



Kinship Care Alliance's response to the Department for Business, Energy & Industrial Strategy consultation on Parental Bereavement Leave and Pay, March 2018.

This response has been prepared by Family Rights Group on behalf of the Kinship Care Alliance.

**It is endorsed by
Buttle UK
Coram Baaf,
Grandparents Plus
Kinship Carers UK
Nagalro**

8 June 2018

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1. The Kinship Care Alliance

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

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

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

1.3 This submission is drafted by Family Rights Group. It is endorsed by Buttle UK, Coram Baaf, Grandparents Plus, Kinship Carers UK and Nagalro.

2. Family Rights Group

2.1 Family Rights Group, which drafted this response, is the charity in England and Wales that works with parents whose children are in need, at risk or are in the care system and with members of the wider family who are raising children who are unable to remain at home. Our expert advisers, who are child welfare lawyers, social workers, or advocates with equivalent experience, provide advice to over 5000 families a year via our free and confidential telephone and digital advice service. We advise parents and other family members about their rights and options when social workers or the courts make decisions about their children's welfare.

2.2 Family Rights Group also campaigns for families to have their voice heard, be treated fairly and get help early to prevent problems escalating. We lead the policy work of the Kinship Care Alliance and champion Family Group Conferences and other policies and practices that keep children safe in their family network.

3. Who should be included within the definition of 'bereaved parent'?

3.1 The definition of 'bereaved parent' should be sufficiently wide to capture (as acknowledged in the consultation briefing) a variety of family circumstances. Any definition of bereaved parent should be drafted so as to recognise the many kinship carers who raise children who are unable to live at home with their birth parents including:

- (i) Kinship carers caring for children under private law orders, namely special guardianship orders, child arrangements order and residence orders;
- (ii) Kinship carers who have adopted the child they are caring for;
- (iii) Family and friends foster carers approved under regulation 24 of the Care Planning, Placement and Case Review Regulations 2010 and/or part IV of the Fostering Services Regulations 2002;
- (iv) Informal kinship carers raising children under arrangements that have been made privately within the family, and where the carer is a relative within the meaning of section 105 Children Act 1989; and
- (v) Private fostering arrangements within the meaning of section 66 of the Children Act 1989 where the carer is not a relative (within the above definition).

3.2 A definition based upon that used for 'parent' in section 576(1) of the Education Act 1996 could be adopted, but expanded further. This proposed definition would include natural parents, adoptive parents and step-parents¹ as well as the above mentioned groups of kinship carer. It is suggested that 'parent' under the new Regulations be defined to include:

- (1) Any person who is not a parent of the child but who had parental responsibility for the child, parental responsibility having the same meaning as in the Children Act 1989;
- (2) Any person who had care of the child;
- (3) In determining for the purposes of (1) whether an individual had care of a child or young person, any absence of the child or young person at a hospital or boarding school and any other temporary absence shall be disregarded;
- (4) Any person who although not a natural parent, had care of the child immediately prior to death, including where the child was in the care of the local authority and was placed in local authority approved foster care.

3.2 Part (4) of the above definition would capture both unrelated and related (kinship) foster carers, whether they were caring for the child on a short or longer term basis. For a child in temporary/short-term foster care (whether unrelated or kinship foster care) for whom a return home is intended or planned, bereavement pay may not be appropriate for the foster carer however. Regulations should seek to account for the

¹ Potentially, a child could be cared for in two separate homes under a child arrangements order, but in such circumstances, where two people (even if one was not a birth parent) are both caring for the child, it would be reasonable that both should be entitled to bereavement leave.

complexity of this situation, and leave space for case by case consideration where children are moving between short and longer term placements.

4. Evidence

4.1 It should be recognised that some kinship carers find it difficult to easily obtain documentation to evidence their kinship care arrangements. This may be particularly the case where arrangements have been put in place in response to urgent situations; where material documentation is retained by parents or benefits for the child have not yet been transferred; or where other agencies such as local authority children's services department are drawing on documentation for other purposes (e.g. assessment of entitlement to carer allowances or to progress assessments). Regulations should account for the fact that documentation may either not be available or readily available or will need to be sourced from third parties which will take time. Any evidence requirements should take account of what will be reasonable for kinship carers to produce having regard to the above. Amongst the evidence that kinship carers may have access to is:

- A copy of a court order confirming the legal order in place;
- A letter or other correspondence from children services confirming the care arrangement where the local authority has knowledge of the kinship care arrangement or was involved in placing the child with the carer;
- Evidence of informal arrangements could be provided by proof of receipt of benefits relating to the child, or a letter from children's services.

4.2 We would willingly discuss the situation of kinship carers further with the DBEIS officials.