



Family and Friends Care:
Raising children within the wider family as an
alternative to care
POLICY RECOMMENDATIONS

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

Endorsed by:
Grandparents Plus
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Summary

Typically, family and friends carers are grandparents, aunts or uncles, who step in to care for a child because of parental difficulties, mental or physical ill health, domestic abuse, divorce or separation, alcohol or substance misuse, imprisonment or bereavement. These carers often receive little or no financial or practical support. They and the children they care for are the forgotten families of family policy. We want to change that.

- There are an estimated 200,000-300,000 children living with family and friends carers. Only 6,800 of them are *looked after* children, conferring a right to support;
- Family and friends placements are more stable than unrelated care placements
Children feel loved and report high levels of satisfaction;
- 3 out of 4 family and friends carers experience severe financial hardship;
- A third are lone carers and 1 in 3 live in overcrowded conditions;
- 3 out of 10 have a chronic illness or disability;
- Only 1 in 6 (15%) of local authority foster placements are with family and friends carers;
- The vast majority (69%) of local authorities do not have a written coherent approach to family and friends care;
- 8 out of 10 people agree that family and friends carers should receive financial support.

Reinforcing the requirement in the Children Act 1989 that local authorities are under a duty to make arrangements for looked after children to live with relatives or friends where it is consistent with their welfare (s.23(6)), the Children and Young Persons Act 2008 states that family and friends care should be the first option for such children when they cannot live with their parents (s.8). Yet there is no official data on family and friends care.

The children they care for have had the same multiple adverse experiences as children in foster care, yet by far the majority of them have no *right* to financial or practical help from the local authority, and instead have to rely on *discretionary* support. Whilst state benefits and tax credits are theoretically available in most cases, these often fail to meet the immediate or ongoing additional needs of the child and carer, and there are often substantial administrative hurdles to overcome to access even this support.

In this briefing, we have set out our recommendations for immediate actions which would improve the immediate circumstances of, and potentially outcomes for, many children in family and friends care and also future amendments to legislation which would have a long lasting impact. The measures pertain to England and Wales, although some potentially would be of benefit to carers in other countries of the UK.

Our proposals would not only assist children who are currently living in family and friends care arrangements, but we know from our direct work that, with the right support framework, more children who are currently in the care system could be living securely within their family networks. The latter would not only be beneficial to the outcomes for these children, but if it led to even a reduction of 5% in the care population, could reduce expenditure on the care system in England and Wales by over £109 million per annum, which could be very effectively reinvested at local and national level to develop and improve support to children in family and friends care arrangements.

Further information about the research and policy context of our recommendations can be found in the accompanying briefing by the Kinship Care Alliance entitled “A Policy Briefing on Family and Friends Care: raising children within the wider family as an alternative to care”¹.

DETAILED RECOMMENDATIONS

The rest of this briefing sets out detailed recommendations to promote the wider use of family and friends care for children on the edge of care and to improve their access to support services in such placements:

1. Collection and publication of official statistics on family and friends care

Objective: That the government recognises and respects the unique nature of children being raised in family and friends care and as a starting point collects and publishes official statistics on children being raised by relatives and friends, including detailed socio-economic data.

Immediate actions recommended:

- a) That Ministers establish and lead a **cross departmental working group** including officials and key stakeholders to explore the feasibility of, and progress the collection of data on family and friends care. That the working group publishes their report including specific proposals within 6 months, or earlier. That the working group should address
 - Questions that could be included in national government commissioned surveys, such as the Family Resources Survey and the British Household Survey;
 - The inclusion of a question on family and friends care in the 2011 census;
 - What, if any, existing tax, benefits, child welfare or court data currently exists which could provide information on children being raised by family and friends carers;
 - The feasibility of collecting new information from tax, benefit, child welfare or court data on children being raised by family and friends carers.

- b) In addition, that the government commission a small scale survey led by Family Rights Group, involving at least 3 local authorities, to undertake as comprehensive an **audit** as possible of children being raised by family and friends care at local level, including those not looked after as a proxy for the lack of national data.

- c) That the Family and Friends Care Guidance due to be issued in March 2010 for consultation includes an expectation that local authorities audit the needs of children being raised by family and friends carers in their locality and reports on the numbers of such children to whom the local authority provides

¹ See www.frg.org.uk

financial assistance and/or other support services each year, including the legal status of the children.

Recommendations for future legislation to strengthen the above:

- I. That the local authority is under a new duty to collect and publish official statistics of children in family and friends care to whom they provide support whether or not the child is looked after.

2. Enabling more children to be raised within their family network

Objective: To ensure there is greater consistency and transparency in terms of local authorities exploring, promoting and supporting family and friends care for children who may otherwise become looked after.

There are currently significant variations between local authorities as to the numbers of children being placed, and supported, in family and friends care arrangements.

Family group conferences² are a proven effective way of identifying and enabling family members to come forward as potential carers, yet whether or not a family is offered an FGC is dependent upon where they live, and the approach taken of the social worker.

When s.47 child protection enquiries are initiated, independent advice and advocacy is an important means by which parents and wider family and friends can understand their options and make informed decisions, it can assist in ensuring their views are taken into account and help create a working partnership of informed decision-making between family members and local authorities.

The proposals below are consistent with the Department for Constitutional Affairs, Department for Education and Skills and Welsh Assembly Government *Review of Child Care Proceedings* (2006), the Public Law outline³ and associated guidance⁴ to local authorities.

A legislative lead is required to achieve a more consistent national approach.

2.1 Identifying and supporting relatives to come forward as carers

Immediate actions recommended:

- a) That forthcoming guidance (the Care Planning Placement and Case Review guidance and revised Working Together to Safeguard Children (both

² Further information about this can be found in the accompanying briefing by the Kinship Care Alliance entitled "A Policy Briefing on Family and Friends Care: raising children within the wider family as an alternative to care. See www.frg.org.uk

³ Ibid.

⁴ Volume 1 Children Act Guidance *ibid*

currently out for consultation) and the forthcoming guidance outlining a framework for Family and Friends Care (due out for consultation in March) is drafted/amended to raise an expectation that local authorities will:

- q Publish accessible policies and procedures in relation to family and friends care, both in relation to children within and outside the looked after system;
- q Be required to provide a range of support services for family and friends carers, publicise availability and criteria for accessing these services;
- q Where the child is subject to child protection enquiries (s.47 CA 1989), assess the needs of and provide support/commission services to meet the identified needs of the child, their parents and wider family members in order to help them overcome the concerns raised during the enquiries;
- q Where the child is subject to child protection enquiries (s.47 CA 1989), explore all safe alternatives for the child's care within the family network before, or where this is not possible as soon as reasonably practicable after the child becomes looked after;
- q Where a child is subject to child protection enquiries (s.47 CA), assist all parents, relatives and friends who are involved in local authority decision-making processes to have access to free independent advice and advocacy services;
- q Offer a family group conference to the child, their parents and extended family before, or where this is not possible as soon as reasonably practicable after a child becomes looked after;

b) That, as part of their inspection framework of English Children's Services, Ofsted will inspect services for children and their family and friends carers to examine how authorities comply with good practice guidance.

Recommendations for future legislation to strengthen the above:

- I. That the local authority is under a duty to publish accessible policies and procedures in relation to family and friends care, in relation to children in and outside the looked after system;
- II. That where the child is subject to child protection enquiries (s.47 CA 1989), the local authority is under a duty to assess, and provide support to meet the identified needs of, the child, their parents and wider family members to help them overcome the concerns raised during the enquiries
- III. That where the child is subject to child protection enquiries (s.47 CA 1989), the local authority is under a duty to ensure all safe alternatives for the child's care are explored within the family network before, or where this is not possible as soon as reasonably practicable after the child becomes looked after;
- IV. That the local authority is under a duty, to commission the provision of independent advice and advocacy services for all parents, relatives and friends who are involved in local authority decision-making processes when a child is subject to child protection enquiries (s.47 CA).

- V. That the local authority is under a new duty to ensure the provision of local family group conference services in their area and that this duty is properly funded by central government;
- VI. That the local authority is under a duty to offer a family group conference to the child and their parents and extended family before (or immediately afterwards in an emergency) care proceedings are commenced.

2.2 Assessment of potential family and friends carers

A new approach to the assessment of family and friends carers is required: one which is child-led, and recognises that the purpose of an assessment of a family and friends placement is:

- whether the adult(s) can provide the particular child with the safe, loving and suitable environment s/he needs, and
- what assistance is required to support the carer in that task.

There is also a need for those involved in carrying out such assessments and making associated decisions to have access to specialist training on family and friends care.

Currently, Family Rights Group, in conjunction with BAAF and The Fostering Network and a number of local authorities are piloting a specially designed strengths-based, participative model of assessment for family and friends carers. The anecdotal feedback on this has been very positive, but there is no funding for a formal independent evaluation.

Immediate actions recommended:

a) That the Government funds an evaluation of the FRG/BAAF/The Fostering Network pilot assessment tool and associated training, with a view to rolling out the use of this tool nationwide.

b) That a new approach to assessments of family and friends carers is outlined in the forthcoming Family and Friends Care Guidance which recognises the difference between this type of care and unrelated foster care, and incorporates key Children Act principles, including: the potential impact of placement upon the child's welfare; ascertainable wishes and feelings of the child; the capacity of the prospective carer to protect the child from harm; the level of continuity which these carers could provide for the child; how they would manage contact with the child's parents and other relatives, and, critically, what support they would need in order to meet the child's needs.

c) That the forthcoming Family and Friends Care Guidance includes a clear expectation that both those conducting assessments and local panels which approve family and friends carers are aware of the difference between family and friends foster care and unrelated foster care. This would include the provision of local training and, potentially, setting up a panel specifically to deal with family and friends care placements.

d) That the revised Fostering Services National Minimum Standards and Fostering Services Regulations addresses family and friends foster care as a distinct form of foster care requiring a distinct set of standards and that the forthcoming Family and Friends Care Guidance reflects this.

3. Providing effective support to family and friends carers to ensure the children in their care reach their optimal development

Objective: To ensure that children living in family and friends care arrangements have access to an assessment of their needs and to support services to meet their identified needs so as to overcome adversities they experienced prior to living in such an arrangement and so as to ensure they reach their optimal development.

3.1 Meeting immediate short term needs of children and carers where the child is not looked after:

The immediate support needs for carers of children who are not looked after are best met by services being provided by the local authority under s.17 CA where the child is defined as in need. Yet evidence from Family Rights Group's advice line suggests that some local authorities are refusing to even assess a child's need for support unless s/he is at risk of harm. By going to live with a relative the immediate risk of harm has normally been removed and in such circumstances the local authority may then refuse to even assess the child or carer's acute needs. This could be overcome if the child/carer had a prima facie right to assessment of their needs under s.17 CA, as is the case for disabled children. This would enable them to have better access to immediate support particularly where they have stepped in to care for a child or a group of siblings in a crisis without having the opportunity to reflect on the details of how they will manage and where the child(ren) has acute needs as a result of earlier abuse.

Immediate actions recommended:

a) That the forthcoming Family and Friends Care Guidance strongly encourages local authorities to treat children who are being raised by family and friends carers as children who are in need (as defined in s.17(10) CA), hence they require an assessment to determine their needs and what support services should be provided to meet those identified needs, under s.17 CA.

Recommendations for future legislation to strengthen the above:

- I. The definition of who is a child in need in s.17 (10) should be amended to include
(d) children being cared for by family members or friends

3.2 Meeting needs where family and friends take on the care of a child on a long term or permanent basis

Currently, the only way in which such carers can be guaranteed a right to the support they need is for the child to be 'looked after' i.e. to be and remain formally in the state care system as described above. Yet there may be no other good reason why the child needs to be in care.

We therefore recommend that a family and friends care support system needs to be developed on a statutory basis for family and friends carers who have an established caring arrangement of a child regardless of their legal status.

Immediate actions recommended:

That the forthcoming Family and Friends Care Guidance and Care Planning Placement and Case Review Guidance strongly encourages local authorities to:

a) Establish family and friends care support services, including a dedicated family and friends care worker/team and the commissioning of services from the voluntary sector, for children who are being raised by family and friends carers on a long term basis (more than 28 days). These should be similar to the duties on local authorities in respect of adoption and special guardianship support services⁵, including:

- i. Making support groups available for carers, to combat the isolation many find themselves in when taking on a parenting role and dealing with the complex needs of vulnerable children which they had not planned for.
- ii. Ensuring such children and their carers have access to an assessment of their needs and to support services meet their identified needs.
- iii. Providing therapeutic services for the child as appropriate.
- iv. Providing family and friends carers with access to counselling, advice, information and other support services.
- v. Providing assistance with the arrangements for contact so as to promote positive relationships between the child and his/her parents and other family members and friends. This assistance should include:
 - cash to help with the costs of contact (travel, entertainment) – it is not means tested; and
 - mediation to help resolve difficulties which may arise on contact.
- vi. Providing assistance to ensure the carer has a positive and continuing relationship with the child which should include:
 - respite care where the carer has a need for temporary respite from their caring responsibilities;

⁵ These were introduced by the Adoption and Children Act 2002

- mediation, for example where there are difficulties over contact or there is disagreement between the carer and the parents about important decisions the child's life; and
 - training to support the carer to meet the child's particular needs.
- vii. Improved communication, co-ordination, understanding and prioritisation of the needs of these children and their families, including carers, by public agencies including schools, CAMHS, and housing departments and between adult and children's services, for example in addressing the impact of parental alcohol and substance misuse.
- viii. Government funding being available to local authorities to fulfil such duties.

Recommendations for future legislation to strengthen the above:

- I. To introduce a new statutory framework that places local authorities under a statutory duty to ensure the provision of the above support services for children being raised by family and friends for more than 28 days, their carers and birth parents. This would include commissioning services from the voluntary sector and would mirror the statutory duties introduced under the Adoption and Children Act 2002 in respect of adoption and special guardianship.

3.3 Financial support

We propose that those family and friends carers, who are caring for a child for more than 28 days ***as an alternative to them being taken into care***, should be entitled to a national financial allowance.

3.3.1 National financial allowance

A national non-means tested, non taxable financial allowance to cover the real costs of raising a child should be paid to relatives or other persons already connected to the child⁶, 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 child protection enquiry⁷; or
- b) Where a child comes to live with the carer following a section 37 investigation;
- 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; and/or

⁶ This could include family friends

- 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.

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

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

Immediate action recommended:

a) The above objective could be achieved by overhauling the Guardian's Allowance i.e extending the criteria of who is eligible for Guardian's Allowance and significantly increasing the amount paid. This could be administered by HMRC, to be consistent with all other nationally-provided child-centred benefits, allowances and tax credits.

Recommendation to amend legislation

- I. That a new national non-means tested financial allowance should be made available to family and friend carers raising children who cannot live with their parents (with the eligibility criteria as set out above)
- II. That the national financial allowance forms part of a new Family and Friends Care Act which also addresses access to other financial assistance, such as free school meals, school transport etc as well as support services.

3.3.2 Tax and benefits

The assistance, if any, that carers are entitled to through the tax and benefits systems, depends predominantly on the legal status of the child. However, the situation is extremely complex, with officials and benefit administrators from local and central government agencies often struggling to interpret current rules. Family and friends carers consequently find it very difficult to know what they are entitled to or receive consistent accurate information and advice.

In addition, there are certain inequities within the benefits system and interpretations of the current rules which disadvantage family and friends carers and hence need to be addressed:

Immediate actions recommended

a) Consistent with how child maintenance is to be treated from April 2010, the regulations⁸ should be amended so that residence order and special guardianship order allowances are entirely disregarded for the purpose of council tax benefit, housing benefit and all other means-tested benefits.

b) Family and friends carers who are permanently raising a child should be treated on par with those who are taking on this role temporarily, and with foster carers, and are therefore given dispensation from income support rules which currently require that if the youngest child they are looking after is aged 10 or over (or from October 2010 is aged 7 or over) they do not qualify for income support and instead receive Job Seeker's Allowance and must comply with specific job-seeking requirements.

c) That, regardless of other proposed changes made to Guardian's Allowance (could be made to the Guardian's Allowance as set out in 3.3.1 above) immediate action is taken to amend the eligibility criteria for Guardian's allowance as to

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

d) Ministers should investigate urgently the delays in the HMRC in dealing with contested child benefit claims, and ensure such delays are addressed. In addition, where delays in transferring child benefit from the parent to the new carer exceed 4 weeks (whether due to a dispute or for administrative reasons), proof of a valid child benefit claim by the new carer should be accepted by the relevant authorities as proof that the child is residing with the new carer in respect of other benefits (e.g.: where the new carer claims child tax credits, housing benefit or income support as a lone parent instead of Job Seeker's Allowance) .

e) Government should fund a targeted information campaign, via organisations working with family and friends carers, including commissioning and disseminating information materials setting out what benefits and tax credits carers may be entitled to in their role as substitute carers.

3.3.3 Legal costs of family and friends carers:

Where a child is living with a relative with the consent of the parent but without a legal order, the carer may face continual problems because they do not have parental responsibility for the child, However many family and friends carers are left with severe legal bills when applying to court, for example for a residence or special guardianship order to provide permanence and legal

⁸ Schedule 5 paragraph 25(1)(ba) and (3) of the Housing Benefit Regulations 2006 (SI 2006 No 213) and Schedule 4 paragraph 26(1)(ba) and (3) of the Council Tax Benefit Regulations 2006 (SI 2006 No 215).

security for the child. Others find that, because they have savings towards their retirement, or substantial equity in their home, or they earn a modest salary any of which may take them outside the financial eligibility criteria for legal aid. As a result they end up representing themselves, which can time consuming for the court and very traumatic for the carers, particularly in contested cases when they are in effect having to make the case against the parent (to whom they may be related or connected). Given that in many cases these carers are taking this legal step to secure the child's future with them instead of the local authority commencing care proceedings, it seems wrong that they cannot access public funding to help them in this task.

Immediate actions required

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

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

3.3.4 Ending financial discrimination against family and friends foster carers

There will always be cases where children are placed with family and friends carers but remain looked after because there are ongoing welfare or protection issues. These carers will access support through the fostering system like any other approved foster carers. However, currently some receive less support than unrelated foster carers⁹. When this was challenged legally it was held that it was unlawful to discriminate against family and friends carers by paying them less than unrelated foster carers¹⁰. Nevertheless information from our advice services suggests that the practice does appear to be continuing in various forms. Research evidence also indicates that family and friends carers are far less likely to have the support of an allocated family placements social worker¹¹.

⁹ Farmer and Moyers (2008) *ibid*

¹⁰ 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

¹¹ Farmer and Moyers (2008) *ibid*

Immediate action recommended

a) That the forthcoming Family and Friends Care Guidance makes clear that family and friends foster carers must no longer be discriminated against in terms of the financial allowance they receive.

Conclusion

The above recommendations set out immediate actions that could be taken to improve the circumstances of children being raised in family and friends care arrangements. We would strongly recommend that a Family and Friends Care Bill needs to be introduced in order to provide real coherence to the system, to recognise the unique situation of children being raised and to put in place the steps necessary to transform the lives of children being raising by family and friends carers now and those who could benefit from living in such arrangements in the future.