



**The Kinship Care Alliance briefing on
Family and Friends Care:
raising children within the wider family as an alternative to care**

Prepared by
Family Rights Group on behalf of the Kinship Care Alliance

Endorsed by:

Action for Prisoners' Families
Buttle UK
Family Rights Group
The Fostering Network
The Grandparents' Association
Grandparents Plus
Kinship "Foster" Carers
Mentor UK
Nagalro
The Who Cares? Trust

June 2012

For further information contact:

Cathy Ashley, Chief Executive,

Family Rights Group

020 7923 2628/07931 570149

cashley@frg.org.uk

1. The Kinship Care Alliance (KCA)

The Kinship Care Alliance is an informal network of voluntary organisations, local authorities and academics working with, or having an interest in, family and friends care. The Alliance has been meeting since 2006 and is serviced by the Charity Family Rights Group. The aims of the Kinship Care Alliance are to:

- Prevent children from being unnecessarily raised outside the family
- Enhance outcomes for children who cannot live with their parents and who are living with relatives
- Secure improved recognition and support for family and friends carers.

2. Context of Family and Friends care

2-300,000 children, who cannot live safely at home with their parents, are being raised by relatives and friends (known as family and friends carers) as an alternative to being brought up by unrelated carers in the care system. This results in huge savings to the state¹. These carers are typically grandparents, aunts, uncles, or siblings, who step in to care for a child because of parental difficulties, such as mental or physical ill health, domestic abuse, alcohol or substance misuse, or imprisonment or bereavement.

Research suggests that most placements (86%) are initiated by the carers themselves rather than social workers seeking them out². A small minority of these children (approx 3%) are looked after by the local authority³ and are placed with their relatives or friends who are approved as foster carers for them⁴; but by far the majority are living with their

¹ The cost of an independent foster care place averages £40,000 a year, and the average cost of care proceedings to the state exceeds £25,000

² Farmer E and Moyers S (2008) *Kinship Care: Fostering Effective Family and Friends Placements* (Jessica Kingsley)

³ A child is looked after by the local authority if they are in care with the agreement of their parents or others with parental responsibility or if they are under an Emergency Protection Order or Care Order. In these circumstances the relative or friend must refer back to the social worker about all major decisions concerning the child's life.

⁴ They must be approved in accordance with the Fostering Services Regulations 2011 and the national Minimum Standards on Fostering, unless the placement is made in an emergency in which case they must be approved in accordance with Regulation 24 Care Planning, Placement and Case Review Regulations 2010.

relatives and friends either with the parents' agreement⁵ or under a residence order or special guardianship order which they are granted by the courts.

Despite these children suffering from similar adversities to children in the care system and their carers having multiple problems of their own⁶ research confirms that the support they receive is at best grossly inadequate and at worst non-existent.⁷ Yet despite this lack of support, the outcomes for these children are positive. Research⁸ confirms that

- they are as safe, and doing as well if not better, in relation to their health, school attendance & performance, self-esteem, social & personal relationships and show a marked improvement to emotional/behavioural problems when compared with children in unconnected foster care;
- Most family and friends carers are able to protect them from their parents – only 6% failed to do so which is the same figure as for unrelated foster carers;
- Family and friends placements are more likely to meet their emotional needs when compared to a group of adopted children;
- Family and friends carers are more likely to match their ethnicity (88% v 78%) and to be **highly committed** to them (63%) than unrelated foster carers, leading to more stable placements.

These outcomes suggest that family and friends care may be the optimal arrangement for many children who cannot stay safely at home with their parents and it is consistent with their rights under the European Convention to respect for family life⁹. However, with inadequate support, many such placements are under huge strain and we know from our advice work that some even break down. In a recent study, 95% of family and friends

⁵ Since they do not have parental responsibility for the child in these circumstances, they have to refer back to the parents in relation to most important decisions about the child's life. The child may also be removed from their care by the parents

⁶ 3 out of 4 family and friends carers experience severe financial hardship; a third are lone carers and 1 in 3 live in overcrowded conditions; 3 out of 10 have a chronic illness or disability (Farmer and Moyers 2008)

⁷ The kind of support that is needed includes: a social worker being allocated, help to manage the complexities of the contact arrangements particularly with the parents, and counselling and specialist help for children with the most severe emotional and behavioural problems

⁸ Farmer and Moyers 2008 & Hunt 2008

⁹ Article 8(2) ECHR

carers identified at least one unmet need for support; most mentioned several. Even more worryingly, the carers who were raising the most challenging children were the most likely to be receiving no support at all.¹⁰

The importance of family and friends care as an option for children unable to live with the parents, is particularly current, given record number of care proceedings being initiated by local authorities, delays in care proceedings and severe shortages of unrelated foster carers, leading to some children in care having a series of temporary placements, being split up from their siblings and having to move away from their school and family support network.

- I. The experience of family and friends carers who are not in work is likely to become even more bleak once the Welfare Reform Act 2012 is implemented because of two particular provisions: The benefits cap: family and friends carers who may have large households, as a result of taking on a sibling group of children, in addition to their own, are likely to find their benefits are restricted by the benefits cap irrespective of their needs.
- II. Conditionality requirements for job-seeker's allowance: those caring for a child over 5 will need to be available for work in order to get job seeker's allowance. However, a substantial number of carers (38%)¹¹ are not working precisely because they have had to give up work to take on the child, often because of the child's significant needs. These carers are not entitled to maternity or adoption paid leave despite the children needing support to adjust to their new home. In some cases Children's Services has required the carer to give up work in order to raise the child.

The Kinship Care Alliance believes that better support would not only prevent placements from breaking down but may also lead to even better outcomes for children

¹⁰ Hunt, J. and Waterhouse, S. (2012) *Understanding family and friends care: the relationship between need, support and legal status* London: Family Rights Group

¹¹ Aziz R, Roth D and Lindley B (2012) *Understanding family and friends care: the largest UK survey* (FRG)

in family and friends care and to more carers, who are currently hesitant for financial reasons, taking on such children thereby further reducing the numbers of children in unconnected care.

Why is the current level of support inadequate?

Drawing on our collective experience of advising thousands of family and friends carers each year, we believe it is attributable to a number of factors:

- i) Despite carers not being legally liable for these children¹², they are not entitled to a national financial allowance to support these children, unless the child is looked after in which case they are approved as foster carers and are entitled to a fostering allowance; however an overwhelming majority (97%) are not. The result is that, apart from any means tested benefits and tax credits they are entitled to, they are dependent on local authorities to provide **discretionary** financial support which is frequently not forthcoming. Yet these carers often face huge a financial burden specifically as a result of taking on the children, most have had to refurbish their homes, buy basic items such as beds, bedding and clothing, as well as facing additional costs such as child/after school care. Some have also paid out vast sums on legal bills to secure the child's future with them.¹³
- ii) Similarly, the same carers do not have a right to receive other non-financial support from the local authority because the child is not looked after, hence they are also dependent on the discretion of the local authority as to whether they receive any support (for example to help with contact arrangements or challenging behaviour, bereavement counselling etc);
- iii) With a few notable exceptions, and despite the recent government guidance¹⁴, most local authorities are not structured in a way that actively promotes and supports family and friends care. Often, there is no dedicated family and friends care team, hence the needs of these children and their carers are dealt with by a number of different teams in Children's Services who may lack the necessary

¹² Parents are liable for to maintain their children under s.1 Child Support Act 1991; family and friends carers are not.

¹³ Aziz R, Roth D and Lindley B (2012) *Understanding family and friends care: the largest UK survey* (FRG)

¹⁴ Statutory Guidance on Family and Friends Care DfE, 2011

specialist knowledge and expertise. Many of those on the front line doing child protection work are not proactive in identifying and supporting early placements with family and friends carers with the result that cases end up in court proceedings when in some cases this could be avoided ;

- iv) There are no official statistics on the numbers of children in family and friends care, either nationally and in most authorities locally as well. This makes it very difficult to finance, develop and deliver specialist family and friends care support.

The Government responded to this evidence of a lack of support for family and friends care in April 2011, by issuing statutory guidance¹⁵ which aimed to promote more effective help. It says:

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

It also requires all English local authorities to have a family and friends care policy outlining the support they provide to family and friends carers in their area by September 2011.

The aspirations of this guidance are clearly laudable, but the reality is rather bleak. A recent Freedom of Information request shows that eight months after the government’s date for requiring these family and friends care policies to be in place, 44% of local authorities had not done so¹⁶. Furthermore the guidance does not change the fundamental legal position that, whilst local authorities **have to** provide support to children who are looked after and placed with family and friends carers (a small minority), they **do not have to** support the child if they are not looked after (a large majority).

In the current financial climate, most local authorities are seeking to reduce service

¹⁵ Ibid

¹⁶ Add reference

provision wherever they can with the result that non-statutory services are being cut rather than developed.

3. Recommendations

3.1 Government should:

1. **Audit local authorities'** response to the statutory guidance on family and friends care¹⁷ to ensure it is being effectively implemented across the country.
2. If this is not effective then government should consider legislating to give family and friends carers a statutory entitlement to support irrespective of legal status. This could be achieved by a **duty on local authorities to establish family and friends care support services**, including a dedicated family and friends care worker/team. This could be modelled on the duties on local authorities in respect of adoption and special guardianship support services. This duty would need to be funded by central government.
3. With the imminent introduction of the 6 month time limit in care proceedings it will be essential that potential family and friends care placements are identified and assessed **prior to** care proceedings being issued as there will not be enough time for this once proceedings have started under the new time scales. Therefore in order to maximise the chances of children who cannot live with their parents being raised in their family network, the government should place a duty on local authorities to **offer all families a family group conference prior to a child becoming looked after** (or in an emergency, soon afterwards).
4. Introduce an **amendment to the definition of who is a child in need** in Children Act 1989 s.17 (10) to include "(d) children being cared for by family members or friends".
5. Introduce a **national financial allowance** to cover the real costs of bringing up a child for family and friends carers who take on raising a child for more than 28 days continuously as an alternative to the child being taken into the care system.¹⁸

¹⁷ DfE (2011) Statutory Guidance on Family and Friends Care,

¹⁸

6. Introduce measures in the regulations and guidance for the Welfare Reform Act 2012 to **exempt family and friends carers from the total cap on welfare benefits.**
7. Introduce measures in the regulations and guidance for the Welfare Reform Act 2012 to **exempt family and friends carers from specific job-seeking requirements** (modelled on the foster carer exemption) when they are permanently raising a child aged 5 or over at least for the first year.
8. Introduce a period of **paid leave from work for family and friends carers when the child comes to live with them**, modelled on statutory adoption leave and pay.
10. In order to address the fear expressed by some family and friends carers about the potential cost of supporting the young people through higher education, amend regulations and guidance to recognise that **young people who are in family and friends care** are a distinct group of young people who cannot live at home with their parents, and should therefore be specifically **included as a category within the definition of 'independent eligible student'** within the Education (Student Support) Regulations.
11. Ensure that the **regulations due to be published under the Legal Aid, Sentencing and Punishment of Offenders Act 2012** do not further prevent or deter potential family and friends carers from applying for residence order or special guardianship

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

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

order to protect a child who has been abused by excessively restricting the time period within which the abuse must have occurred.

13. Ensure the provision and funding of **specialist independent advice services** for family and friends carers, so they can make informed decisions.
14. **Reconsider proposals¹⁹ to reduce court scrutiny of care plans**, particularly in relation to sibling arrangements.
15. Introduce a duty on local authorities to **collect and publish official statistics of children in family and friends care** to whom they provide support whether or not the child is looked after.
16. Enable family and friends carers to **obtain parental responsibility without having to bring a case to court**, by allowing parents to enter into a parental responsibility agreement with a relative (as defined in s.105 Children Act 1989), as has already been extended to step parents.

Local authorities should:

17. Implement the statutory guidance on family and friends care, ensuring they formulate, publish and act in accordance with policies which reflect the principle that support is based on need not legal status, and that children and carers receive the financial and other help they require. This includes commissioning, running or assisting in the provision of **tailored family and friends care services**, such as local support groups, as well as ensuring that universal and specialist services (e.g. mediation services, CAMHS etc) are available to and understand of the needs of children and carers and that protocols and agreements are drawn up with other relevant parts of the council (e.g. housing allocations), schools and colleges (e.g. re admissions and discretionary bursary schemes) and other agencies.
18. Provide **leaflets** to explain family and friends care (including the range of legal arrangements) to the carers, children and parents who are involved in or are considering such an arrangement.
19. **Consult** with family and friends carers, children and parents in their area about their

¹⁹ DfE (2012) *The Government's Response to the Family Justice Review: A system with children and families at its heart* <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/CM-8273>

needs and the services that would assist them.

20. **Liase with other local agencies** to ensure that family and friends carers can access and benefit from the services that they provide which will in turn reduce the burden falling entirely on local authorities.
21. Assess the **needs of siblings** who have to live away from their parents, so as to ensure family and friends placements are considered for all of them, and consideration is given as to how they will be able to remain in contact if they are placed separately.
23. Ensure that their staff receive adequate training and supervision to ensure they are **acting lawfully** in:
 - Implementing legal changes regarding placement of looked after children, with preference being given to placing the children with relatives, friends or other people connected with the child, who are approved as local authority foster carers, over unrelated carers, provided it is consistent with the child's welfare;²⁰
 - when making decisions about the legal status of a child entering family and friends care and that their social workers are aware of case law²¹ as to when a child should be treated as accommodated under section 20 of the Children Act 1989.
24. Ensure carers and potential carers are in a position to make an informed and carefully considered decision about the legal status of the arrangements. This requires not only information and explanations about the full range of legal statuses available to them and the implications of each in terms of support, but also **signposting carers to independent sources of information and advice.**
25. Consider paying family and friends carers' **legal costs** associated with taking on the care of a child who might otherwise be in the care system when they are not eligible for public funding or when funding is not possible, ensure they are supported as litigants in person and referred to independent source of advice.
26. Ensure that all staff working with family and friends carers receive **training** on this area of practice and work with carers in a spirit of partnership.

¹⁹ S.22C Children Act 1989 as amended

²¹ Southwark LBC v D [2007] EWCA Civ 182; R (SA) v Kent County Council [2011] EWCA Civ 1303

¹⁹ S.22C Children Act 1989 as amended

²¹ Southwark LBC v D [2007] EWCA Civ 182; R (SA) v Kent County Council [2011] EWCA Civ 1303

27. **In the pre-proceedings stage, explore all family and friends care options** as soon as it is likely that the child cannot remain with their parents. This is particularly important in view of the proposed reduced time limits in care proceedings and reduced court scrutiny of care plans.²²
28. Allocate a **family and friends care support worker** to all family and friends carers, known to Children's Services, irrespective of legal status.
30. Take account of other caring responsibilities that family and friends carers may have, particularly if they are already responsible for **disabled children or adults**, and liaise with other service providers, such as Adults Services, to ensure that all of the household's support needs are being met.

Further research should address:

- The experiences of children in family and friends care who are separated from their siblings: could more be done to place them together, or with other relatives?
- The experiences of black and minority ethnic children living with family and friends carers.
- The experiences of family and friends carers as litigants in person.
- The long term outcomes of children being raised in family and friends care.
- Children's perspectives of family and friends care.

²² DfE (2012) The Government's Response to the Family Justice Review: A system with children and families at its heart <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/CM-8273>