

## **Consultation Response: *Stable Homes, Built on Love***

The Kinship Care Alliance is an informal network of organisations working with kinship carers which subscribe to a set of shared aims and beliefs about kinship 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 of their family and friends network
- To ensure that the opportunities and resources available to children living with kinship carers maximise their chances of positive outcomes
- To secure improved recognition and support for kinship carers and the children they are raising.

We believe that children and young people are best placed with family and friends where it is in the child's best interests and safe to do so, and that these families should receive support and help to do this.

Family Rights Group provide the legal and policy secretariat to the Kinship Care Alliance.

This submission from the Kinship Care Alliance focuses on Chapter 4 of the Government's implementation strategy, 'Unlocking the potential of Family Networks'.

### **In your view, how can we make a success of embedding a "family first" culture in children's social care?**

We applaud the centrality of kinship care in the implementation strategy and are greatly encouraged by the attention given by Government Ministers to the importance of support for kinship care. We are particularly delighted by a commitment to produce a national kinship care strategy this year.

However, we believe that to deliver on ambitions of the strategy, we need a greater urgency within Government to ensure that kinship care is consistently explored as a first option for children who cannot remain at home. We need investment in line with recommendations by the MacAlister Review, so that children and their carers get the support to enable children to thrive. And we need cross Government commitment to ensuring kinship carers do not face financial hardship for doing right by the children.

We look forward to working with the Government to develop a kinship care strategy over the coming year. The strategy must be co-produced with kinship care families to ensure it meets their needs and ambitions. While we welcome the extension of the former ASGLB special guardian reference group to become a kinship care reference group, the membership of this must reflect the full diversity of kinship care arrangements. This should extend beyond legal arrangement to include the ages of the children, ethnicity, disabilities, religion, geography, immigration status and the financial position of the carer.

### **Keeping children safely within their families whenever possible:**

Building on the findings of the Independent Review, the Government's response has rightly recognised that too often children end up living with strangers in the care system when, with the right support, they could be living in kinship care. It also acknowledges that outcomes for children raised in kinship care are better, on average, than for other children in the care system. Crucially, the strategy commits to exploring family network options, including when

appropriate kinship care, from the very first stages of children's services involvement in a child's life. We hope that this will ensure that kinship care is explored as an option for every child if they are unable to live at home, including appropriate guidance for international kinship care placements.

### **A "family first" approach:**

We strongly welcomed the focus the Independent Review placed on early family help, supporting families to address the challenges which can lead to children's services involvement including domestic abuse, mental ill health, and substance abuse. The Government's ambition to create a 'family-first approach' - including early family help, family group decision making and kinship care reforms - has the potential to be transformative to the lives of individual children and the wider child welfare system.

However, we are extremely concerned that the scale of investment set out in the strategy to deliver this ambition falls far short of what is needed. The approach of delivering this reform via pathfinders in only a handful of local authority areas, when there is already strong evidence that action is needed now, is misguided and risks reinforcing the present postcode lottery. At a time when the children's social care system is in crisis, £47 million over two years is insufficient to reduce the pressure on a system that is straining with increased demand and poor provision.

The inclusion of family group decision making within the Family First For Children pathfinder is an important step. It could galvanise the support of a child's wider family network to keep the family together and improve partnership working between families and children's services, in the interests of the child. However, we would strongly recommend that in promoting the use of family group decision making, the Government should be specific in insisting that the family group conferences model is used, working to national standards. This ensures the process is fair, independent, and family-led with the child at the centre.

In our response to the Review, we cautiously welcomed the proposals for Family Network Plans. In particular, for local authorities to flexibly provide families with more support to sustain kinship care arrangements. However, we had some concerns about how they will work in practice. We welcome the decision to rebrand the plans as 'Family Network Support Packages' to avoid confusion with other types of plans. We think the pathfinder approach is appropriate in this instance to design how the packages will work in practice. We would reiterate the points we made in response to the Review that the packages must not be used by professionals to prevent kinship carers becoming kinship foster carers, along with the entitlements to support that stem from that status, when that is the child's best interests.

Awareness and understanding of kinship care among social workers and other professionals can be a challenge. It is crucial for this to be addressed if the family-first vision is to be realised.

### **Specialist advice:**

A successful family first approach would ensure that families are able to navigate the system, understand what is happening and be able to make an informed decision about putting themselves forward as potential kinship carers, by knowing their rights and options. Later in this submission we cover the need for free, independent, specialist advice for prospective kinship carers.

## **A national kinship care strategy**

The Government's commitment to publish a national kinship care strategy by the end of 2023 is very welcome. It provides an important opportunity to ensure all parts of Government are working together to support kinship care. It must be a genuinely cross-Government endeavour, including the Treasury, to maximise its impact. The strategy should be wide ranging including support for kinship carers and their children in the workplace, in nurseries, at school and further education, for their physical and mental health, with housing, and financial support including access to welfare benefits.

The kinship care strategy is also an opportunity to tackle local disparities in policy and practice. We are encouraged to see the Government acknowledge that this exists and needs to be addressed. We welcome the pledge to encourage all local authorities to review their existing policies to do more to support wider family networks to care for children when they cannot remain at home. However, the strategy needs to do more than encourage, it must insist. Furthermore, such policies must be coproduced with kinship families. Statutory guidance on kinship care has been in place for 12 years and yet our experience tells us this is often not complied with. The national strategy needs to provide clear direction and expectations on local authorities and be adequately funded.

Many of the kinship carers our organisations work with have faced difficulties in the way assessments of their suitability to care for the children, were carried out. This includes assessments taking place with little notice to the prospective carer or even the carers not being informed they were being assessed when children's services spoke to them. Some are criticised for not having insight into the safeguarding concerns relating to the parents but have been provided with little to no information prior to the assessment to give them that insight. Varying practice by local authorities means that viable kinship care options are missed. Assessments should not just focus upon the current circumstances of the prospective carer but are opportunity to consider what support could be put in place for the child to be raised and thrive in their care. There is also limited support, or access to advice, for families to challenge negative assessments even if the way the assessment was carried out was poor and the outcome unfair. The national strategy should include clear direction to local authorities on how kinship assessments should be carried out. This will ensure the assessment process is fair, transparent, culturally aware and that there is consistent practice nationwide. Following the [initial family and friends care best practice guidance](#), developed by Family Rights Group and endorsed by the Association of Directors of Children's Services and the Family Justice Council, should be recommended.

The strategy should include specific attention to kinship care arrangements where the carer is based outside of England including internationally. 18,000 children in local authority support have a parent born outside of the UK. The strategy should provide clear guidance and statutory duties in relation to risk assessment, contingency planning and provision for support.

To ensure that this work aligns with the needs, experiences and ambitions of kinship carers and the children they are raising, both the national government strategy and local family and friends care policies should be co-produced with kinship families. The Kinship Care Alliance would be happy to support the Government to achieve this.

Improving the availability of data on kinship care is also fundamental to designing support services that benefit children and their families regardless of the child's legal status. We welcome the Government's commitment to a data strategy and hope that this will include a specific focus on improving data collection and analysis in relation to kinship care. That

should also include analysis of the 2021 census data to provide an up-to-date picture of kinship care in the UK including insights in relation to deprivation and equality, diversity and inclusion. It should also consider the data needed to monitor international kinship care arrangements.

The Government has pledged to work collaboratively with Ofsted to improve the visibility of kinship care in their inspection reports. This should include consideration of local family and friend care policies (including whether they are publicly available, up to date and have been developed with families). It should also consider the availability of support, its extent and quality. Ofsted reporting could also capture information on international placements and monitoring good practice.

### **Tackling racial and ethnic disparities:**

The Government has committed to develop its understanding of race and ethnicity. This includes understanding how the children's social care system can be a powerful tool for reducing disparities and addressing the discrimination families can face. Too often the system is a tool for doing the opposite and this must be addressed. The Government resolves to seek input from a diverse range of voices as it delivers reforms and shapes the future direction of children's social care. We are keen to see this reflected in the development of the kinship strategy and would like to see clearer milestones on which the Government is intending to make progress on.

Analysis of the 2011 census found Black children are significantly more likely to be raised in kinship care than white children. However, they are less likely to be formally in the care system so are less likely to be entitled to the support that a child who is currently or was formerly looked after in care receives. There is a pressing need for investment in research into the experiences and outcomes of black and minority ethnic children raising in kinship care, including those of dual heritage and their carers. This research should also examine immigration status and religion. A clear plan and funding to address these research gaps is needed.

Moreover, there is a need for improvements in data collection and recording, including by Cafcass in relation to private and public law proceedings, so that public policy can be alert to the disparities in experience of different sections of the kinship care community. This should include working to improve data sharing and collection across borders.

While the Government resolves to have the national strategy in place by the end of 2023, there should be scope for reviewing and developing this strategy further over time. This should be informed by new data and research, including on race equalities.

### **In your view, what would be the most helpful forms of support that could be provided to a family network, to enable them to step in to provide care for a child?**

Kinship Care Alliance members know from their work with kinship families, and research, that there are many areas where children and families could benefit from external awareness and tailored support. The implementation strategy has addressed some of these but not all.

We would like to see greater equity between kinship care and the support available under foster and adoption frameworks. However, kinship care is also a unique form of care and so support and services need to be tailored to kinship arrangements. Support should be

available to children and carers based primarily on their needs and not be limited by legal status. We welcome the recognition by Government that this is too often not the case and urge them to address it in their work moving forward. A clear and broad definition of kinship care, defined in primary legislation, could be the basis for this.

The Kinship Care Alliance brings together a range of organisations from across the sector, combining expertise, knowledge and the lived experience of kinship carers. Alliance members represent a range of views and perspectives, from national organisations to smaller, community focused groups. We ask the Government to work with us and to utilise the full knowledge and expertise of the sector.

### **Training and practical support:**

We welcome the Government's investment of £9 million in a training and support for all kinship carers (those with a legal order and informal kinship carers) by the end of this Spending Review. We know from evidence that good quality and well-resourced peer support has a positive impact for carers and improves the quality of care they can provide for the child or children in their lives.

We urge the Government to work with families and the sector to design what this offer looks like. There is concern that by handing a significant contract to one provider there is a risk that the specific needs of minority communities are overlooked and that established community focused organisations are potentially crowded out.

Several of our KCA member organisations (including Kinship, Kinship Carers UK, Kinship Carers Liverpool, Families in Harmony and Adfam) facilitate peer support groups for kinship carers and children across the country. The Government's investment in this offer needs to build upon and learn from existing support groups. They form an important part of their local community. Some organisations focus upon meeting the needs of particular marginalised groups within the community. For example, Families in Harmony work with kinship carers of African, Caribbean or Black Mixed Heritage. The proposed training offer must be designed to address the differing needs of kinship carers and the children they are raising to provide the practical support most beneficial to their circumstances. This should include co-production with children and families with a variety of experiences including varying ages, disabilities, legal arrangements and minority communities.

Some organisations, such as Kinship Carers UK and Kinship Carers Liverpool, facilitate successful peer support groups and activities for young people raised in kinship care. Such groups should be available in all localities to all children and young people raised in kinship care.

### **Financial support**

Becoming a kinship carer forces many families into poverty, including debt and daily financial hardship. Demographically, kinship carers are more likely to be less financially secure than foster carers or adopters and are often older in age. Many struggle to access the financial support they need.

The Government's commitment to explore the case for mandating a financial allowance for all kinship carers with a Special Guardianship Order (SGO) or a Child Arrangement Order (CAO) in every local authority is welcome. Although we would emphasise the importance that this would need to be properly funded and believe it should also be extended to kinship carers raising children under a private arrangement without a legal order.



At the moment, too many kinship carers face a postcode lottery when seeking to access financial support. Local authorities vary in the financial support they are willing to provide, in terms of the amount paid, the duration it is paid for, what income and expenditure is taken into account when making a financial assessment and indeed, whether it is even provided at all. The financial assessment model most commonly used by local authorities is outdated, having been produced prior to the introduction of child arrangement orders or Universal Credit. Evidence from the kinship carers our organisations work with, as well as investigations by the Local Government Ombudsman and judicial reviews like this [recent case in respect of special guardianship support in Plymouth](#), demonstrate that currently there is highly variable practice, misinterpretation of the law, often at the expense of kinship families.

Urgent action in this area would bring some much-needed certainty to carers who have for too long been overlooked and undervalued. The cost-of-living crisis is taking its toll on kinship families. Many kinship carers are forced to give up work when they take on the care of the children, and then have to rely on benefits and face financial hardship as a result. A recent survey from Kinship found that 44% of carers were struggling to pay their household bills and over a quarter couldn't afford food for their family. Family Rights Group's advice service is also receiving frequent calls from kinship carers who have seen the financial and practical support they were receiving reduced or taken away completely. Some are considering whether they can continue to care for the children as a result. Uncertainty or reductions in local authority financial support, along with the reduction in the real value of benefits, also adds to the pressures and dilemmas faced by these kinship carers who are trying to do right by their children.

## **Making the workplace kinship care friendly**

In response to the Independent Review's recommendation to introduce paid kinship employment leave when taking on the care of a child, the Government has pledged to work across departments to explore possible additional workplace entitlements. While this openness is welcome, we are keen to see an urgent commitment to deliver employment reforms which should include paid employment leave for kinship carers.

Over half of kinship carers have no choice other than to give up work or reduce their hours when the child comes to live with them, especially if the child has suffered trauma and/or has additional needs. There are often meetings with children's services, the child's school, their GP, and other public services. Some carers live some distance from the school where the child is settled and thus face a long commute. Many are forced to rely on a benefits system which is not designed for the dynamics of a kinship care arrangement. The Independent Review's proposed new entitlement would give kinship carers the time to support the child to settle in when they first come to live with them without being forced to give up work.

Paid employment leave, akin to adoption leave would help more carers to stay in the workforce, reduce reliance on welfare benefits, and help kinship families to stay out of poverty. This is vital for ensuring better outcomes for children and kinship carers. However, the policy also needs to be designed to suit the unique and often crisis driven nature of kinship care.

## **Legal advice and representation**

The Government has pledged to explore options for an extension of legal aid for kinship carers with SGOs and CAOs. However, prospective carers urgently need legal advice earlier in the day, and certainly before they apply for a legal order. This would help relatives and

friends to step forward as kinship carers, understand their rights and options and secure the right order and support for the child to ensure they can thrive in the kinship care arrangement.

The recent legislation to expand legal aid to prospective special guardians in making applications for a special guardianship orders is positive progress. However, there is further to go. Many special guardianship orders are made within public law proceedings without an application being made by the prospective special guardian. Prospective special guardians have little to no access to legal aid in these situations, despite decisions being made that will significantly affect them and the child's lives for many years to come.

Specialist advice needs to be available to family and friends who are considering, or have taken on, the care of a child, so that kinship carers or prospective kinship carers are able to make informed decisions. The recent inquiry report published by the All-Party Parliamentary Group (APPG) on Kinship Care, 'Lost in the Legal Labyrinth' (2022), set out proposals for addressing the challenges that kinship carers and prospective kinship carers face in stepping forward and navigating the family justice system in England and Wales. The APPG's report offers a roadmap for how the Government could alleviate this issue.

In addition, children in kinship care and their carers may need migration advice and support, particularly where the child or the carer was born outside of the UK. This may include support for the child to get a passport. Where the child was looked-after or previously looked-after, the local authority must take responsibility for regularising the child's migration status and ensuring they have a passport.

### **Centring kinship children in education**

While kinship children have, on the whole, better educational outcomes than children raised in unrelated foster care, many do not do as well as the wider child population. To take concrete steps to improve this inequality, Government should go further with expanded educational support.

Over half (54%) of kinship children have additional educational needs or disabilities, yet depending on the child's legal status they typically have no clear route to greater educational support (Parliamentary Taskforce on Kinship Care). As part of work on the national kinship care strategy, Government should extend Pupil Premium Plus and priority school admission to all children raised in kinship care. The special educational needs and disabilities improvement plan should also consider the needs of these children.

Further work is needed to explore racial equalities in the education system. Experience from those working with minority communities points to the adultification of Black children in the education system which can lead to disciplinary measures rather than access to meaningful and appropriate support.

Moreover, just as with care leavers, consideration should be given to the needs of children in kinship care up to the age of 25. The cliff edge in post-16 and post-18 support for kinship families is a worry. Now that we are 17 years on from the introduction of special guardianship orders which cease when the child reaches 18, there is a growing number of young people who have aged out of the order. Consideration needs to be given in relation to access and support to further and higher education and apprenticeships, but also beyond education to housing, therapeutic and financial support.

### **Therapeutic support:**

Children raised in kinship care have invariably experienced loss, tragedy or trauma. Many kinship carers struggle to secure the therapeutic support the child needs to help deal with the impact of the trauma they have experienced, including bereavement support and counselling. The national strategy should ensure therapeutic support is available to all kinship families. A first step should be to extend eligibility criteria for the Adoption Support Fund and change its name to be inclusive and accessible to kinship carers. There must also be sufficient investment in children and young people's mental health services.

### **To what extent are you supportive of the working definition of kinship care?**

#### *Somewhat supportive*

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. Developing a simple, clear definition of kinship care is vital to cut through the differing interpretations and misunderstanding that exists at present. A single definition – encompassing the different types of kinship care arrangement - would bring clarity to the system. It could provide the foundation for an effective kinship care support system, with a passport to minimum levels of support for all children and carers who fall within the definition.

The Government so far has only committed to formulating a working definition of kinship care for departmental use. While this is welcome it must also be written into primary legislation for it to provide the necessary clarity and to have sufficient weight.

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 of kinship care amongst public bodies, services, and practitioners. Nor is statutory guidance consistently complied with. 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 help to ensure this.

We are somewhat supportive of the Government's working definition but there are areas which need further consideration.

- Defining the terms 'friend or family member' and 'parent' as they relate to the definition is important for kinship care will be fully understood and the legislation navigated with ease. They must sit alongside the definition in any legislation.
- The phrase 'for a significant amount of time' could lead to carers having to deal with misunderstanding around what 'a significant amount of time' means in practice unless it is defined.
- The Government should take the opportunity to developing a definition to address notable gaps where the present legal framework falls short. 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

Our members would welcome the opportunity to help the Government work through these challenges to devise a definition and legislation that works for children and families. We also think that it could then provide a foundation for clearer access to support for all kinship carers regardless of the type of arrangement.

**Do you have any overall comments about the potential impact, whether positive or negative, of our proposed changes on children's rights?**

The centrality of kinship care in the implementation strategy, particularly the commitment to produce a national kinship care strategy, will help to ensure that the rights of children are better respected, both under the United Nations Convention on the Rights of the Child and the European Convention of Human Rights. This is very welcome. Nevertheless, as we have set out in this response, the strategy needs to go further in supporting kinship children and their families.

Without sufficient investment, greater urgency, and more focused reforms which bring tangible support for kinship families, the Government will not be doing enough to uphold children's fundamental rights. Furthermore, greater attention needs to be given to addressing the needs of children who disproportionately face disadvantage and discrimination including those from Black and minority ethnic communities, those with unresolved immigration or citizenship issues; those in the LGBTQ+ community; disabled children and young people with disabilities. We would also highlight the importance of attention being given to children who are, or could be placed in care arrangements where the carer is based outside of England, including internationally.

We would remind the Government that the [Human Rights Act 1998](#) applies to all public bodies. This includes national government, children's services and the family court. This means they must take account of a person's rights under the European Convention on Human Rights. This also means in relation to all people they work with, including children, kinship carers and prospective kinship carers.

This includes:

1. Working with children and families in ways which are consistent with the right to respect for their family life. This right can only be interfered with if it is necessary AND 'proportionate'. This means:
  - i. They should only make decisions about how a child should be cared for where that is necessary to achieve the aim of keeping the child safe and well
  - ii. Any actions they take should be no more than what is needed to achieve that aim.

2. Making sure their decision-making processes are fair and involve children and parents. There should be ways to challenge decisions. And for families to raise complaints.

Actions and decisions taken by children's services or the family courts must also take account of the human rights of children which are also protected under the United Nations Convention on the Rights of the Child. This includes Articles 2, 3, 5, 12, 20, 39.

**Do you have any overall comments about the potential impact, whether positive or negative, of our proposed changes on those who share protected characteristics under the Equality Act 2010 that we have not identified? Where you identify any negative impacts, we would also welcome suggestions of how you think these might be mitigated.**

Please see our response to chapter 4, question 1.