placement choice for children and young people* (Russell House)

⁴⁶ *Southwark LBC –v- D* [2007] 1 FLR 2181; *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.

Financial assistance towards legal costs *may* be given by the local authority (under s.17 CA).

A residence order decides where a child will live and confers parental responsibility on the person in whose favour the order is made. It normally lasts until the child is 18⁴⁷ unless it is revoked by the court.

In the absence of any court order to the contrary⁴⁸, a person with a residence order may make most important decisions about the child's care, for example regarding contact arrangements. However s/he may not take the child outside the UK⁴⁹ for longer than one month without the consent of everyone else with parental responsibility and s/he may not appoint a testamentary guardian for the child which can leave carers worrying about what may happen to the child in the event of their death.

The parent has a right to apply to court to revoke a residence order without needing the court's leave (permission) to make the application. A parent can also apply to the court for a prohibited steps order or specific issue order (s.8 CA) to ask the court to determine how parental responsibility is exercised by the carer in relation to a particular issue which is in dispute. This opens up the possibility of the parent challenging the carer about key decisions relating to the child's care.

In terms of support for the placement, the position is similar to private arrangements in that the parents are legally liable to support the child financially and the person with the residence order is not, although they may end up having to do so in practice. As with private arrangements, where the parents are unable to provide, the person with the residence order may be entitled to state benefits including child benefit and tax credits depending on his/her circumstances. If the child is assessed as being in need, the carer and the child may also receive discretionary financial and other support from the local authority under s.17 CA⁵⁰, although again the strict eligibility criteria for a child being determined as being in need often preclude many children and family and friends carers from receiving such support. In addition the carer may also ask the local authority to be assessed for a residence order allowance which the local authority has a discretionary power to pay (sched 1 para 15 CA). Recent case law confirms that this can be paid by the local authority even if it was requested by the carer after the residence order was applied for⁵¹.

⁴⁷ Residence orders used to last until the child is 16 unless the court made a specific direction in favour of a non-parent applicant that it should last until 18. However, s.37 Children and Young Persons Act 2008 now enables the court to make a residence order to last to the age of 18 without restriction. This provision was implemented on 1.9.09.

⁴⁸ The court can make a prohibited steps or specific issue order to determine a particular question relating to the exercise of parental responsibility for the child (s.8 CA). A parent has a right to apply for such an order, hence they have the ability to make a legal challenge of the carer's decisions which can be undermining for the carer.

⁴⁹ Re B (A Child) CA (Civ Div) 24/7/2007

⁵⁰ As discussed above, this can currently only be provided in exceptional circumstances. However, this restriction will be removed when s.24 Children and Young Person's Act 2008 is implemented.

⁵¹ R(H) –v- Essex CC [2009] EWHC 353

3.5 Special guardianship orders:

Family and friends carers, who wish to seek a more permanent legal arrangement for a child, are increasingly choosing to apply for a special guardianship order⁵². This order is more secure legally than a residence order because a parent cannot apply to revoke it unless s/he has the permission of the court; however, unlike an adoption order it does not sever the legal relationship between the child and his/her birth family.

A special guardianship order lasts until the child is 18 unless it is revoked by the court. A parent may not apply to revoke a special guardianship order unless the court gives leave which is dependent on the parent providing evidence that there has been a significant change in circumstances since the order was made s.14D (3) (b). The special guardian has parental responsibility which s/he can exercise to the 'exclusion of anyone else with parental responsibility' s.14C (1) (b) CA⁵³. This means that the special guardian can make most decisions about the child without referring back to the parents; however s/he does need the consent of everyone with parental responsibility or the leave of the court to: change the child's surname, remove the child from the UK for more than 3 months and where this is required by law (e.g. marriage between 16-18)⁵⁴. S/he also has no right to override the parents' rights in relation to adoption or placement for adoption and s/he must notify the parent if the child dies. S/he will also be able to appoint a guardian for the child in the event of his/her death⁵⁵.

Again, in terms of support for the placement, the position is similar to private arrangements and residence orders in that the parents are liable to support the child financially, and the special guardian is not from a legal point of view, although they are likely to be so in practice. Where the parents are unable to provide, the special guardian may be entitled to state benefits including child benefit and tax credits depending on his/her circumstances and where the child is assessed as being in need, s/he and or the child *may* also receive discretionary support from the local authority under s.17 CA⁵⁶. However, in addition, s/he can ask to be assessed for support.

The local authority has a duty to establish special guardianship support services (s.14F CA) although this does *not* equate to carers having a right to having their individual needs met. Support services that the local authority must establish include financial support to provide regular income to support the placement⁵⁷, subject to a means test, and where this is payable, it should be at the level of fostering

⁵² Although this FOI survey was conducted in 2007, some local authorities did not provide us with policies and procedures about special guardianship as they were not yet developed or finalised, despite the special guardianship provisions being implemented on 31.12.05 including a legal requirement on local authorities to establish a special guardianship support service.

⁵³ A parent retains the right to apply to the court for a prohibited steps order or specific issue order (s.8 CA) to ask the court to determine how parental responsibility is exercised in relation to a particular issue which is in dispute, but the court is less likely to grant such an order than under a residence order because of the exclusive nature of the special guardian's parental responsibility.

⁵⁴ S.14C CA

⁵⁵ s.5 CA as amended by s.115(4) Adoption and Children Act 2002

⁵⁶ As discussed above, this can currently only be provided in exceptional circumstances. However, this restriction will be removed when s.24 Children and Young Person's Act 2008 is implemented.

⁵⁷ Regulation 3, 6, 8, 9, 10 & 13 Special Guardianship Regulations 2005 (SGR)

allowances rather than adoption allowances⁵⁸. Other support services that the local authority should provide includes help with contact, support groups and assistance with legal costs, none of which are means tested⁵⁹. If the child was looked after immediately before the special guardianship order was made, the carer and child have a right to have their support needs assessed but in all other cases although though there is a strong expectation that the local authority will carry out an assessment, this is identified in statutory guidance as being discretionary⁶⁰. However, whether or not services are provided to meet the identified needs is a matter for the local authority's discretion informed by their assessment of need and detailed statutory guidance⁶¹.

⁵⁸ R (on the application of B)(Claimant) –v- Lewisham LBC and MB [2008] EWHC 738

⁵⁹ Regulation 3 & 13 SGR

⁶⁰ Regulation 11 SGR

⁶¹ Regulation 12-16 SGR

4: THE ANALYSIS OF FREEDOM OF INFORMATION SURVEY

1. How was the survey conducted and analysed?

The project sought to gather from all local authorities in England and Wales information about their policies and practices for family and friends care, using the Freedom of Information Act 2000. In order to ensure consistency, all authorities were asked to answer a pre set list of questions about their policies and procedures for family and friends care; their arrangements for supporting family and friends carers and the annual financial costs of providing support (see appendix A for detailed information requested).

The survey was sent out to all local authorities during May 2007 and returns were received between June 2007 and January 2008. The vast majority of authorities complied with the legal requirement to respond within a reasonable timescale. 83% of local authorities responded: regional rates and the rate for Wales are set out in the table below.

Table A

Responses to the FOI family and friends care survey by region		
	Number of responses	Response Rate (%)
East	9	90
East Midlands	9	90
London	29	87.9
North East	12	100
North West	20	95.2
South East	15	79
South West	14	93.3
West Midlands	12	85.7
Yorkshire & Humberside	15	100
Total England	135	90
Wales	7	31.8
Total England and Wales	142	83

The 83% response rate provided sufficient data to allow the analysis to arrive at an understanding of national trends and patterns. The quality of the data supplied in response to the questions varied – some authorities provided written answers to the questions, others sent policy documents and information leaflets.

The diversity in replies meant that it was necessary to try to order the data in some way prior to analysis. The research team at the University of Birmingham developed a standard template that was applied to all returns and allowed the data to be coded and summarised. Initially a 10% sample of the responses was used to build a template that sought to capture in a consistent way the data supplied so as to be able to answer the project's key research questions. The template was piloted with a further 10% sample of the responses before final amendments, and was then used across the data set. Once templates were completed for every local authority, the

data was analysed by the University of Birmingham, using the statistical software SPSS, as well as thematically.

2. The Findings:

The survey sought to gather data about local authorities' principles and policies in respect of family and friends carers, the financial and practical support provided, and number of carers and children assisted. The findings are reported below under a series of research questions. Please note percentage figures in brackets are the number as a percentage of codable responses recorded as a percentage.

2.1 Policy framework for family and friends carers

2.1.1 How is family and friends care defined by local authorities?

Although the responses were varied in their length, quality and content, it was possible to establish the extent to which a local authority had a defined policy and / or coherent approach to family and friends care.

Only 30 authorities (21% of responses) provided a specific family and friends care policy covering different legal options. A further 14 authorities (10% of responses), whilst not having a discrete family and friends care policy, did have a unified approach to family and friends care underpinning their different policies, such as their fostering and permanency policies. In other words 69% of local authorities don't have a written, coherent approach to family and friends care. In practice this means that, despite the national policy emphasis on exploring and supporting family and friends care networks when children have care and protection needs, for families living in these local authorities, particularly those outside the foster care system, there is no coherent system in place.

Key finding: The vast majority (69%) of local authorities do not have a written coherent approach to family and friends care

2.1.2 What are the principles underpinning local authority family and friends care policies?

Local authorities' policies were analysed in order to identify whether there were any common principles applied in their approach to family and friends care. Some authorities' statements started with a clear set of principles, in other cases policies were solely procedural.

Table B

Principles underpinning local authorities' family and friends care policies		
	Number of responses	Percentage of cases ⁶²
Family/friends should be considered as the first option for children having to live away from their parents	60	48.8%
Children should be kept within their families	36	29.3%
Principle that Family Group Conference ⁶³ ought to be held	46	37.4%
No service principles mentioned	35	28.5%
Principle of finding the best way to meet children's needs	26	21.1%
Principle of positively welcoming family/friends as carers	9	7.3%
Principle of providing support for family/friends carers	19	15.4%
LA preference for kinship placements being RO or SGO, but not looked after children	17	13.8%
Principle of limiting support to looked after children	2	1.6%
Principle of not placing children with family and friends carers unless under a legal order	1	.8%

60 local authorities (49%) stated that family and friends should be the first option for children, this is in line with the Children Act 1989. However, interestingly, only 44 local authorities had written definitions and policies for family and friends care (see Table B above). 52% of those who stated that family and friends care should be the first option did not have a family and friends care policy.

Moreover, whilst most authorities subscribed to the principle of exploring family and friends care as the first option/keeping children in their families where possible – this did not translate into a principle of supporting families to care for children (only 19 had such a principle).

A significant number of local authorities have explicit policies to keep children being raised by family and friends carers outside of the care system. 21% (26) of local authorities stated that wherever possible children in family and friends placements should not be *looked after* and 12% (15) of local authorities made an explicit statement that the local authority aim is that wherever possible children in family and friends care placements should not be accommodated.

⁶² As a proportion of codable responses

⁶³ A family group conference is a decision making process, in which the child, parents and wider family and friends are supported to make a safe plan for a child at risk

*In keeping with the Children Act 1989 duties and Article 8 'the right for a family life' from the European Convention on Human Rights and the Human Rights Act 1998, the possibility of a child being placed with their extended family or by a family friend, as a **privately agreed arrangement**, will always be considered first as an alternative to the Local Authority placing a Looked After child, either with a relative/friend or a placement provided by the Local Authority. Rochdale*

Whilst for many children there are important benefits to being outside the care system, there are significant implications in terms of access to support services (see chapter 3 for further information). Indeed some authorities were explicit that their policy of keeping children outside the care system was financially driven; and some policies included statements which were in breach of legislative requirements

- Where local authorities have placed children with relatives or friends in an emergency (using regulation 38 of the Fostering Services Regulations 2002), some have policies of not treating the child as a *looked after* child, despite the Southwark judgment (see chapter 3) that they ought to do so. This could exclude the carers from receiving financial support and support services, and in 12 instances local authorities state that such financial support as they do provide will come from a budget which is not for *looked after* children. One policy states *"The carer will be informed that the child is NOT looked after and that parents retain parental responsibility."*
- Seven years after the Manchester judgment (see Chapter 3), there are local authorities which continue to state in their policies that they pay family and friends foster carers a lower allowance than they pay their other foster carers
- Some local authorities also specifically exclude family and friends foster carers from receiving additional payments which their other foster carers are entitled to, despite the Manchester judgment that it is illegal to discriminate, eg *"Relative and friends foster carers are not eligible to receive payments under the Foster Care Career structure, which are reserved for foster carers who came forward to provide a professional fostering service for children with whom they had no previous link"* and *"Payments to [family and friends] carers will be at the basic foster care allowance rate (at the probationary level of the banding scheme)."*
- One authority's statement that *"If the child is accommodated under Regulation 38 then a Residence order is granted and the carer is eligible for foster allowances"* displays more confusion about the law than we have space to dwell on here.
- One local authority's policy of paying special guardianship allowance at a rate of 65% of the authority's fostering allowance does not meet the requirements of the Special Guardianship Guidance and Regulations 2005 (reinforced by the Lewisham judgment, see chapter 3) that the local authority should "have regard to the amount of fostering allowance which would have been payable if the child were fostered."

Key finding: 52% of local authorities who stated that family and friends care should be the first option for children in need of alternative care had no policy on family and friends care.

2.1.3 What policy framework is in place for children being raised by family and friends carers inside and outside the looked after system?

The analysis subdivided responses concerned with family and friends carers into two groups:

- Family and friends carers of *looked after* children i.e. those who are accommodated or under a care order; and
- Family and friends carers of children who are not *looked after* but are cared for by family and friends either under private arrangements with no legal order or under a residence or special guardianship order.

Further details of the implications of these categories, particularly in terms of access to support, are outlined in chapter 3.

73% of authorities who responded had a policy for children in family and friends care in the *looked after* system. This was significantly higher than the 43% that had a policy for children in family and friends care outside the *looked after* system, despite research⁶⁴ showing that the latter children have experienced similar adversities to those in the *looked after* system.

That the majority of authorities don't have a policy for children outside the *looked after* system is particularly concerning, given the number of authorities that made clear that they were keen to avoid children coming into the system, if their circumstances could be responded to via a private arranged family and friends care placement, and assessed as such. A number of local authorities (21%) explicitly aimed that wherever possible children in family and friends care placements should not be *looked after*.

Table C

Whether the authority has a policy for looked after children cared for by family and friends carers		
	Number of responses	Percentage of cases
Policy for LAC cared for by family and friends	96	73.3%
No policy for LAC cared for by family and friends	35	26.7%

⁶⁴ Farmer and Moyers, *ibid*; Hunt et al, *ibid*

Table D

Whether the authority has a policy for children who are NOT looked after and are cared for by family and friends		
	Number of responses	Percentage of cases
Policy for children who were not looked after and were cared for by family and friends	56	42.7%
No policy for children who were not looked after and were cared for by family and friends	75	57.3%

Key finding: Despite these children being extremely vulnerable and many local authorities encouraging such placements outside the care system, most local authorities (57%) do not have a policy for children who are being raised by family and friends outside the care system.

2.1.4 What were the regional variations in policy principles?

2.1.4.1. It was possible to provide an analysis of regional responses to the survey questions about approaches to family and friends care:

Table E

Whether authorities have a coherent policy approach, by region?											
	London	South East	South West	East of England	East Midlands	West Midlands	North East	North West	Yorkshire and Humberside	England	Wales
Local authority has a specific kinship care policy covering different legal options	39.1%	42.9%	28.6%	57.1%	12.5%	14.3%	11.1%	17.6%	.0%	21.5%	16.7%
Local authority does not have a discrete kinship care policy, but there is a unified approach to kinship care throughout the policies sent,	4.3%	14.3%	7.1%	14.3%	12.5%	42.9%	.0%	23.5%	7.7%	10.4%	.0%

As table E illustrates, some regions, such as South East England have a majority of authorities with either a clear definition of family and friends care or a unified approach in their policies. Other regions, such as Yorkshire and Humberside have a majority of authorities which have not adopted a clear definition or unified approach. Any analysis of responses by region needs to take into account the considerable variation in response rates (discussed at the start of this chapter). For example, the relatively low rate of responses from the Welsh local authorities means the analysis may or may not fully reflect the range of policies within Wales.

2.1.4.2 Policies for children not looked after raised by family and friends carers

Considerable regional variations existed in responses concerning policies for family and friends carers of children who were not *looked after*.

Table F

Whether authorities have a policy for family and friends carers of children who are not looked after, by region										
	London	South East	South West	East of England	East Midlands	West Midlands	North East	North West	Yorkshire and Humberside	Wales
Family and Friends Care Policy Statement	44.8%	61.5%	63.6%	57.1%	44.4%	58.3%	18.2%	35.3%	20.0%	28.6%
No Family and Friends Care Policy Statement	55.2%	38.5%	36.4%	42.9%	55.6%	41.7%	81.8%	64.7%	80.0%	71.4%

Some of this regional variation can be accounted for by the varying regional response rates to the survey, but even allowing for this factor, there are still evidently considerable local differences in policy statements, which may well merit further investigation.

Overall the picture presented by the responses of local authorities suggests that family and friends carers of children who are not *looked after* may face considerable difficulties in getting a consistent response to their and the child's needs.

Key finding: There are significant regional variations between authorities having a clear policy for children who aren't looked after living in family and friends care arrangements, with 80% or more of authorities in the North East and Yorkshire and Humberside who responded not having a policy. The absence of guidance and the local variations in approaches may impact on the quality and type of service received.

2.2 Dedicated family and friends care posts

2.2.1 What proportion of authorities have dedicated family and friends care posts?

The survey asked about the establishment of dedicated family and friends care posts within local authorities and the roles that any such posts fulfilled. Over 60% of local authorities that answered this question did not have any dedicated family and friends care posts.

Of those local authorities responding, 43 reported having dedicated posts (38.7% of those that responded to the question), 68 did not have dedicated posts (61.3% of respondents). Of the English authorities, 39% have dedicated posts, compared with 33.3% in Wales.

Table G

Authorities with dedicated family and friends care posts by region		
	Number of local authorities with dedicated posts	Percentage of local authorities in area with dedicated posts
London	8	42.1%
South East	6	50.0%
South West	5	38.5%
East	3	37.5%
East Midlands	4	66.7%
West Midlands	4	57.1%
North East	2	20.0%
North West	6	35.3%
Yorkshire and Humberside	3	23.1%
Wales	2	33.3%

Where authorities had dedicated family and friends care posts, there was no uniformity in organisational arrangements. In some cases it comprised solely an individual worker placed in the fostering team, whereas a small minority of local authorities had recognised the importance and unique nature of family and friend care placements, and Kingston upon Hull had a dedicated team devoted to this work consisting of a manager and up to 6 social workers.

Key finding: Most local authorities (61%) do not have any dedicated kinship care posts.

2.2.2 What is the impact of having dedicated family and friends care posts?

The analysis explored what differences, if any, emerged in the development of family and friends care principles and practice when the local authority employed dedicated family and friends care workers.

The analysis suggests that those local authorities with dedicated workers had a greater coherence in their approach to family and friends care which was lacking in local authorities without family and friends care staff. For example local authorities with a dedicated family and friends care worker were more likely to provide additional good practice guidance to social workers undertaking special guardianship assessments.

However, dedicated family and friends care posts seem to have had little influence on whether the authority had specific overarching policies on family and friends care. There was a slightly higher number of local authorities with a special guardianship policy who had a dedicated family and friends care post than those that did not, which may reflect an underlying trend towards enhanced policies and practices where family and friends care workers are employed, but their influence still presents as relatively limited. This may indicate the limits of such posts in influencing locally

senior policy makers. Such posts may not have had sufficient 'upstream' influence to effect sufficient change at a senior policy making level.

The analysis showed that there is little difference between the type and nature of financial support for family and friends carers between those local authorities that have established posts and those that do not – it remains comparatively constant with minor exceptions.

Key finding: dedicated kinship care posts may have influenced the coherence of the authority's approach but not its policy framework

2.3 Looked after children living with family and friends carers:

2.3.1 Are family and friends foster carers assessed, if so using what guidance?

It is a legal requirement that when *looked after* children are placed with relatives or friends for longer than 6 weeks, that person must to be assessed as a local authority foster carer for the child according to the Fostering Services Regulations 2002 (see Chapter 3 for further information on this).

Many authorities described the assessment process for family and friends carers of *looked after* children, with only 15% failing to provide guidance for staff in this area of practice. To carry out such assessments the majority of local authorities used the BAAF Form F2⁶⁵, which is intended to be used for assessing a carer who is previously known to the child they will be caring for. While the Form F2 does gather some information which will be necessary for the assessment of whether a child can be safely placed with particular carers, it does also gather information which will have limited relevance for many family and friends assessments. For example, each family and friends carer assessment does not need to include a section devoted to the carers' infertility issues. On the other hand, the form gives insufficient space to issues which are highly relevant to family and friends assessments, such as the carers' relationship with the child's parents, and how the child's contact with his/her parents can be safely managed. The Form F2 also invites a style of assessment which many carers find forbidding, as it does not invite a collaborative approach between the carer and the assessor in the production of the report.

Family Rights Group in conjunction with BAAF and The Fostering Network are currently piloting with 10 local authorities a new strengths-based assessment format for family and friends carers, which seeks to ensure that the child's safety is paramount and that the needs of carer and child are identified to help ensure the stability of the placement. For further information contact David Roth (droth@frg.org.uk)

2.3.2 What support services are provided to family and friends carers?

When children are *looked after* the local authority is required to draw up a plan for them which will promote their welfare and place them with an approved foster carer (whether that person is related or unrelated) who is entitled to be paid a fostering

⁶⁵ The Form F2 was developed by BAAF by from its Form F1, which is a standard form used nationally for assessing adopters

allowance and to receive other support to meet the child's needs. Case law has established that family and friends carers should not be discriminated against in terms of the amount of financial support they receive as compared with unrelated foster carers.⁶⁶

i) Non-financial support services: The analysis of responses suggested that *looked after* children living with family and friends carers were receiving services that appeared to be markedly different from children placed with local authority unrelated foster carers. The table below indicates that only in a small number of authorities (10) were family and friends carers, who are providing a home for a *looked after* child, eligible to receive the same level of support services as local authority foster carers caring for an unrelated child, whilst only two authorities report that Regulation 38⁶⁷ carers are eligible for equivalent support.

The following table lists those services that local authorities should be providing to all *looked after* children and their carers according to the National Minimum Standards (NMS) and Fostering Services Regulations 2002. The NMS specifically requires that “*support and training needs for family and friends carers are assessed and met in the same way as for any other carers.*” This table captures the failure of local authorities to explicitly commit to providing such assistance to family and friends carers, for example 95% of local authorities’ policies made no mention of support for contact and 85% made no reference to support groups for carers.

Less than 10% of responses explicitly indicated that family and friends carers of *looked after* child could access the same support and services as unrelated local authority foster carers. However, a small number of respondents’ policies did recognise family and friends carers as having unique needs requiring specific services:

“Wandsworth Borough Council is committed to ensuring children who are looked after by members of their extended family and social networks, receive a high quality of care and that there is recognition of the unique complexities kinship foster carers manage within their families.” Wandsworth

“Family and Friends carers are entitled to training and support from the Family Placement Team. As the context for family and friends carers is different to that of stranger carers, this training and support will be provided both on a general basis and to them as a distinct group.” Wolverhampton

⁶⁶ See footnote 39 chapter 3

⁶⁷ Regulation 38 Fostering Services Regulation 2002 empowers the local authority to place a child with a relative or friend for up to 6 weeks in an emergency with only minimal checks about the carer and premises being carried out, following which the carer need to be assessed and approved as a local authority foster carer for the placement to continue lawfully.

Table H

Provision of non financial support services for family and friends carers of looked after children, as stated in local policies/procedures		
	Number of responses	Percentage of cases
Own link worker	44	40.0%
Training	44	40.0%
Regular social work visits	42	38.2%
No mention of non-financial support for family/friends foster carers	34	30.9%
Support group	17	15.5%
Out-of-hours contact no. for support	9	8.2%
Child's family contact	5	4.5%
Statement that family/friends carers eligible for same non-financial support as unrelated foster carers	10	9.1%

ii) Financial support

Rates: The survey analysis considered the provision of financial support. 9% of respondents explicitly stated that the weekly allowance paid to family and friends foster carers is lower than unrelated carers, despite this being held to be unlawful⁶⁸. A further 9% stated that family and friends foster carers received the same rate as unrelated foster but were denied additional allowances available to family and friends carers.

Financial support for emergency placements (under Regulation 38 The Fostering Services Regulation 2002): The responses indicate that some local authorities are failing to comply with the law in relation to Regulation 38 placements i.e. *looked after* child who are placed with a relative or friend, who is not an approved foster carer, for up to 6 weeks in an emergency. Only 5% of responses gave exact details of the rates of allowance for Regulation 38 carers, and 52% of responses made no mention of policies for payment to Regulation 38 carers. Worryingly 9.4% stated that they paid Regulation 38 carers at a lower rate than they would receive after approval as foster carers, in breach of the Manchester judgment.⁶⁹ There is also a question mark as to why some local authorities are paying Regulation 38 carers from their children in need (s. 17) budget rather than their fostering budgets, this may reflect the ambivalence that some local authorities display to these carers.

⁶⁸ See footnote 39 chapter 3

⁶⁹ See footnote 39 chapter 3

Table I

Financial support for family and friends carers of looked after children, as stated in local policies/procedures		
	Number of responses	Percentage of cases
Amount of fostering allowance specified	27	23.1%
Weekly allowance is at the Fostering Network recommended rate	22	18.8%
Weekly allowance is the same as for unrelated foster carers, and family/friends are entitled to all the same additional payments	21	17.9%
Weekly allowance is the same as for unrelated foster carers, with some entitlement to additional payments	15	12.8%
Weekly allowance is the same as for unrelated foster carers, but no entitlement to additional payments	11	9.4%
Weekly allowance is lower than for unrelated foster carers	11	9.4%
Policies explicitly state that family/friends carers can qualify for higher levels of payment, e.g. in payment for skills scheme or by attending training	4	3.4%

Table J

Policy of payment to family and friends carers in emergency (Regulation 38) placements		
	Number of responses	Percentage of cases
No mention in policy of payments to reg. 38 placements	61	52.1%
Reg 38 carers paid at the same rate they will receive after approval	12	10.3%
Reg 38 carers paid from Section 17 budget	12	10.3%
Reg 38 carers entitled to one-off payments e.g. for furniture & equipment	12	10.3%
Reg 38 carers paid at a lower rate than they will receive after approval	11	9.4%
Statement that Reg. 38 placements need to be set up speedily	7	6.0%
Amount of reg. 38 allowance specified	6	5.1%
Reg 38 carers paid Fostering Network recommended rates	3	2.6%

iii) Legal fees: The majority of policies (89%) did not include reference to support for family and friends carers with legal fees – a noticeable omission when the children cared for are looked after child whose legal status will be the subject of ongoing attention.

Key findings:

- **Only 10% of local authorities are committed to providing family and friends carers of looked after children the same level of non-financial support as unrelated foster carers.**
- **9% of local authorities are explicitly paying family and friends carers who are raising looked after children less than unrelated foster carers, despite this being unlawful.**
- **Most local authorities are failing to commit to a policy or rate at which they pay family and friends carers in emergency placements of looked after children, whilst 9% are explicitly paying these carers a lower rate than they pay once the carer is approved as a foster carer.**
- **89% of policies made no reference to supporting family and friends carers with legal fees**

2.4 Children with family and friends carers who are not looked after

Non-looked after children include those children living with kin in a private arrangement, under a residence or under a special guardianship order. Section 2.5 describes in greater detail the approach of authorities to children in family and friends care arrangements on a residence order and section 2.6 does similar in relation to children in family and friends care arrangements on a special guardianship order.

2.4.1 Are family and friends carers assessed when children are not looked after and, if so, using what guidance?

There is no requirement to assess a family and friends carer as to their suitability to care for a child who is not *looked after*; however:

- where there are child protection concerns as a result of which a child may move to live with a relative or friend, the local authority may decide that they want to assess the prospective carer as part of the child protection plan to ensure that the placement will meet the child's needs;
- when the carer applies for a residence order, the court may direct that a report be filed by the local authority⁷⁰
- when the carer intends to apply for a special guardianship order, s/he must notify the local authority of his/her intention to apply following which the local authority must prepare a report for the court on the suitability of that person to be a special guardian;⁷¹ and

⁷⁰ Section 7, CA 1989

⁷¹ This report should address matters set out in regulation 21 and the schedule, Special Guardianship Regulations 2005

- when the family and friends care arrangement falls within the scope of private fostering⁷² the local authority is under a duty to inspect and monitor the placement and premises.

This means that in many cases the local authority will be conducting assessments and preparing reports on non-looked after children who are in family and friends care arrangements.

Details of the arrangements for assessing family and friend carers of children that were not *looked after* children were scant, with 52% of responses providing no guidance on assessment of relatives who were caring for children outside the *looked after* system. Whilst there is no legal requirement for authorities to have such guidance (except in relation to special guardianship), nevertheless such deficiency is concerning, because it means that individual social workers are left to work out the criteria and framework for assessment on their own.

Table K

Whether the local authority has guidance on assessment of family and friends carers of non-looked after children		
	Number of responses	Percentage of cases
No guidance on assessment of relative caring by private arrangement	31	51.7%
No guidance on assessment of private foster carer	25	41.7%
Private fostering: guidance on actions to be taken according to Children (Private Arrangements for Fostering) Regs 2005	13	21.7%
Assessment using Assessment Framework for relative caring by private arrangement	6	10.0%
Other form of assessment for relatives caring by private arrangement	16	26.7%

2.4.2 What support services are provided to family and friends carers when children are not looked after?

While there is no legal duty to provide support services per se when children in family and friends care are not *looked after* by the local authority, the local authority should provide services to support children who are deemed to be in need (under s.17 CA). This should be determined as a result of an assessment of the child's needs by the local authority. The support provided can include cash help, currently in exceptional circumstances only although this restriction is due to be removed when the Children and Young Persons Act 2008 is implemented. In addition, they can provide other non-financial help with the care of the child.

Local authorities also have the power to provide a residence order allowance and special guardianship support – the responses on these issues are set out in sections 2.5 and 2.6 on pages 38 and 41

⁷² See chapter 2 for which kinship carers come under private fostering regulations

i) Non-financial support services: The support arrangements for children who are not *looked after* and who are cared for by relatives / friends were typically located within provisions for children in need in accordance with s.17 CA 1989. 37% of authorities set out what services *may* be available to such carers, such as social work visits, dedicated family and friends care workers and/or support groups.

Frequently there was an absence of policy or policy details in authorities' responses – 62% of those responding either did not mention non-financial support or did not describe any eligibility criteria for such support.

Occasionally local authority policy documents provide an impressively comprehensive approach to support for family and friends carers of children who were not *looked after*.

“Advice, services, practical and emotional support that meet the specific needs of family and friends carers and children should be offered to carers and children and sustained and reviewed over time. Not all family and friends care placements will require financial or practical support, but a thorough assessment will help establish what is needed to benefit the child.

Family and friends placements will be supported by one consistent social worker that will take a `whole family' approach working with the child, carers and birth parents. This key worker will have responsibility for co-ordinating a package of care and services to support the placement. This could include service inputs from a range of agencies or services customised to meet the needs of that particular family including the co-ordination of regular reviews of the placement.

Routine evaluation of outcomes for children and young people in family and friends placements will be an integral to practice and these placements will be regularly reviewed. Furthermore, children, families and community will be consulted on the development of policy, practice and research.” North Yorkshire

ii) Financial support

Where financial support was made available to family and friends carers of children who are not *looked after*, this occurred from the children in need (S17 CA 1989) budget in 73% of authorities. What stands out however, is that 85% of local authorities who responded didn't have explicit criteria stating which carers are eligible for such support and at what rate. Thus it was often left to carers to try and negotiate individually.

In some cases, the policy explicitly stated that the local authority would aim to avoid funding non-looked after placements. One authority's policy stated that *“such care arrangements should be viewed as a private matter with any funding issues being absorbed within the family themselves or via state benefit entitlements”*.

Responses indicated a limited level of detail about allowance levels, eligibility and arrangements for payment. When detail was supplied about payment for family and friends carers of children who were not *looked after* children it was in the main concerned with managing demands on financial support:

Payments that are likely to continue beyond 4 weeks *The following criteria must apply before payments are made:*

- 5.4.1. *The purpose of the expenditure must be to safeguard and promote the welfare of a child.*
- 5.4.2. *The child must be assessed as in need.*
- 5.4.3. *A payment is necessary to assist the child to be cared for appropriately by family or friends but not a parent.*
- 5.4.4. *The child does not need to become looked after by the authority.*
- 5.4.5. *The means of the carers will be considered via a financial assessment. In exceptional circumstances the Locality Manager can agree payments above the amount which has been assessed by the Finance Section.*
- 5.4.6. *Family and friend carers should have applied for a maintenance assessment under Section 4 of the Child Support Act 1991 or entered into a maintenance agreement under Section 9 of the Child Support Act or have had good reason not to do so.*
- 5.4.7. *Assistance in kind is not appropriate.*
- 5.4.8. *There are not other legitimate sources of financial assistance.*
- 5.4.9. *Payment would not place any person in breach of the law.*
- 5.4.10. *Following assessment the child must be visited and the family actively engaged by a social worker on a family support basis at least for the duration of any payments.*
- 5.4.11. *The local authority will have regard to the wishes and existing responsibilities of the carer and their resources.*
- 5.4.12. *The local authority may contribute to care arrangements with a relative, other relative or friend on a weekly basis. These payments should be regularly reviewed (and at least every 13 weeks).*
- 5.4.13. *Unless there are exceptional circumstances, levels of weekly living contributions will not exceed the amounts for a child (including premiums or elements for the family and disability) within income support or tax credit rules, and will be means tested and calculated in accordance with the banding scheme attached as the Annex to this policy.*
- 5.4.14. *All decisions to request regular financial support to a family and friend carer must be as a result of an initial or core assessment.*

Payments that are likely to last up to 4 weeks or less

- 5.4.15. *Payments not exceeding 4 weeks will be made out of the team purchasing budget.*
- 5.4.16. *When agreeing these payments consideration should be given to the issues in 5.4.1 – 5.4.14 above.*
- 5.4.17. *Such payments to a parent, relative, “other relative” or friend should only occur to overcome a crisis or towards the cost of setting up care arrangements. It is ultimately the role of state benefits to financially support a parent and dependent children. Suffolk*

There are a few exceptions, where the local authorities such as Birmingham and the Isle of Wight made clear that they were willing to pay up to the fostering allowance (minus child benefit/tax credit which the carer will receive but which foster carers would not).

This response from one local authority is fairly typical in that it provides no meaningful information about how the local authority would make its decision on whether or not to pay these costs: *“There are no specific written guidelines setting out in what circumstances payments for legal costs in respect of special guardianship or residence order applications will be covered. The general policy means that such payments could be made where not to do so might have prejudiced the application.”*

Key findings:

- **Just over half of local authorities (52%) have no guidance on the assessment of relatives caring for a child outside the looked after system**
- **A significant minority (42%) have no guidance on the assessment of wider relatives and friends who fall within the definition of private foster carers**
- **62% of those authorities did not mention non-financial support for non-looked after children in family and friends care placements or failed to describe any eligibility criteria for such support**
- **85% of authorities lack explicit criteria stating which family and friends carers of non looked after children are eligible for financial support and at what rate.**

2.5 Children in family and friends care arrangements under a residence order

A residence order settles with whom a child can live.

Local authorities are not under any statutory duty to report to the court about prospective residence order applications although they can be ordered to do so by the court (s.7 CA) in specific cases. They are also not under any duty to provide support but they have the power to do so under s.17 CA and they may also pay a residence order allowance (sched 2 para 15 CA).

Further information can be found on this in chapter 3.

2.5.1 What are local authority policies on residence orders?

Of those authorities that responded just over half (58%) had a policy on residence orders. The policies tended to deal either with all residence order applications without specifically addressing the needs of those who are family and friends carers (52%). Only 13% of responses had a specific residence order policy specifically for family and friends carers and 14% had a sub section within the general policy for family and friends carers.

2.5.2 What policies were there (if any) about assessment in prospective residence order cases?

Arrangements for assessing applicants for residence orders were rarely spelt out – only 21% of responses included guidance for assessment, the other 79% of responses did not include any such guidance. To some extent this is not surprising since there is no legal requirement to assess as a matter of routine an applicant for a residence order. However the local authority can be ordered to assess in the course of court proceedings or may decide to do so within local authority processes for safeguarding children, thus the absence of guidance on such assessments leaves social workers undertaking such tasks to work it out for themselves and family and friends carers being assessed, unclear as to the criteria being applied.

i) Non-financial support

The policy documents offered little in terms of details about non-financial support to family and friends carers raising children on a residence order. The overwhelming majority of responses (83%) either made no mention of non-financial support or provided no details about the support that could be obtained. Only 13% of policies provided information that would assist carers applying for a residence order, or with children on a residence order to understand what non-financial support could be available to assist the child and the placement.

ii) Financial support:

In 64% of local authorities, policy guidance about the provision of financial assistance informed carers that this would be subject to an assessment of their financial circumstances, but most did not describe how it would be calculated. Although 15% of local authorities did not provide any information about the level of residence order allowance that they paid, others did quantify it as being equivalent to other allowances they paid. In 41% of authorities, the residence order allowance would be equivalent to the fostering allowance, after deductions for child benefit and child tax credit, which people with residence orders could receive but foster carers cannot.

Table L

Policy guidance on provision of financial assistance to carers with a residence order		
	Number of responses	Percentage of cases
Financial support subject to assessment of carer's financial circumstances	66	63.5%
Maximum Residence Order Allowance (ROA) financial support equivalent to fostering allowance	43	41.3%
One-off payments provided	30	28.8%
Maximum ROA financial support equivalent to SG allowance	25	24.0%
Maximum ROA financial support equivalent to adoption allowance	24	23.1%
ROA financial support mentioned, level of allowance not stated	16	15.4%
Section 17 help provided	16	15.4%

Carers are most likely to be eligible to receive a residence order allowance where they have previously fostered the child (38.5%), indicating that removing children from being *looked after* is a high priority for local authorities. This can be linked to the opinions of researchers Farmer and Moyers (2008), that local authority social workers encouraged family and friends foster carers to apply for residence orders as a way of reducing the amount of financial support and other services which the local

authority would provide.⁷³ In only 25% of FOI responses was eligibility for a residence order allowance based upon the child's needs, although research has demonstrated that children placed by a local authority with family and friends carers are likely to be just as needy as children in foster care with non-relatives.⁷⁴

Table M

Eligibility for residence order allowances		
	Number of responses	Percentage of cases
Carers eligible where they have fostered the child	40	38.5%
To prevent the child becoming looked after	35	33.7%
Carers eligible who have RO on a child who was looked after	30	28.8%
Eligibility based upon child's needs	26	25.0%
Carers eligible where child was placed through proceedings	18	17.3%
Carers eligible where local authority supported placement being made	18	17.3%

iii) Legal fees:

The majority of authorities failed to provide clear criteria as to which carers might or might not be assisted with legal fees for a residence order application. In 56 local authority responses (39%) information about their criteria for payment of legal fees was provided in their response letter to Family Rights Group, but these criteria did not exist in the policy guidance they sent, indicating that it would be hard for carers to have a clear idea of their entitlement to this sort of assistance. 25% of local authority respondents did include criteria which included circumstances where the local authority supported the placement (25%) or placed the child (26%). Some authorities' policies did allow for discretion about payment with 17.5% of policies responding on a case by case basis to applicants or by the agreement of a senior manager (also 17.5%).

⁷³ Farmer and Moyers, *ibid*

⁷⁴ Farmer and Moyers, *ibid*

Key findings:

- **Only 27% of authorities who responded had a residence order policy that specifically addressed family and friends carers**
- **87% of local authorities' policies on residence orders did not provide details of what non-financial support could be available to carers and children**
- **In 64% of local authorities, policy guidance about the provision of financial assistance informed carers that this would be subject to an assessment of their financial circumstances, but most did not describe how it would be calculated.**
- **In only 25% of responses was eligibility for a residence order allowance explicitly based upon the child's needs**
- **A majority of authorities failed to provide clear criteria in their policies as to which carers might be assisted with legal fees to apply for a residence order.**

2.6 Children in family and friends care arrangements under a Special Guardianship Order

Special guardianship orders (SGO) are a legal order that provides permanence for a child in a family and friends arrangement.

Local authorities are required to establish a special guardianship service in the area. This will include:

- the preparation of reports for courts on the suitability of all proposed applicants to be a special guardian:
- the provision of support services including financial and non-financial support subject to an assessment of need and means in the particular case. Financial support can include assistance with contact and legal fees neither of which should be means tested.

Further information can be found on this in chapter 3.

2.6.1 What are local authority policies on Special Guardianship?

Special guardianship orders were a relatively new legislative development at the time of the survey, which is reflected in the responses received. It is likely that further developments in local policies and practices have occurred since the survey was undertaken.

Responses to the FOI survey included a range of documentation about local practices in respect of special guardianship orders. 53% of responses to this section of the survey included a policy statement regarding special guardianship.

There is considerable regional variation as the table below sets out – however, the more general regional variation in response rates to the survey should be taken into account when considering the uneven picture presented in the table below:

Table N

Variation whether local authority has a policy statement on special guardianship by region										
	London	South East	South West	East of England	East Midlands	West Midlands	North East	North West	Yorkshire and Humberside	Wales
Special Guardianship Policy Statement	46.4%	73.3%	66.7%	66.7%	33.3%	72.7%	36.4%	73.3%	53.3%	14.3%
No Special Guardianship Care Policy Statement	53.6%	26.7%	33.3%	33.3%	66.7%	27.3%	63.6%	26.7%	46.7%	85.7%

2.6.2 What are the assessment processes for special guardianship cases?

Despite the local authority being required to assess the suitability of special guardians in every case the assessment processes for special guardianship orders were not detailed in 45% of responses, whilst a further 47% of responses made reference to the Schedule that accompanies the Special Guardianship Regulations.

Local authorities with a dedicated family and friends care worker were more likely to provide additional good practice guidance to social workers undertaking special guardianship assessments; this may or may not have included specific reference to family and friends carers.

2.6.3 What support services are available for special guardianship cases?

The provision of support for special guardians is set out in the tables below.

i) Non-financial support

Although local authorities have the power in all cases to assess what support services a special guardian needs, they only have a duty to carry out this assessment if the child has been *looked after* immediately prior to the special guardianship order being made. Only 10% of local authorities specified that they would exceed their statutory duty by making support services available to all special guardians, whether the child had been *looked after* or not, 40% of local authorities stated only that they would meet their legal obligation to provide support services for children who had been *looked after*, while 34% made no mention of who qualified for support.

Where local authorities do provide support, the majority (53%) follow the guidance in the special guardianship regulations 2005 on the support which they should provide, with many using the same wording as the regulations. 41% either make no mention of non-financial support, or if they do so they provide no specific details of what is provided.

Table O

Eligibility criteria for support services for special guardians		
	Number of responses	Percentage of cases
Carers eligible who are special guardians of a child who was looked after	33	39.8%
No mention of eligibility	28	33.7%
All carers eligible	8	9.6%
Carers eligible where child was placed through proceedings	2	2.4%
Carers eligible where local authority supported placement being made	2	2.4%

Table P

Provision of non-financial support for special guardians		
	Number of responses	Percentage of cases
Non-financial support mentioned, follows guidance in SG regs on provision	44	53.0%
Non-financial support mentioned, no specific details of provision	21	25.3%
No mention of non-financial support	13	15.7%
Support available exceeds guidance in SG regs	3	3.6%

ii) Financial support:

Local authorities have a duty to assess special guardians' need for financial support only where the child they are raising has been *looked after*; and 40% of local authorities do specify that the child having been *looked after* is one of the criteria for receiving financial support. However, the intervention of the family and friends carer during care proceedings can often avert the need for the child to ever become *looked after*. This could mean that carers who intervene to stop a child they know from entering the care system could make themselves ineligible for receiving a special guardianship allowance. Only 14% of local authorities state that they will provide financial support where a child has been placed with their special guardian through care proceedings, and 13% state that they will do so in order to prevent a child from becoming *looked after*.

In line with government guidance, most local authorities (62%) state that special guardianship allowance will be subject to a financial assessment of the carer. Although the maximum amount payable could vary between authorities, and was set according to the level of other allowances paid, the maximum payment of 39% was

the equivalent of the fostering allowance, which is in line with government guidance in the Special Guardianship guidance and regulations 2005. However, 19% of respondents made no mention of special guardianship financial support, or were unclear about the amount they will pay.

Table Q

Eligibility criteria for Special Guardianship Allowance		
	Number of responses	Percentage of cases
Carers eligible who are special guardians of a child who was looked after	37	39.8%
Carers eligible where they have fostered child	32	34.4%
Eligibility based upon child's needs	29	31.2%
No mention of eligibility	13	16.2%
Carers eligible where child was placed through proceedings	13	14.0%
Carers eligible where local authority supported placement being made	12	12.9%
To prevent the child becoming looked after	12	12.9%

Table R

Provision of Special Guardianship Allowance		
	Number of responses	Percentage of cases
Financial support subject to assessment of carer's financial circumstances	58	62.4%
One-off payments can be provided	41	44.1%
Maximum allowance payable is equivalent to fostering allowance	36	38.7%
Maximum allowance payable is equivalent to RO allowance	27	29.0%
Maximum allowance payable is equivalent to adoption allowance	20	21.5%
Financial support calculated according to government's guidelines	19	20.4%
Financial support mentioned, level of allowance not stated	14	15.1%
No mention of financial support	4	4.3%

iii) Legal fees:

Some local authorities' responses also addressed the cost of the legal fees associated with SGO proceedings, although 58 of the local authorities (41%) who said that they would assist special guardians with their legal fees stated this only in their letter of response to FRG's FOI request, and there was no such statement in their policy documents. This help with legal costs focused primarily on children with whom the local authority had an existing connection. (For example 35% of authorities would assist with fees when they had placed the child, 38% would assist when the authorities supported the placement.) There was room for discretion – 16% of authorities decided on a case-by-case basis whether to assist with fees, and 15% said that the decision sat with the relevant senior manager.

Key findings:

- **Despite regulations that local authorities should provide a range of specified special guardian support services, 41% of authorities responding made no mention of non-financial support for special guardians, or if they did they gave no specific details of what is provided**
- **19% of local authorities made no mention of special guardianship financial support, or were unclear about the amount they will pay.**
- **41% of authorities who informed FRG that they would assist special guardians with legal fees, did not include such a statement within their policy documents, thus carers in their locality were unlikely to be aware of the authority's potential willingness to assist them.**

2.7 How many children are in family and friends care according to local authorities and at what cost?

Information regarding local authority spending on support for family and friends care, the number of children cared for and the number of carers were requested for the previous financial year. However responses to these questions was partial. Where figures were provided, they were often inconsistent, covering different time periods or including other aspects of care, making it impossible to isolate figures relating to family and friends care. Sometimes it was unclear whether the local authority had provided the figures for family and friends care placements only, as requested, or whether the figure they provided was their total spend on fostering allowances, residence order allowances or special guardianship allowances for both kin and non-kin placements. This makes comparison difficult and the picture presented here partial.

2.7.1 Numbers of children and carers:

Analysable responses from 44 local authorities contained varied information about the numbers of children living in family and friends care arrangements, suggesting a mean average of 57 cases, with the number of children ranging from 5 to 188. With a lower quartile of 34 and an upper quartile of 102, there is an even spread between these minimum and maximum figures.

Even fewer local authorities were able to provide appropriate figures relating to the numbers of family and friends carers. Within the 34 local authorities that responded

appropriately, numbers ranged from 4 to 140, with a mean average of 37.5. Once again numbers there is an even spread between these minimum and maximum figures, with a lower quartile of 26 and an upper quartile of 65.

2.7.2 Costs:

Appropriate annual costs were received from only 65 local authorities. Within these authorities total costs ranged from £3,600 to over £2,500,000, with a lower quartile of £18,000 and an upper quartile of almost £555,000. Mean average annual costs were £380,600, although this is clearly skewed by a small number of very large budgets. It is also unclear how reliable some of the larger figures are, as they may for example refer to the whole of a local authority's fostering budget and not just what was spent on family and friends foster carers.

Where local authorities provided both an annual cost and the number of children cared for through family and friends care arrangements, an average cost per case can be calculated. Again substantial variation is apparent, ranging from £122 per child to over £13,800. However, most local authorities reported average costs per young person of between £4300 and £7500, with a mean average of £5490. Eight authorities (20.5% of respondents) reported average costs between £4000 and £5000, with a further 10 authorities (25.6% of respondents) reporting an average between £5,000 and £6,000.

Where figures were provided specifically for supporting Residence Orders, annual total budgets ranged from £1500 to almost £1,000,000 with an average of £202,000. With the number of children ranging from 2 to 167 (with an average of 52), this gives an average cost per case of £3800 for this type of care arrangement. Whilst cost per case again varies greatly (from £1100 to £5800), 53% of respondents reported spending between £3000 and £5000 per case.

In relation to family and friends foster care, annual total costs ranged from just £350 to over £1,500,000 with an average of £210,000. The number of children ranged from 1 to 148, with a mean average of 32. This gives a much higher average cost per case of £6300 for this type of care arrangement. This is skewed by a small number of local authorities with large costs per case, with the highest reported to be over £21,000.

Key findings

- **Less than a third of local authorities provided information on numbers of children in family and friends care arrangements whom they supported, indicating such data isn't routinely collected. Even fewer provided data on number of carers assisted**
- **Budgets supporting children in family and friends care under a residence order averaged £3800 per case, where support was provided**
- **Budgets supporting children in family and friends foster care averaged £6300 per case.**

3. Conclusion

The analysis reveals that currently services provided to family and friends carers, and the children they are raising, vary substantially across the country and are often grossly inadequate. A few authorities are extremely active in promoting and supporting such arrangements even when they are not legally obliged to, whilst

others seek to avoid providing support wherever legally possible. The majority of authorities have no coherent written approach to family and friends care, in particular there is an absence of written policies, procedures or guidance on assessment and financial and practical support for the vast majority of children being raised by family and friends carers outside the care system.

Moreover, it also reveals a dearth of information collected by local authorities on the numbers of family and friends carers and children in such placements, and financial support provided to such carers and children. It is essential such information is collected systematically by local authorities, in order that they can effectively prioritise support to those in greatest need and plan budgets and services accordingly.

The report's analysis confirms the existence of a post code lottery in the approach and support available to family and friends carers and the children they are raising. This needs to be addressed at national and local level, with a national financial allowance being made available to carers raising children who cannot live at home and with clear policies and systems being put in place in **every** local authority to ensure that family and friends care arrangements are appropriately assessed and supported.

5. RECOMMENDATIONS

Consistent with the proposals in Care Matters: Time for Change and the Children and Young Persons Act 2008, these recommendations seek to prevent children from being unnecessarily raised outside their family and being taken into, or remaining in, care, and to enhance outcomes for children who cannot live with their parents and who are living with relatives or friends. We recommend:

Policy and procedural issues

- That official statistics of children being raised by relatives and friends, including detailed socio-economic data are collected and published by government.
- That children being raised by family and friends are recognised as a specific group of vulnerable children, requiring tailored policies and provision of support services at a local and national level.
- That all children and families are entitled to be offered a family group conference prior to care proceedings (or immediately afterwards in an emergency).
- That there is a new duty being placed upon Children's Services, which is properly funded by central government to:
 - ensure the provision of local family group conference services;
 - to support implementation of the family plan arising out of a family group conference, if it is safe and addresses key concerns;to provide independent family advice and advocacy services.
- That assessment procedures on the suitability of individual placements for vulnerable children recognise the uniqueness and potential strengths of family and friends care and ensure that placements suit the needs of each child, enabling them to feel safe, loved and secure.

Support

- That children being raised by relatives and friends, are recognised as children in need, and are thus entitled to an assessment by the local authority of their specific needs and consequent support.
- That all local authorities provide support services for children and their families, including assistance with contact, respite and local support groups; and that authorities are funded by central government to do this.
- That family and friends are able to get public funded to secure as necessary a legal order to safeguard a child.
- That family and friends carers who are raising children who cannot live with their parents are entitled to a national financial allowance, so as to avoid being plunged into financial hardship as a result of becoming carers.
- That government guidance is issued to ensure that family and friends *foster* carers are no longer discriminated against in terms of the financial allowance they receive from the local authority.

Appendix A

Freedom of Information Survey from Family Rights Group's Chief Executive to all English and Welsh local authorities

I wish to request the following information, under the Freedom of Information Act 2000.

The information I am requesting relates specifically to children who are not living with their parents, and instead are being cared for by other family members or family friends. These children are often referred to as being in 'kinship care', 'family and friends care' or 'relative and friends care'.

Please can you provide the following information:

1. Does your local authority have a policy on kinship care? If so please provide a copy. Please provide any separate policies on kinship that specifically address assessment of relatives to care for children.
2. a) Does your local authority have a policy on the provision of financial support and support services for children living in kinship care? If the answer is yes, please provide a copy with regard to children living in kinship care:
 - i. Who are the subject of a special guardianship order
 - ii. Who are the subject of a residence order
 - iii. Who are looked-after
 - iv. Who are living in such an arrangement under no legal orderb) Please include relevant details as to how allowances are calculated, and any restrictions the local authority places on the amount or duration of these allowances.
c) Please provide any other separate policies that specifically apply to kinship care
3. Does your local authority sometimes pay legal costs and court fees in respect of special guardianship and residence order applications? If so, are there written guidelines setting out in what circumstances payment is made. Please provide a copy.
4. Please provide information on the total council budget spent in 2005/6 on supporting kinship carers and the children they are raising and how many children and kinship carers were assisted.
5. Please provide information on monies spent by the local authority in 2005/6 on the following:
 - i. residence order allowances
 - ii. special guardianship allowances
 - iii. kinship foster care allowances
 - iv. any other means and grants of funding kinship care?Please specify, if you can, how much of these sums were spent on kinship care arrangements.
6. Does your local authority have a specialist team or a dedicated worker for kinship care? If the answer is yes, please provide contact details.