

Stable Homes, Built on Love consultation Family Rights Group's Response

Introduction:

Family Rights Group is the leading national charity working to ensure the child welfare system supports children to live safely and thrive within their family. We uniquely combine legal and social work expertise, advice giving, policy expertise, and direct work with families.

- Our free specialist advice service supports parents and kinship carers in England, helping them to understand their rights and options.
- We pioneer innovative child welfare practices including family group conferences and Lifelong Links.
- For almost 50-years, our legal, policy and campaigning work has influenced developments in the child welfare system including securing the two-child tax credit exemption for kinship carers and a recent extension to legal aid for special guardians. We provide the secretariat to the All Party Parliamentary Group on Kinship Care and the Kinship Care Alliance.
- We facilitate two thriving panels of families with lived experience who work to influence change in the system.

This consultation response has been informed by: members of our parents and kinship care panels; a national kinship care workshop event we facilitated with 40 kinship carers and the Department for Education in April 2023; analysis of calls to our national advice service; the findings of the Care Crisis Review, Parliamentary Taskforce on Kinship Care and the APPG on Kinship Care; and our legal, policy, research and practice expertise.

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Overall comments:

Q: Overall, to what extent do you agree these six pillars are the right ones on which to base our reforms for children's social care?

Agree

The Government's strategy presents a positive vision for a 'family-first' approach to children's social care, prioritising meaningful and effective help at the right time for families and valuing the support wider family and friends can offer including as kinship carers.

We welcome the commitment to a national kinship care strategy and the recognition that current financial support is neither fair nor adequate for the strains kinship families face. We are also very encouraged by the focus that the Government places on the centrality of relationships for children and its ambition to ensure all children and young people in care have relationships they can rely on.



However, the reforms and the funding announced fall short of the scale of the crisis that is gripping children's social care.

Year on year, more children are being taken into a children's social care system marred by inadequate provision which fails too many of society's most vulnerable young people. Meanwhile, families are not being adequately supported to keep their child safely at home, tearing precious relationships apart. The Independent Review projected that the number of children in care in England will top 100,000 by 2032 without a significant change of course. The Independent Review's analysis shares much with the findings of the sector-led Care Crisis Review that we facilitated in 2018. The system has become too focused on investigating and assessing rather than supporting families, meaning many opportunities to work in partnership with families early are missed. The result is a system which is overwhelmed, where more families are struggling without help and increasing numbers of children are in care.

There is extensive evidence presented in the Independent Review and elsewhere about the positive impacts of transformational practices, including investment in early help and family group conferences on outcomes for children and families. Limiting the roll-out of these to pathfinders is a missed opportunity to deliver the nation-wide reforms desperately required.

As things stand, the children's social care system too often fails to prevent families' problems escalating, leading to more and more children being taken into care. The full cost of implementing the recommendations of the Independent Review was £2.6bn. The Government in its response has pledged less than a tenth of this. Failure to make this investment is a false economy, given the Independent Review's projection that a failure to provide system-wide reform and investment would cost an extra £5bn a year by 2032.

We also wish to highlight the lack of recognition in this Government response to the growing evidence on the relationship between child poverty and children's social care involvement, and the importance of addressing child poverty for its own sake but also as part of an effective child welfare strategy. A [study](#) by academics from Liverpool and Huddersfield universities found that worsening poverty resulted in 10,356 more children in England becoming looked after between 2015 and 2022. The research also estimated that almost 22,000 additional children were placed on child protection plans, and almost 52,000 began an episode of being on a child in need plan, over the same timescale. Research by Bywaters and Skinner (2022) has also shown that the child protection system exacerbates pressures on parents, which can make recovery from their challenges and reunification with their child more difficult. Moreover, different sections of the community, are disproportionately living in poverty, with 48% of children from Black and minority ethnic groups living in poverty, compared with 25% of children in white British families (Child Poverty Action Group, 2023). As the cost of living crisis bites, the Resolution Foundation predict that child poverty will rise, at the same time as local authority budgets are further squeezed. Addressing child poverty needs to be an integral part of the Government's child welfare strategy.

Disabled children and young people:

Q: What more can be done by government, local authorities and service providers to make sure that disabled children and young people can access the right types of help and support?

We endorse the key points made by the Disabled Children's Partnership in their response to this review. In particularly their emphasis on:

- The need to focus on improving the workforce's understanding of childhood disability;
- Promoting an environment in which interactions with parents are respectful and supportive, not stigmatising or blaming
- Improvements in coordination between public services, including education, health and housing
- Addressing a gatekeeping culture, in which too many children and families are failing to get the support they require, due to high and often changing thresholds. Too often this is leading to children and families being told their needs are too complex for universal services or Early Help, but they do not fit the criteria to qualify for specialist support.



We particularly want to emphasise the severe crisis in mental health services, which is often resulting in children and adolescents failing to get the counselling or therapeutic support they desperately need. The significant rise in Deprivation of Liberty (DOLS) cases and recent court judgments provide a stark illustration of out how our child welfare system is currently failing these young people.

Early Family Help:

Q: To what extent are you supportive of the proposal for a system that brings together targeted early help and child in need into a single Family Help Service in local areas?

Somewhat supportive

The MacAlister Review called for a revolution in family help and ‘a fundamental shift’ in the way children’s social care responds to families who need help. We endorse this call which is consistent with the findings of the sector-led Care Crisis Review (FRG, 2018).

We welcome the Government’s commitment to prioritise help for families. However, we are extremely concerned that in practice, implementation of reforms will be piece meal and geographically restricted (in the form of a small number of pathfinders) and that the Government has pledged only a tenth of the investment the MacAlister Review called for.

Although there is much welcomed reference to non-stigmatising and community-based support in the Strategy, we are concerned that this is still seen predominantly through a lens of child protection. Reference is made to testing the delivery of a single intensive and integrated Family Help service. The stated aim is to deliver support in a way that “facilitates effective child protection.” (page 45). There is also mention of the fact that when there is a change in the service and worker for the family, that children and families’ histories are lost and the ‘true scale of long-term harm becomes obscured’. We are worried about the emphasis here on harm, rather than on families receiving effective relationship-based support.

We are concerned about the potential ramifications of local area amendments to guidance and legislation and the impact of this for families navigating the child welfare system. Family Rights Group would want an opportunity to comment on any proposed changes to guidance and legislation.

In designing early help and family help services, national government and local authorities and other public agencies need to work with families to design a system that is responsive to individual needs. Families often know what will make a difference to them and their children. This may include community-based parenting support, play and activity groups, domestic abuse services, as well as communication, language and emotional support services.

We note that the Government strategy distinguishes between early help and Family Help which encompasses “targeted early help” and child in need. The strategy defines early help as universal services and other help “provided by services coordinated by a local authority and their partners to address specific concerns within a family”. On the other hand, targeted family help is defined as “a service provided to children and families who are identified by practitioners to have multiple or complex needs, or whose circumstances might make them more vulnerable”.

We are unclear how the distinction will work in practice, how families will understand and be able to navigate these differences and exactly what the threshold would be between “early help” and Family Help for families. It is important that eligibility criteria for accessing such services are clear. Where necessary to access family help services, families should have a right to a strength-based assessment. Families need to understand the timescales within which assessments will be completed, and plans agreed. Otherwise, there is a risk that assessments may drift and, without statutory timescales for assessments, families could have limited route to challenge.

We are concerned about the creation of an expert child protection social worker (lead practitioner) who will co-work Family Help cases even if there is an allocated Family Help social worker. There is a risk of professional differentiation



with more value or status being placed on child protection social workers. We also think that this split of responsibility could damage relationships with families which have been built in Family Help. It would be helpful to clarify if the expert child protection social worker would be involved in the identification of child protection as well as the response.

We fear that despite the intent, at a time of severe financial strain on public services, families could find themselves having to overcome more bureaucratic barriers to get the help that they and their children need. We reiterate that it is essential that children and families are engaged in any redesign.

We also note that there is a desire for social workers to be able to better respond to the needs of families facing material deprivation. Poverty, austerity and the more recent cost of living crisis means that even where social workers are poverty aware their ability to meaningfully support families to mitigate the effects of poverty can be significantly constrained.

Family Rights Group's parents' panel shared their thoughts on their experiences of family help and what would have made a difference in their situation. Here is a summary of their feedback:

- While it was felt parenting programmes could have a powerful impact when done well, they are often perceived poorly by families, especially where they have been insisted upon by the court or social workers. Some found them to be poorly targeted with families facing a range of difficulties grouped together instead of being provided with specialist support suited to their situation. Panel members felt parenting programmes need to be responsive to the support needs that families identify, such as child's emotional development and mental health. It was also suggested that a universal service open to all parents, regardless of children's services involvement, would be less stigmatising.
- Early help services often focus on the most visible issue and fail to work in partnership with families to explore other less obvious challenges.
- There needs to be consistency in the social worker or other professionals working with the family. Where parents had positive experiences, their social worker was open and transparent and inquisitive about the family's situation. They took the time to build a relationship, get to know the parent, and understand the child and parents' support needs. One parent highlighted a positive example, where they were recommended mother and baby groups to make friends. Parents found that progress could be undone when a new social worker comes in with a different approach. They also felt that partnership working breaks down, with parents less likely to engage if they feel like they are not understood or respected, if they are labelled, or penalised for being honest about their challenges they face.
- Consistent with our Fathers Matter research (FRG, 2011), fathers on our panel described social workers ignoring their views, experiences and their capacity to care for their children being ignored. One panel member said he felt judged as a young, Black father.
- Families found that there was often too much surveillance and unwanted intervention, rather than tailored support, even in the early help sphere. They reported social workers often regarded them through the lens of risk. Early help should take a strengths based approach rather than a deficit focused one.
- Families highlighted that practitioners needed to have an understanding of different cultures and insight into how parenting approaches may differ.
- Parents described the difficulties (if not impossibilities) of accessing mental health therapeutic support for themselves or their child, and how frustrating and despairing this could be when such therapies was recommended in professional reports but not obtainable.
- Some examples of positive experiences with services included Home Start which parents find 'supportive' and 'like a friend'. Similarly, Safe Lives, where a parent is paired with a volunteer to accompany them to sessions, like a friend who is not expected to report back to social workers (unless there is a major safeguarding issue). Parents expressed concerns that funding cuts had put some of these services at risk.
- Other positive examples included health visitors who came round to help when the parent was struggling with mental health and family support workers helping with practical things like building a cot or helping with school pickup.
- Parents expressed frustration and upset at children being allocated a social worker who they never then met and who made decisions about their child based upon reading paperwork rather than knowing the child.
- Parents raised the lack of understanding of trauma by practitioners. Some parents felt they were mislabelled, others were frustrated that they were promised treatment but services failed to follow through.

- Panel members emphasised support should be available much earlier before things got too difficult. For children with special educational needs, parents found that they were faced multiple hurdles when trying to access support for their child. They also reported that advocating for their child to address systemic and attitudinal barriers, could be viewed negatively as being confrontational.
- Failings within the system to understand and appropriately respond to domestic abuse was a significant theme. Alongside, the lack of appropriate services in some parts of the country (for adult and child victims and those responsible for the abuse), they felt that the system response acted as a significant barrier to victims feeling they could be upfront about the situation and safely ask for help. This aligns with Family Rights Group's broader policy work which has identified that too often victims of domestic abuse, usually mothers, feel like they are further punished by a child welfare system which holds them responsible for failing to protect the child while not holding the perpetrator to account. Problematic practice raised by parents on our panel included mental health assessments happening in the presence of the person who perpetrated the abuse. Others raised practitioners needing to understand why mothers may not leave the abuser, including being financially trapped (e.g. A shared mortgaged or the tenancy being in the partner's name), not wanting to disrupt stability for the child such as their school, the increased physical risk victims face leaving; or knowing that alternative accommodation would be far from their and their child's support network.

Q: Looking at the features of early help listed below, in your opinion or experience, what are the top 3 features that make it a supportive service for families?

Priority 1: The service is designed together with the input of children and families

Priority 2: Early family help should be visible, accessible and embedded in the local community and, where appropriate, build long-term relationships with families. Services should be non-stigmatising and instead harness the strengths of family and community networks. If invested in, early family help could keep more children safe and thriving with their families, in the interests of the child, their family and indeed society and helping to resolve the crisis in children's social care.

Parental Representation:

Q: Have you ever provided or received parental representation during child protection processes?

Yes, my organisation have provided a form of parental representation

Q: If you have had experience with a form of parental representation in the child protection process, please tell us about it. Please describe the type of service, why it was offered/provided; what impact you felt it had; the cost to the organisation.

We strongly welcome the Government's recognition that additional support and information needs to be available so that all parents are empowered to participate in child welfare processes and are supported to have their views heard in decisions relating to their children.

Family Rights Group has significant expertise in this field. Our free, independent, specialist advice service is the only service of its kind in England. We advise families when they are involved with children's services or need their help. We provide advice for parents, grandparents, relatives, and friends including kinship carers in England. Our expert advisers are all experienced lawyers, social workers, or family advocates. They help families to understand the law and child welfare processes and their rights and options.

We provide a blended advice and advocacy service with online advice resources accessed by nearly 700,000 people every year, a telephone advice line, webchat, advice forums and an email enquiry form. The service answers more than 7,000 calls each year from parents whose children are in need, deemed at risk or in care, and from relatives and friends



desperate for advice on how to become kinship carers for a child, and secure the support the child requires. We also provide self-advocacy support to over 650 families a year.

We regularly evaluate our service using an impact model based on our theory of change, developed with New Philanthropy Capital. The 2022 evaluation found:

- In the week after calling us 84% of respondents felt that they understood the law better.
- 4 – 6 months after calling us 45% agreed that the support they received from us made a positive difference to the local authority plan and/or services for their child/children.

The evaluation estimates that every £1 invested in our service saves the state £15.58, including in care costs averted.

Using highly qualified lawyers, social workers or advocates with comparable experience, the charity has pioneered professional family advocacy service in the child protection arena.

Between 2003 and 2015 we provided direct (face to face) advocacy for parents whose children were the subject of section 47 enquiries in the London area when the plan was to convene an initial child protection conference. Cases were either referred by partner local authorities, (Enfield, Tower Hamlets, Westminster and Barnet) or Family Rights Group's telephone advice service.

The advocacy service targeted parents whose children were particularly at risk of suffering significant harm, and being removed from their parental home. The service was based upon a protocol devised by Lindley and Richards (2002). An evaluation of the service by Fraser C and Featherstone B (2011) found:

"The impact of direct advocacy support was also evidenced: 73% of clients 'strongly agreed' or 'agreed' that having advocacy support made it easier for them to communicate with children's services. 40% of direct advocacy clients also believed that advocacy support had influenced the outcome of their case because it had enabled them to contain their emotions, to feel empowered, to understand their rights, and to challenge children's services where this was considered to be appropriate.

"Parents who had previously attended meetings with children's services without advocacy support were able to highlight the difference subsequent support had made. For example, with support they were able to remain calmer, to communicate more effectively and they were able to understand the procedures being put into place. In some cases, advocacy simply ensured that a parent who had previously failed to attend now had the confidence to attend meetings.

"71% of conference chairs believed that advocacy support had influenced parental engagement with children's services. This was because it had facilitated full and meaningful participation, reassured nervous parents, boosted their confidence and calmed angry parents.

"In a third of cases, a different outcome for the child was considered to be linked to increased parental engagement due to the parents' cooperation with the drafting of the plan and their subsequent adherence to it."

In addition the charity has, throughout the period and subsequently (funding dependent), provided indirect and self advocacy (via written, telephone and online support) to families. This is the practice of professional advocates negotiating with children's services by letter, email or telephone on the family member's behalf (indirect advocacy) or the practice of drafting a letter or using a pro-forma which can then be used by the family member (in their own name) to contact children's services.

We are very alert to how challenging the environment is to secure funding to run direct advice, advocacy or representation services. The legal aid rates mean almost no legal practice will attend child protection conferences, and indeed our direct advocacy services for parents in London which was commissioned by local authorities was forced to close, as a result of austerity.

In addition to advocacy service provision, parents whose children are subject to child protection processes need to have access to independent legal advice. Unfortunately, the current legal aid regime fails to meet this need. (See Q14 for



more details) Unfortunately, Legal help provision before the stage that children's services initiate any formal pre proceedings process remains extremely limited.

Unfortunately, financial constraints mean our advice service is currently only able to answer four in ten callers. The advice service is predominantly funded by a Department for Education contract and this contract is currently due to end in September 2023.

Any recognition of the importance of parental advice and representation in the child welfare arena, needs to be backed up by funding.

We urge the Government to work closely with families who have direct experience and knowledge of the child protection process to consider and understand the range of different perspectives of how parental representation might work in practice.

Family Rights Group has developed Professional Advocacy Services Principles and Standards and a Code for Professional Advocates working with families when the local authority makes decisions about the care and protection of children. These Standards and Code underpin our professional advocacy services.

A key step in the process of building child protection parental representation services is establishing a set of inclusive principles and standards that would apply to all organisations providing or commissioning such as service. This would ensure that parents, practitioners and commissioners are clear as to role of the parent representative including how safeguarding concerns and confidentiality would be addressed.

Family Rights Group has recently brought together parents with experience of the child welfare system with children's service leaders and organisations with expertise in representing parents at child protection conference (including lawyers, peer supporters, and professional advocates), to start this process. There was consensus about the need for the development of such principles and standards, and Family Rights Group will be progressing this work over the next six months, and would welcome the engagement of the DfE including funding and the endorsement by Government of the standards produced.

We also wish to observe that post pandemic, many parents are still being required to participate in child protection conferences online, sometimes just by phone, despite evidence that this can hinder rather than assist parental engagement and partnership working in the interests of children.

Unlocking the power of family networks:

Q: In your view, how can we make a success of embedding a “family first” culture?

The Government's strategy commits to unlocking the power of family networks. It commits to exploring family network options early, both as a support for parents who may be struggling and for identifying potential kinship care options if the child is not able to remain at home. This intent is consistent with the both the findings of the Independent Review of Children's Social Care and the Care Crisis Review (FRG, 2018). It also accords with the views of members of our parents' panel and kinship care panel members, and those who attended the kinship care consultation event in April 2023 which we held in conjunction with the Department for Education.

A 'family first' system is one in which:

- Families involved with the child welfare and family justice system are treated fairly, have their rights respected and are able to make informed decisions;
- Children and families get the help they need, so wherever possible children can live safely and flourish within their family network;
- All children, including those in care, have lasting and supportive relationships to sustain them throughout their lives;

- Our child welfare and family justice systems – and wider society – promote social justice and create conditions that enable children to achieve their potential;
- Children and families' voices and experiences drive decision making at an individual and strategic level within the child welfare and family justice systems.

An essential aspect of a 'family first' approach, is that families can access independent legal advice when they need to, so they can navigate the child welfare system and understand their rights and options. It underpins the ability of families to work in partnership with the state and child and families, consistent with the underlying principles of English and Welsh child welfare legislation.

See Question 12 above for details on the positive impact of Family Rights Group's specialist advice service for families involved with the child welfare system.

The Government has recently expanded the scope of legal aid for some parents involved in adoption-related proceedings and for some kinship carers in private law proceedings. We warmly welcome this. But further reforms are needed (we set out our proposals for reform below).

A key area where legal aid reform is urgently required is in deprivation of liberty (DOLS) cases. Depriving a child of their liberty, whether under a secure accommodation order or an order made under the High Court's inherent jurisdiction, is a draconian step which:

- Can have a significant impact on the child's quality of life and their mental and physical wellbeing
- Intervenes with the child's right to liberty under article 5 of the European Convention of Human Rights ('ECHR')
- May result in the child being placed in isolated positions and subject to high level supervision and restraint.

Yet families of children in this situation have limited, or no, access to legal advice and information to help them understand the process or their rights and options.

The legal aid framework relevant to advice and representation for parents and carers of children who are, or may be, deprived of their liberty is riddled with anomalies and areas of injustice. A parent whose child is subject to care proceedings is entitled to legal aid to fund advice and representation. Their legal aid is not means tested and only a very low merits test applies. However, the same is not true where the child is the subject of an application to deprive them of their liberty, either under secure accommodation order or the inherent jurisdiction of the High Court. Parents must pass a means test and a higher merits test. This results in parents of children subject to the applications frequently being unrepresented.

It is vital that parents and children have access to legal aid to fund advice and representation to ensure:

- They understand the legal routes through which their child may be deprived of their liberty
- A fair process for the child and family is followed, both in and outside of court
- That families are involved and have a voice in planning for their children
- That the underlying principles of English and Welsh legislation: partnership working and co-production (respectively) are not undermined. Partnership can only be achieved where children and families are informed and able to understand their rights and options.

Recent government figures reveal that between January 2018 and September 2022, only 19% of respondents to secure accommodation orders were legally represented (this includes but is not limited to parents of the child). The government was unable to say what the equivalent figure was for applications made to deprive a child of their liberty under the High Court's inherent jurisdiction.

We are calling for Government to take the following steps:

- Adequate long-term funding for Family Rights Group's specialist advice service, which advises mothers, fathers and wider family and friends including kinship carers (and prospective kinship carers)
- Implement the following legal aid reforms:



For parents

- Legal help provision before the stage that children's services initiate the formal pre proceedings process remains extremely limited. At the stage when a parent may need advice in relation to a child protection investigation, or ahead of a child protection conference, they only have access to means and merits tested legal help advice set at level 1 public law. The standard fee for legal help (level 1) is £132. Many solicitors' firms will not take on level 1 legal help cases because the fees available are so low that they would be working at a loss if they took on the case. In reality, this means that this form of legal aid is simply not available to many parents. We therefore recommend legal help for parents whose children are subject to a child protection enquiry should be funded at family help (lower) - level 2. And should be non-means and merits tested. This is equivalent to that which is available to solicitors advising parents and others with parental responsibility at the formal pre proceedings stage. Provision of legal help at the level 2 rate of remuneration will more realistically allow solicitors to offer this form of support to parents.
- Legal aid provision in applications for secure accommodation orders and to deprive children of their liberty under the inherent jurisdiction should be expanded so it:
 - i. Is in line with the level of legal aid available to parents and children in care proceedings and
 - ii. Mirrors recent changes made to the availability of legal aid for parents (and other persons with parental responsibility) in adoption and placement order proceedings.

This would address the many parents and carers who do not have access to legal advice and information when their child is being deprived of their liberty.

For kinship carers

- Many grandparents, brothers, sisters and other relatives or friends are not entitled to free legal advice and representation when considering taking on the care of a child who cannot safely remain with the parents. This is despite the fact, often, these kinship carers are stepping in to prevent a child from having to enter the care system. Their lack of access to legal advice has significant implications for the child and their potential kinship carer. As the All-Party Parliamentary Group on Kinship Care found in its Legal Aid Inquiry in 2022, too many carers end up lost in a legal labyrinth, with long term negative consequences for the child. In some cases, kinship carers are getting into significant debt in order to fund their legal advice and representation.

The changes needed to improve legal aid provision for kinship carers are:

- Prospective kinship carers need access to non-means tested legal help advice. The proposed improvements to legal help provision would ensure that prospective kinship carers who are a realistic option for the child could receive early legal advice. This would include advice on the assessment process, options of legal orders and arrangements and support that they and the child may be able to receive.
- Means-testing - This form of legal help advice for prospective kinship carers needs to be non-means tested. Many kinship carers are not eligible for legal aid simply because they have a small amount of savings, accrued throughout their working life or have their own home. They should have access early advice to enable them to properly consider their options. We know that the legal aid means test can be a barrier to kinship carers accessing legal aid in family law proceedings due to the Legal Aid Agency's income and capital thresholds. Many carers living below the Joseph Rowntree Minimum Income Standards are excluded.
- Merits-testing – We propose
 - Where the prospective kinship carer has had a positive initial assessment, usually no further merits testing should be required by the Legal Aid Agency. This is because the positive initial assessment is evidence that the prospective kinship carer is a realistic option for the child, and at the point of receiving that assessment they should be able to access legal help advice. We propose that the positive initial assessment would act in a similar way to the letter before proceedings to a parent acts, when the formal pre-proceedings process is initiated.
 - Where the prospective kinship carers has had a negative initial assessment, the legal help would be merits tested (but remain non-means tested). The merits test needs to demonstrate that there is 'sufficient benefit' to the prospective kinship carer, having regard to all the circumstances of the case.
- Level 2 Legal Help - Legal help for kinship carers should be funded at family help (lower) - level 2. This proposed form of legal help for kinship carers is equivalent to that which is available to solicitors advising parents and others with parental responsibility at the formal pre proceedings stage. Provision of legal help at the level 2 rate of remuneration will more realistically allow solicitors to offer this form of support to prospective kinship carers.



Family Rights Group urges the government to take this opportunity to be more ambitious than the recent legal aid changes made for both parents and kinship carers and deliver comprehensive legal aid for families. Without it, more children risk being unnecessarily separated from their families, at great personal cost to them and greater long term financial cost to the state.

The number of new-born babies subject to care proceedings has doubled over the last ten years. A new-born baby in the North East of England is three times more likely than one in London to be subject to care proceedings. This is in part due to the varying availability of services, such as parent and baby residential and foster care placements. The Born Into Care (Mason, 2022) research study has shone a light on this issue and the findings are reinforced by the experience we have heard from families contacting Family Rights Group's specialist advice service. Too often decisions to remove children at birth are being made with little notice and without prior work with families including via family group conferences. Sometimes key local authority meetings or court proceedings take place whilst the mother is still in hospital. In this situation, it is very challenging for parents to understand what is happening and to secure legal advice and representation so that they can effectively participate in decisions about their new-born child. It also prevents early work with the wider family who might be able to step in to support the parents and help care for the child, averting the need for care proceedings. Family Rights Group has sat on the Born into Care advisory group, led by Claire Mason at Lancaster University, and would strongly advocate that the Government actively promote the new Born into Care: Best practice guidelines and other resources - Nuffield Family Justice Observatory (nuffieldfjo.org.uk) to help shift practice within health, children's social care and the court arena.

We would also highlight that a family first approach, also needs to address support for parents whose children are removed, to help them deal with their grief and address the reasons why their child is unable to live with them. We therefore recommend that there is a new duty on local authorities to offer therapeutic support and counselling to mothers and fathers whose children are removed, to help them deal with their grief and to address the reasons why their child was removed. And that this duty is funded by Government.

Consistent with 'family first' principles, and as part of our work to help realise this ambition, Family Rights Group has been funded by the Legal Education Fund to work in two family justice areas to co-design a reimaged framework for pre proceedings – and would be keen to discuss learning with the DfE and MoJ.

In response our response to consultation question 28, we go into more detail about some of the steps that could be taken at a strategic level, local and nationally and across public agencies, so that children, young people and adults with lived experience of the system, are central to its design, including its reform.

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

Family Rights Group is the leading legal and policy authority on kinship care. Our almost 50-year history of campaigning and influencing work has been instrumental in securing key changes including the exemption of kinship children from the two-child tax credit limitation and most recently, an extension to legal aid for prospective kinship carers in private law proceedings. We provide the secretariat to the All Party Parliamentary Group on Kinship Care, the Kinship Care Alliance, and previously the very first Parliamentary Taskforce on Kinship Care.

In responding to this question we have consulted with members of our kinship carers' panel and with kinship carers who attended the national kinship care workshop we hosted with the DfE in April 2023.

We strongly welcome the significant shift in emphasis in the Government's strategy towards prioritising children remaining safely in their family and improving support for kinship care. We are greatly encouraged by the attention given by Government Ministers to the importance of support for kinship care, and particularly by the commitment to produce a national kinship care strategy this year. We also welcome the Government's acknowledgement that local disparities in policy, practice and support services for kinship care are inadequate and must be addressed.



However, to deliver on this ambition we need greater urgency within Government to ensure that kinship care is consistently explored and supported for all children who cannot remain at home. Kinship care is a unique and important form of care and for too long has been overlooked and undervalued. Too many children are being raised by strangers in the care system when they could be living safely and thriving in their family. Kinship families face many challenges, but support for children and carers is too often tied to the legal status of the arrangement and where the family live, rather than their needs.

The national kinship care strategy must be a genuinely cross-Government endeavour, including the Treasury, to maximise its impact. To ensure that it delivers on the experiences and ambitions of kinship carers and the children they are raising, the strategy should be co-produced with kinship families and the sector. It 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.

As proposed in our Time To Define kinship care campaign, a clear and broad definition of kinship care, enshrined in primary legislation, would be the foundation for an effective system where kinship care is recognised, valued and properly supported.

To make a meaningful difference, the kinship care strategy must be properly resourced including providing local authorities with the funding they need to provide adequate support services to kinship families in their community. Under the status quo, the financial cost of children's social care grows every greater. A better resourced system of kinship care support would still result in a lower cost to the taxpayer.

Designed with families:

While we welcome the Department for Education's establishing 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. We encourage the Government to draw on examples of coproduction and oversight models that have worked well elsewhere in the UK and abroad, including the Kinship Care Oversight Committee established in Washington state.

Better data:

Data is important to better understanding kinship care and designing support services that benefit children and their families regardless of the child's legal status. The Government's data strategy should include: work to improve data collection across national and local government and public agencies including schools; analysis of 2021 Census data; and deeper analysis of existing data such as child benefit applications made by non-parent carers. We were closely involved in the Bristol kinship care study of the 2011 census data and would like to work with the Government to maximise the potential of the 2021 census data.

Family Group Conferences:

We welcome the Government's ambition for all local authorities to offer family group decision making from an early stage. However, current proposals to deliver that through the Family First for Children pathfinder currently do not go far enough. Families in every local authority should be offered a family group conference (FGC), wherever they are on the child welfare continuum. It should be a family's legal right to be offered a family group conference before a local authority can prepare to bring care proceedings (except in emergencies) in relation to their child. We would also propose that the Government endorse the national FGC service standards developed by Family Rights Group, and fund FGC services accordingly. Taken together, this would ensure consistent, fair, independent, and genuinely family-led practice across the country.

FGCs draw on the strength and knowledge of families to make decisions and plans for the child. They help ensure that all efforts are made to enable the child to remain safely within the family network. Whether that's wider family providing extra support to the parents or stepping forward to raise the child themselves. In doing so, the need for care proceedings or the child entering the care system would be averted. The Government's implementation strategy acknowledges strong and growing evidence about the positive impact of FGCs on reducing the likelihood of children entering the care system. In New Zealand, where FGCs are deeply embedded, the data speaks for itself. 48 in every 10,000 children in the country are in the care system compared to 67 in England. Of those children, 57% are raised by relatives or friends (kinship



foster carers) compared to just 15% in the England. Recent research by CASCADE has shown that family group conferences are currently offered in 82% of local authorities but how many families in any authority are offered an FGC and at what stage, is highly variable.

Given the established evidence on FGCs, the Government's reforms family group decision making reforms should not be restricted to the pathfinder. This could be taken forward, in the way we recommend, at a quicker pace across England so that children and families in every part of the country are able to benefit.

As well as assisting parents who are struggling and averting children from becoming looked-after, FGCs can be used when a child is already in the care system. Where a child may be able to return home, FGCs can be an effective approach in engaging the family in developing a robust support plan for both the child and their parents. Statutory guidance and the Independent Reviewing Officers' handbook should be amended so that where the placement of a looked after child with an unrelated foster carer is considered by the looked after review to no longer meet the child's needs, the child's social worker should offer a family group conference to explore whether there are suitable carers within the child's family and friends' network before seeking an alternative non-family placement.

Family Network Support Packages:

These renamed packages are a potentially positive development to support families without the child having to enter the care system. However, this proposal needs careful design working with families to ensure that where in the child's interest, kinship foster carer remains a route open to families. Families should also have access to independent advice, so they understand the short and long terms ramifications of decisions that they are being asked to make.

Assessment processes:

Many kinship carers describe the difficulties they faced 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 an 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.

Local authorities should be equipped to navigate the additional complexities of dealing with cases which cross the boundaries of UK nations and international borders, in order to ensure opportunities to investigate viable cross-border kinship arrangements are not missed.

Local family and friends care policies:

We welcome the Government's commitment 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. Statutory guidance on kinship care has been in place for 12 years and yet this is often not complied with. The national strategy needs to provide clearer direction and expectations on local authorities and be adequately funded. This should include a duty on local authorities to co-produce their family and friend care policies with families and to make the policy publicly available.

Local and national support services:

Family Rights Group's kinship carers panel, and the carers who attended our national kinship care workshop in April, shared their thoughts on the forms of support that would have made the most difference to their family. Here we summarise their key messages:



i. Specialist advice and legal aid:

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.

However, a lack of access to independent information and advice is commonly raised by kinship carers. Some describe feeling forced into situations they did not fully understand. Many found it difficult to navigate a complex system without support or advice. Some described not being represented in court proceedings so they did not know what was going on. Others received a very limited amount of free legal advice, paid for by their local authority, but felt this was not enough time to understand the complexity of the issues. It is common for carers to have to draw on savings, loans and selling items to be able to afford legal costs. It is important to remember that without specialist advice and information, the likelihood of a kinship carer successfully putting themselves forward to secure the child in a kinship care arrangement is diminished.

We welcome the recent legislation to expand legal aid to prospective special guardians in private law proceedings. This is positive progress but there is further to go. We endorse the representations made by the All Party Parliamentary Group on Kinship Care on how remaining gaps in legal aid provision should be addressed. We also refer back to our answer to question 14 where we set out the importance of specialist, independent advice to families.

i. Practical support:

The £9 million investment in a training and support offer for all kinship carers was welcomed. There was a strong feeling among panel members that this should be led by/curated by those with lived experience. Carers had mixed experiences of taking part in training sessions alongside parents and foster carers. While some found training provided for foster carers was helpful at times, others found it triggering and inappropriate. There was consensus around the need for kinship specific sessions on some topics. They would like them to be optional rather than mandatory. Carers also said they wished the support had been there from day one, rather than only after a legal order had been granted for the child. Areas they would welcome practical support on included: managing contact and confrontation with birth parents including access to contact centres so that those conversations are not happening in the child's safe space; therapeutic parenting and dealing with issues like loss and attachment; parenting in a modern age with social media; the law on kinship care; information on support entitlements; understanding safeguarding; and how to manage changing relationships with friends and family.

In designing the training and support offer, we urge the Government to work with families and the sector to design what this offer looks like. It should build upon local support systems already available including those working with minority communities.

ii. Respite and childcare:

Kinship carers, particularly those who are single or older in age, can find their new caring responsibilities extremely tiring, relentless and stressful. Attending training sessions and other appointments can also be difficult without childcare. Respite support provided by local authorities is rare. However, the extension of initiatives such as Mockingbird to kinship carers, do potentially provide some opportunities.

Recent Government announcements on childcare were a positive step but there is a need to ensure kinship carers are not excluded by eligibility requirements.

iii. Employment:

The period when a child moves to live with their kinship carer can be particularly challenging. Even before the child has come to live with them or in the early days of the child settling in, the carer may have to spend a lot of time attending meetings with children's services as part of the assessment process or be involved in court proceedings. They may also have to apply to a new school, attend meetings at the child's existing school, or attend other appointments for the child including relating to their mental and physical health or behavioural needs. Carers describe how this can often feel hugely demanding alongside trying to support the child to settle into their new home, sometimes in very tragic or traumatic circumstances. Many describe having to give up work or reduce their hours and the negative impact this has on their household finances. Some then lose access to funding for childcare/nursery if they are not working the required hours. 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. Carers were clear that this would have to be tailored to the unplanned and crisis driven nature of kinship care. Greater workplace recognition of kinship care and HR policies which recognise that would be a positive step.

iv. Educational support:

Kinship carers describe the challenges and frustrations they face in accessing appropriate support in schools for their children. This is especially the case in relation to special educational needs and disabilities of which there is a higher likelihood among kin children than the general population. Schools are often not very kinship care aware and do not understand the impact of trauma on children's behaviour and wellbeing. There is also growing concern among carers raising young people approaching 16 or 18 that the support they are receiving will stop when the child reaches that age. Government should expand educational support for all children in kinship care, to include Pupil Premium Plus, priority school admissions and virtual school heads. The special educational needs and disabilities improvement plan should consider the needs of children in kinship care. A kinship care awareness campaign among schools staff should be spearheaded by Government. Teacher training and should also include learning on kinship care arrangements and trauma-informed teaching. The Government also need to invest in support for young people in kinship care up to the age of 25, including on further and higher education, therapy and financial support.

v. Therapeutic support:

Children raised in kinship care have often 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. They can also be facing trauma of their own, such as the loss of the parent who may have been their adult child. Some carers said they found that admitting this and asking for support was judged negatively. The national strategy should ensure therapeutic support is available to 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.

vi. Financial support:

Becoming a kinship carer forces many families into poverty, including debt and daily financial hardship. 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. The cost of living crisis is exacerbating these challenges. Many struggle to access the financial support they need. Family Rights Group's advice service is 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.

Kinship carers on our panel and at the workshop described their struggles to make ends meet. They found accessing financial support from their local authority difficult. Assessments of their means to ascertain whether the local authority would pay an SGO allowance were felt to be invasive, disrespectful, and degrading. There was agreement around the need for a kinship financial allowance, consistent with fostering allowances and non-means tested. One carer said, "everything we do for children relies on having a secure economic basis". Carers who are older in age said that trying to raise a child on a pension is draining, financially and emotionally, and wanted more protection for their pension. For younger carers who had to give up work, concerns included not being able to then make adequate provision for their own retirement.

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 presented here, 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.



There is an urgent need to ensure a consistent approach is taken by local authorities to financial allowances for kinship carers including addressing the outdated financial assessment model. We are happy to work with the Government on this. The national kinship care strategy should also include work by the Department for Work and Pensions to ensure the benefit system encourages rather than penalises kinship care arrangements, consistent with the ethos of the two-child tax credit exemption for children in kinship care.

vii. Housing:

Some carers raised difficulties with overcrowding and being unable to move to more suitable housing for the increased size of the family. Local authorities and housing associations should have a duty to consider the needs of kinship carers in local housing policies.

Tackling racial and ethnic disparities:

We welcome the Government's commitment to develop its understanding of race and ethnicity but would like to see clearer milestones to measure progress.

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.

Q: 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

We would welcome the opportunity to help the Government work through these challenges to devise a definition and legislation that works for children and families. Importantly, it would provide a foundation for access to support for all kinship carers and their children regardless of the type of arrangement.

Care Experience:

Q: Overall, to what extent do you agree that the 6 key missions are the right ones to address the challenges in the system?

Agree

We are delighted that Family Rights Group’s Lifelong Links approach is cited within the Government’s Strategy and welcome the commitment by Government to investing £30 million over the next two years in evidenced family finding, befriending, and mentoring programmes such as Lifelong Links. However, we would call on the government to be more ambitious in its investment plans, in order that by 2027 every child in care and care leaver in England is offered Lifelong Links, as a core part of delivering on Mission 1 that every care experienced child and young person feels that they have strong, loving relationship in place.

We have been working as part of the Always Hope project to develop Lifelong Links for care experienced young adults in prison. We are keen to see this offered nation-wide

Further details about Lifelong Links, including the independent evaluations conducted demonstrating its positive impact on children and young people, are available on Family Rights Group’s website <https://frg.org.uk/lifelong-links/>

Our fears in relation to Missions 2 to 6 is that they are too vague and lack clear milestones to measure success.

We also wish to emphasise that the provisions of the Children Act must apply to all children. We are extremely concerned that the provisions in the Illegal Migration Bill is at odds with the legal framework. We want clarification that mission 3 will not be compromised by the provisions in the Bill.

Q: What support is needed to set up and make a success of Regional Care Cooperatives?

The care market is failing children and young people. A system that should be providing a safe and loving home for children and young people, is instead dominated by private equity companies extracting excessive profits for their investors. The decision not to implement the MacAlister Review’s recommendations for a windfall tax to address excessive profits and provide new funding for the system is, in our view, a mistake.



We are also concerned that the regional cooperative approach to planning and recruiting foster care, could overlook the importance of kinship care including kinship foster care and reunification of children and the system prioritising children remaining safely in their family network in the first instance. It risks taking decision making further away from a child's community.

Q25: Do you have any further feedback on the proposals made in the 6 missions of this chapter?

We strongly welcome the decision to maintain the role of Independent Reviewing Officers (IRO's) and Regulation 44 (Reg 44) visitors.

There is growing concern about the long distances children in care are being placed from their homes and family networks for reasons not connected to their needs. This is particularly stark for children who are being deprived of their liberty. [Evidence suggests](#) that the median distance from home for children placed in secure children's homes for welfare reasons under secure accommodation orders was 132.3km. Many children from local authorities in England and Wales are being placed in secure care in Scotland. In 2018 and 2019 children from [English and Welsh local authorities who were placed in Scotland](#) in secure care under secure accommodation orders were an average of 353 miles away from their homes. Worryingly, there is no equivalent data available for orders to deprive children of their liberty under the inherent jurisdiction of the High Court, despite there being a significant rise in these applications ([462% increase between 2017/18 and 2020/21](#)) and them now outnumbering applications for secure accommodation orders. There is significant concern about the children subject to orders under the inherent jurisdiction being placed in unsuitable accommodation which does not meet their needs, including children's homes that are not registered with OFSTED.

The Children's Commissioner for England, in her report *Siblings in Care* (2023) estimates that 37% of children with a brother or sister, are separated from a sibling when placed in care. For some children, the chances of being separated from their siblings is far greater: 93% of older children placed in semi-independent accommodation are separated from siblings. Children in care come into care because of a disability are more likely to be separated. Research conducted by Family Rights Group (Ashley, 2015) found that children were significantly more likely to be living with their brother or sister, in a kinship foster care arrangement than any other time of care placement. The child welfare system currently places insufficient priority on enabling children to live within brothers and sisters, and facilitating and supporting relationships between those children who are split up from one another. The law currently requires local authorities to allow a looked after child reasonable contact with their parents. We would strongly recommend that this duty is extended to siblings. We also call upon the Government to implement a Ministerial commitment made in 2017 to amend Care Planning, Placement and Case Review (England) Regulations 2010 to provide for sibling contact between a child who is looked after in the care system and any siblings who are not looked after.

We reiterate concerns expressed by Children England and Become about the Government's plans in relation to semi-independent settings for children aged up to 18. We support the view of these charities that the government should extend full standards of 'care' to homes for all children up to the age of 18, and invest sufficiently in local authorities that they can commission homes that meet these standards.

Delivery

Q: Beyond the proposals set out in this chapter, what would help ensure we have a children's social care system that continues to share and apply best practice, so that it learns from and improves itself?

The Care Crisis Review, highlighted the palpable sense of unease felt amongst contributors to the Review about how lack of resources, poverty and deprivation are making it harder for families and the system to cope. A strong sense of concern was expressed that a culture of blame, shame and fear has permeated the system. It was suggested that this had led to an environment that is increasingly mistrusting and risk averse and prompts individuals to seek refuge in procedural responses. The Review also concluded that there was consensus that relationship building has been and is at the heart of good practice. The challenge for all of us is how to create the conditions within children's social care and



family justice that allow good relationships to flourish everywhere, within and between agencies, within families, and between families and practitioners.

To reiterate a point we have made throughout this submission. Those who interact with, and have to navigate, the child welfare system are the experts in its strengths and its flaws. Too often the only way for families to provide feedback is to complain which is an inherently negative interaction. At a national and local level, those designing reforms should work with families – parents, relatives, friends, kinship carers, and children and young people – to co-produce services. This way of working should be embedded through lived experience panels and reference groups. Family Rights Group is developing a toolkit, drawing on our 10 years of experience working with our parents' and kinship carers' panels, to share best practice with organisations wishing to establish their own panels. We also developed the Mutual Expectations Charter, with our panels, and we would welcome working with Government to encourage local authorities and other public agencies to adopt it: <https://frg.org.uk/policy-and-campaigns/families-voices/mutual-expectations/>. There is also learning to be drawn from Liverpool Kinship Carer's charter with Liverpool City Council.

A system under severe financial strain is not in the headspace to make positive change. The funding blackhole in children's social care needs to be filled to give children's services the bandwidth to deliver reforms.

We also recommend a Government ring-fenced funding stream 'Relationships Protects' is made available to local authorities to help them work with their community, partner agencies and young people and families to:

- Safely advert children having to enter or remain in the care system, and
- Work effectively with parents, including providing post-proceedings support to tackle some of the reasons why some parents have children removed repeatedly.

We propose that this is a new, sizeable 5 year funding stream. Available to all local authorities, it would be awarded to on the basis of a local plan to deliver on the goals of the implementation strategy. The plan should be developed with local partners agencies, including the family justice board, community organisations and critically children, young people and families. The fund would be a catalyst for doing things differently to safely reduce the numbers of children in care, including the solutions set out in the MacAlister Review and the Government's response. And as the numbers of children in care reduce, it would also allow authorities to develop joint commissioning strategies to provide specialist placements and reduce dependence and expenditure on private sector providers.

Equalities and children's rights

Q: 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.

We are concerned that without sufficient investment and greater urgency these reforms do not guarantee better protection for those with protected characteristics.

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. It resolves to seek input from a diverse range of voices as it delivers reforms and shapes the future direction of children's social care. This is welcome. However, we would like to see clearer milestones as how Government is intending to measure and address these disparities._

The Care Crisis Review (FRG, 2018) highlighted that national administrative data sets do not include information about the circumstances of families of children in the care system or subject to care proceedings. This includes lack of basic demographic information about mothers and fathers of those children. The Review recommended that making better use of available data, and making decisions about the type of data that could be collected, has a part to play in developing the right sort of local services. This is about data held by local authorities and partner agencies, but also about that held by the MoJ, Cafcass, the DfE and other government departments. Without this basic demographic



information, the impact of the child welfare system, and the impact of proposed changes, cannot be properly understood.

Our response to Question 8 highlights some of the failings within the system impacting disproportionately upon disabled children and young people, and actions that need to be taken by Government.

We also wish to highlight the adverse experiences faced by many parents with learning difficulties and disabilities, who are disproportionately represented in care proceedings. The 2021 Good practice guidance on working with parents with a learning disability notes that one-sixth of children subject to care proceedings had at least one parent with a learning disability. Their experiences and supports needs of these parents are not explicitly addressed in the Government's strategy. As a minimum, the principles of this good practice guidance need to be consistently applied when children's services are working with parents with a learning disability, their children and their wider family.

The Care Crisis Review found frustration, despair and anger about the detrimental impact of poverty, cuts and austerity on the lives and life chances of vulnerable families. We would welcome the Government being mindful in the development of reform policies of how the impact of protected characteristics interplays with the impact of poverty. This is particularly important given the increasing number of children in care, and the growing body of evidence showing that poverty increases the risk of children entering care.

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

We endorse the view of the Alliance for Children in Care and Care Leavers that Rights that a Child Rights Impact Assessment (CRIA) must be conducted for the Government Implementation Plan. The government's two-paragraph children's rights impact assessment is inadequate and does not demonstrate how the proposed changes will impact children's rights. The UK Government must build on the Care review's child's rights impact assessment as legislation and policy is being designed.

It is our view that the intention of many of the proposed changes are consistent with better protection of children's rights, both under the United Nations Convention on the Rights of the Child and the European Convention of Human Rights. This includes (but is not limited to):

- The greater focus on kinship care including the commitment to produce a kinship care strategy and recognition of the inadequacies of current financial support for kinship families
- The vision for a 'family first' approach
- The centrality of relationships for children and the ambition for all children and young people in care to have relationships which they can rely on.

Similarly, we believe the intent of many of these reforms are consistent with children's right to a private and family life under article 8 of the European Convention on Human Rights and children's rights under the United Nations Convention on the Rights of the Child (including Articles 2, 3, 5, 12, 20, 39) are protected.

We are however extremely concerned that the lack of funding supporting these changes and ambitions, and the lack of urgency from Government in terms of implementation, will mean that the Government will fall short of what is expected from them both under the ECHR and the UNCRC. We are also concerned about the negative impact upon the rights of some children arising from lack of focus upon addressing child poverty, inadequate measures to address the crisis in our mental health care system, insufficient attention being paid to support for disabled children and to tackling racial disparities.

The provisions of the Children Act must apply to all children. We are extremely concerned that the provisions in the Illegal Migration Bill is at odds with the legal framework and are thus hugely detrimental to the rights and welfare of some of the most vulnerable children.



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 includes all people they work with, including children and their family members.

This includes:

- 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:
 - 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
 - Any actions they take should be no more than what is needed to achieve that aim.
 - 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.

For further information please contact Public Affairs Manager, Jordan Hall jhall@frg.org.uk.

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