

## **Briefing note: Government consultation on working definition of kinship care**

The Government's recently published children's social care reform strategy, 'Stable Homes, Built on Love' has proposed a draft working definition of kinship care. This definition draws upon Family Rights Group's [Time To Define Kinship Care](#) campaign which has gathered support from kinship carers, practitioners, politicians and organisations from across the sector.

The Government is consulting on its definition: *Q17: To what extent are you supportive of the working definition of kinship care? [Select one from: Fully supportive; Somewhat supportive; Neither supportive or opposed; somewhat opposed; strongly oppose; Don't know] If desired, please explain your response.*

Family Rights Group is somewhat supportive of the Government's working definition but there are areas which need further consideration. For example, there is currently no commitment to enshrine the definition in primary legislation which is vital if it is to have the positive impact that kinship carers need.

We encourage supporters of our Time To Define Kinship Care campaign to respond to the Government's consultation. When responding, you might want to consider including some of the following points:

### **Why a definition of kinship care is needed:**

- Currently, kinship care is described and interpreted in different ways within national and local government policy making. It is often not properly recognised or understood by the public, state agencies and services, or kinship carers themselves.
- On the ground this means kinship carers can quickly face confusion and misunderstanding. At the very moment when the child needs stability and support, kinship carers find they are having to constantly explain who they are and what they need – including in hospitals and schools.
- The unique circumstances and characteristics of kinship care are often not considered in policymaking. Kinship care is too often an afterthought and variable practice between local areas leads to a postcode lottery in the way kinship care is understood and supported.
- A single definition would provide a simple, universal understanding of what kinship care is. It would encompass the full variety of kinship care arrangements including kinship foster care, special guardianship orders, caring for a child under a child arrangements order, a private family arrangement or private fostering arrangement.
- We can learn from the example of developing a common definition of domestic abuse which has cut through differing interpretations of that issue.

### **Why it should be written in primary legislation:**

- The status quo is failing. Statutory guidance on kinship care for local authorities has been in place for 12 years, and yet it has not resolved the poor recognition and understanding among kinship carers, public bodies, services, and practitioners. In fact, it is often not complied with.
- Different types of kinship care arrangement are provided for in different parts of the Children Act 1989. But primary legislation does not plainly spell out what kinship care is and who should be regarded as a kinship carer. Private family arrangements are not referenced at all. It is contributing to the systemic problem that kinship care is too often overlooked and undervalued.
- Statutory guidance on kinship care needs to have weight and wider application that extends beyond local authorities alone. Anchoring it to a clear definition of kinship care in primary legislation and extending the application of statutory guidance to a range of agencies that children and families come into contact, with would ensure this.

- The Government has expressed an intention to address the postcode lottery in recognition of, and support for, kinship care through its commitment to a national kinship care strategy. The most efficient way to approach this is to build a strong foundation with a clear, common understanding of kinship care written in primary legislation.

### **How a legal definition can support a simple and effective kinship support system:**

- A simple, clear definition of kinship care, enshrined in law, is a necessary foundation for a simple and effective kinship care support system.
- Meeting the definition of 'kinship carer' in one of specified arrangements could smoothly passport kinship families through to accessing vital services and support. Regulations could specify what those are and what evidence is needed to access them.
- There should be a minimum level of support on offer to all kinship families, cutting through the present patchwork of thresholds and entitlements and the perverse situation where children must have spent time in the care system to access some forms of support.
- It would be particularly beneficial to those in informal kinship care arrangements who are often invisible to policymakers and public services but still need support.
- We propose that the minimum level of support should include:
  - Education support including priority school admissions and Pupil Premium Plus
  - Therapeutic support through the Adoption Support Fund
  - Access to free, independent specialist advice
  - Practical support including courses and peer support groups
  - Paid employment leave akin to adoption leave
  - Financial support to prevent families falling into hardship when becoming kinship carers.

### **Other points of improvement to raise:**

- The definition of kinship care includes the terms 'friend or family member' and 'parent'. The meaning of these terms as they relate to the working definition are included in the glossary rather than sitting alongside the kinship care definition itself. When drafted in primary legislation, these terms must be clearly defined as proposed and also sit directly alongside the core definition. Doing so will help ensure both that the definition of kinship care will be fully understood and the legislation navigated with ease.
- While recognising the need for the definition to cover kinship care arrangements involving shared care, the inclusion of the phrase 'for a significant amount of time' is not specific enough. Kinship carers could have to deal with misunderstanding around what 'a significant amount of time' means in practice unless it is defined.
- The definition is an opportunity to address some notable gaps and anomalies in the existing legal framework but it currently does not achieve that. For example:
  - A private fostering arrangement comes about only after the child has been with the kinship carer for 28 days. Prior to this, the arrangement appears to have no status of any kind. It is simply not perceived in the current legal framework
  - Former stepparents without parental responsibility who take on the care of the child are deemed to be privately fostering after 28 days. Prior to that however it is not clear what the status of the arrangement is
  - There is a lack of coordination in relation to kinship arrangements and the benefits system. For example, a private fostering arrangement is recognised after 28 days, yet it is 56 days before (without agreement) that carer could take over the claim for child benefit for the child.