



A Policy Briefing on Family and Friends Care:

raising children within the wider family as an alternative to care

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

Endorsed by:

**Grandparents Plus
The Fostering Network
The Grandparents' Association**

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Summary

The Kinship Care Alliance is campaigning for greater **recognition, respect** and **reward** for family and friends ('kinship') carers. These carers, often grandparents, aunts or uncles, step in to care for vulnerable children when they cannot live with their parents. This may be because of parental alcohol or substance misuse, mental or physical ill health, domestic abuse, divorce or separation, imprisonment, bereavement and yet the carers often receive little or no financial or practical support. They and the children they care for are the forgotten families of family policy. We want to change that.

- There are between 200,000-300,000 children living with family and friends carers. Only 6,900 of them are *looked after* children.
- Family and friends placements are more stable. Children feel loved and report high levels of satisfaction.
- 3 out of 4 family and friends carers experience financial hardship
- 1 in 4 are lone carers
- 1 in 3 live in overcrowded conditions
- 3 out of 10 have a chronic illness or disability
- Only 1 in 6 (16%) of local authority foster placements are with family and friends carers, the rest are placed into non-relative foster care.
- 8 out of 10 people agree that family and friends carers should receive financial support.

The 1989 Children Act and the Children and Young Person's Act 2008 both state that family and friends care should be the first option considered by social workers when a child cannot live with their parents. Yet there is no official data on family and friends care.

The children they care for have had the same multiple adversity experiences as children in foster care, yet they often have no claim to financial or practical help from the local authority and instead have to rely on their discretionary support.

10 steps towards a better deal for family and friends carers and the children they care for:

1. a new culture of **respect for family and friends carers** who take on the care of children often in extremely difficult family circumstances. As a minimum they should be fully informed of the options open to them when they take on the care of a child.
2. a **national allowance** for family and friends raising a child for more than 28 days as an alternative to the child being taken into care.
3. **official data** gathered on children being raised by family and friends carers.
4. children in family and friends care treated as **children in need** to ensure that they have all necessary support and recognised as a

- specific group** requiring tailored policies and support.
5. all local authorities funded by central government to ensure provision of **support services** for children and their families including assistance with contact, respite and support groups.
 6. all children and families entitled to a **family group conference** prior to care proceedings (or immediately afterwards in an emergency).
 7. a new **duty on local authorities**, backed by central government funding to:
 - ensure the provision of family group conferencing services
 - support implementation of the family plan
 - provide independent family advice and advocacy services.
 8. a **tailored assessment** process for family and friends care.
 9. public funding for family and friends carers to secure a **legal order** to safeguard a child.
 10. new government guidance to ensure that family and friends *foster carers* receive the **same allowances** as non-relative foster carers.

1. INTRODUCTION

1.1 This paper has been developed by Family Rights Group on behalf of the Kinship Care Alliance. It sets out the current context for family and friends carers, our concerns about their circumstances and our recommendations.

1.2 Family Rights Group is the charity in England and Wales that advises parents and other family members whose children are involved with, or require, social care services. We run a confidential telephone advice service for families. Established in 1974, we promote policies and practices that assist children to be raised safely and securely within their families.

1.3 Since 2006 Family Rights Group has been meeting regularly with a number of voluntary organisations working with family and friends carers, local authorities and academics, under the auspices of the *Kinship Care Alliance* to develop a joint policy agenda designed to:

- prevent children from being unnecessarily raised outside their family; and
- enhance outcomes for children who cannot live with their parents and who are living with relatives.

1.4 Whilst we continue to have serious concerns about the lack of effective support for family and friends carers, since the *Alliance's* formation there have been some welcome, if limited, developments:

- The new Court protocol for managing care proceedings, known as the Public Law Outline¹ and recent guidance to local authorities² recommend that, except in the case of an emergency, all family and friends care options should have been explored before care proceedings are started.
- The inclusion of the following provisions in Children and Young Persons Act 2008: (CYPA)
 - i) To ensure that *looked after*³ children, who cannot return home, are, wherever possible, placed with relatives who are approved as local authority foster carers, and hence are paid accordingly (s.8);
 - ii) the extension of the right of relatives to apply for a residence or special guardianship order in respect of children they have been caring for, for over a year, without needing the court's permission to make the application (s.36&38); and
 - iii) extension of the power of local authorities to provide cash support

¹ Judiciary of England & Wales/Ministry of Justice (April 2008) *The Public Law Outline: Guide to Case Management in public Law proceedings*
www.justice.gov.uk/guidance/careproceedings.htm

² DCSF (2008) Children Act 1989 Regulations and Guidance, Volume 1 Court Orders
www.justice.gov.uk/guidance/careproceedings.htm

³ A child is looked after when s/he is in care under a care or emergency protection order or when s/he is accommodated by agreement with the parents or others with parental responsibility (s.22 (1) Children Act 1989 (CA)).

to children in need (s.24), thus making it easier for local authorities to provide limited financial support to family and friends carers when the children they are raising are assessed as being in need.

- The government's pledge to introduce a framework for family and friends care as part of revised Children Act 1989 guidance to be completed in 2009, although the content at this stage remains unclear.

1.5 Nevertheless these steps don't go far enough and many relatives and friends continue to lack support for themselves and the children they are raising, despite these children's vulnerabilities.

2. WHEN AND HOW DOES FAMILY AND FRIENDS CARE ARISE?

2.1 There are no official statistics of the total number of children living with relatives but the estimated figure is between 200,000-300,000⁴ children, only 6,900 of whom are *looked-after* children.

2.2 Family members often start to care for a child because there is a crisis in the parental home. For example, there may have been incidents of violence, alcohol or drug misuse, mental or physical illness, disability, a death, separation, divorce, domestic abuse, imprisonment, or any combination of these. The children concerned are likely to have experienced trauma and possibly inadequate or inappropriate parenting as a result of being exposed to any of these circumstances.

2.3 Some relatives and friends who step in to care for the child in an emergency may be dealing with a situation that starts as a short term arrangement but becomes open ended with no clear indication as to how long it will continue. In many cases it becomes clear later that the children are with them indefinitely and many of them are left struggling to cope financially, emotionally and socially⁵, receiving little, if anything, from the state to meet the child's needs.

3. WHAT DO WE KNOW ABOUT OUTCOMES FOR CHILDREN OF FAMILY AND FRIENDS CARE?

3.1 Despite a documented lack of adequate support for such placements, there are well evidenced advantages⁶ for children who cannot live with their parents to being raised by family and friends:

⁴ Richards A and Tapsfield R (2003) *Funding Family and Friends Care: The Way Forward* (Family Rights Group)

⁵ Farmer E and Moyers S (2008) *Kinship Care: Fostering Effective Family and Friends Placements* (Jessica Kingsley)

⁶ Roskill C (2007) *Wider Family Matters* (Family Rights Group); Doolan et al (2004) *Growing up in the Care of Relatives and Friends* (Family Rights Group); Hunt J (2003) *Family and Friends Care*; Scoping Paper for Dept of Health; Broad, B (ed) (2001) *Kinship Care: the placement of choice for children and young people* (Russell House)

- Children in family and friends care tend to be in more stable placements than those placed with unrelated foster carers.
- Children feel loved and report high levels of satisfaction.
- Children placed within their family can more easily maintain a sense of family and cultural identity.
- Contact with family members is more likely to be maintained than when children are with unrelated foster carers.
- Child placed with family and friends carers appear to be as safe and their behaviour is perceived to be less of a problem when compared to children with unrelated foster carers.

3.2 These positive outcomes for children in family and friends care are achieved despite the adverse circumstances in which many such carers find themselves, and the lack of state support provided. It therefore seems reasonable to conclude that ***these outcomes could be far better, and more children could be safely placed with family and friends, if there was proper investment in meeting these children and their carers' needs.***

4. WHAT ARE THE SUPPORT NEEDS OF FAMILY AND FRIENDS CARERS?

4.1 Family and friends carers are more likely to be older, in poorer health and in more disadvantaged circumstances when compared to unrelated foster carers, yet receive significantly less support. Farmer and Moyers (2008)⁷ found that:

*“family and friend carers were significantly more disadvantaged than unrelated foster carers. Significantly, more were lone carers (27% v 14%) and they lived, at least initially, in overcrowded conditions (35% v 4%). In addition, many more kin carers had a disability or chronic illness (31% v 17%) and experienced financial hardship (75% v 13%)....The most pressing (need) was for **counselling and specialist help for children with severe and persistent behavioural and emotional difficulties.** They also required adequate financial payments to cover the costs of caring for the children. Some carers were in situations of severe financial hardship.”*

They conclude *“carers’ commitment and willingness to continue against the odds benefits the children they are looking after, but the good outcomes for these children are sometimes achieved at the expense of the kin carers themselves.”*

4.2 Some family and friends carers incur large **legal costs** when applying for a residence or special guardianship order to secure the care of children at risk of harm. This can run to many thousands of pounds if the application

⁷ Farmer E and Moyers S (2008) *ibid*

is contested.

4.3 Despite the benefits to children of maintaining contact with their parents⁸, siblings and other significant people in their lives, **managing contact arrangements** can cause significant difficulties for family and friends carers (for example there may be tensions between the adults, or the children may experience confused emotions and display challenging behaviour, all of which needs to be worked through), yet they often receive little or no help in managing such arrangements⁹.

4.4 Parents are legally liable to support their children¹⁰; relatives and friends are not¹¹. Therefore the legal responsibility to support family and friends caring for children when the parents cannot lies with the State, hence families and friends carers that need help should be entitled to assistance.

4.5 In taking on the care of a young relative, many family and friends carers have either to give up employment entirely, significantly reduce their hours or take early retirement which almost certainly means they find themselves on a lower income. Yet, despite the fact that that there are significant additional costs to taking on a child (the cost of caring for child a foster child is fifty percent higher than the cost of caring for a birth child¹²), typically, family and friends carers outside the looked after system do not receive adequate **financial support** to raise the child.

“Like most we have had a dramatic change of life style. All ‘retirement’ plans gone. I had to give up work and if I try and return later I will have lost all seniority therefore will be on minimum wage”

– grandparent carer, Family Rights Group Discussion Board

5. WHAT IS THE LEGAL STATUS OF CHILDREN IN FAMILY AND FRIENDS CARE AND WHAT ARE THE IMPLICATIONS FOR THE CHILD AND CARER’S ENTITLEMENT TO SUPPORT?

5.1 There are a range of possible legal options for a child living with a family and friends carer:

- a private arrangement with no legal order,
- a residence or special guardianship court order or
- the child is *looked after* by the local authority.

⁸ It has long been established that by far the majority of children who are looked after return home to their families whether during their minorities or after they leave care at 18 (Bullock et al, 1998) and that contact is the key to early discharge from care (Rowe et al, 1984). There is also evidence that, contact is important for children’s well-being even where they will never return to the parental home

⁹ Farmer and Moyers (2008) *ibid*

¹⁰ s.1 Child Support Act 1991)

¹¹ The only way in which they might become liable is if the adopted the child in which case they become the legal parents.

¹² The Fostering Network (2004) *Allowances for Foster Carers* (The Fostering Network); Oldfield N (1997) *The Adequacy of Foster Care Allowances* (Ashgate)

5.2 The child is living with the carer under a private arrangement

5.2.1 This is a private arrangement between the parents and the carer and in law the carer cannot make any significant unilateral decisions about the child¹³. In theory, at least, the parent can remove the child at any time. Further,

- if the carer is a close relative within the definition of s.105 Children Act 1989 (i.e. a grandparent, sibling, aunt, uncle, (whether by full or half blood or by marriage or civil partnership) or a step-parent then this arrangement can be agreed with the parents and there is no requirement to inform the local authority;
- if any other relatives, such as a cousin or friend, is caring for (or intends to care for) the child for more than 28 days without a legal order, then it is a private fostering arrangement. The local authority must be informed of the latter and is required to undertake checks.

5.2.2 Such carers and child are not entitled to any specific support. The child *may* receive services if deemed to be a child in need (s.17 CA). The carer can apply for child benefit and child tax credit for the child, although as an analysis of fostering placements has shown, the cost of looking after a child away from their parents is 50% more expensive¹⁴. If at least one of the child's parents has died, the carer may be able to claim **guardian's allowance** which amounts to £14.10 a week per child, although the narrow criteria as to who qualifies for this payment means this is only applicable to a small proportion of family and friend carers.

5.2.3 Some private arrangements arise because relatives take precipitate action to prevent children unnecessarily entering the care system. If, for example, a local authority suspects a child is at risk of harm, the local authority is required to instigate child protection enquiries, and to take necessary action including drawing up a plan to ensure the child's safety and well-being. Sometimes arrangements will be made between the parents and relatives with the strong encouragement of the local authority that the child goes to live with relatives. Such children are clearly very vulnerable. Because the relative has stepped in, the child does not become *looked after i.e. part in the care system*. In these circumstances, the local authority, although they should be closely monitoring the care of the child with the relative, has the **power** to provide support services if the child is assessed as being a child *in need*, but it is not under a **duty** to support the arrangement and often fails to do so, as evidenced by the research above. As a result many such arrangements come under considerable strain and may even break down.

¹³ They do not have parental responsibility (as defined in s.3 Children Act 1989) for the child hence they do not have the right to make key decisions about his/her upbringing.

¹⁴ The Fostering Network (2004) *Allowances for Foster Carers* (The Fostering Network); Oldfield N (1997) *The Adequacy of Foster Care Allowances* (Ashgate)

5.3. The carer has obtained a residence order for the child from court.

5.3.1 This gives the carer parental responsibility¹⁵ for the child, which means they can make most decisions about the child. The residence order may have been granted despite the parents contesting the order. If the child is living with the carer because of concerns about the parents' ability to care for the child, then the local authority may strongly encourage the carer to apply for the order.

5.3.2 Like a private arrangement, a residence order does not trigger any entitlement to support. The local authority has a discretionary **power** but is not required to pay a residence order allowance¹⁶, with criteria and rates varying significantly across the country and even within authorities. The child may receive services if deemed to be a child in need. The carer can apply for child benefit and child tax credit but this doesn't cover the real cost of care. Nor is the local authority obliged to support the carers' legal costs, even if they encouraged the carer to take out the order, consequently many carer either have to represent themselves in court or are left with significant legal bills.

5.4. The carer has obtained a special guardianship order for the child from court.

5.4.1 This order applies until the child is 18 and gives the carer 'exclusive' parental responsibility, although there are some decisions about which the parents must still be consulted e.g. change of name.

5.4.2 There is no entitlement to support for the child or carer. The carer can claim child benefit and child tax credit and the local authority might provide financial and other support¹⁷ if the child or special guardian is assessed as needing support, but whether or not support services are provided is discretionary. Again the authority may encourage the carer to apply for a special guardianship order if they have child protection concerns about the child living with his/her parents or the child is currently in care.

5.5. The child is looked after by the local authority

5.5.1 When Children's Services have concerns about a child's safety and well-being, and they decide it is unsafe for the child to remain at home, then, provided they have the necessary authority, they can place the child with a relative or friend where this is consistent with the child's welfare (s.23 CA). Such authority is derived from either:

- the parents' agreeing to the plan (in which case the child is accommodated under s.20 Children Act 1989) or
- where such agreement is not forthcoming, they have been granted a care order by a court (in which case the child is *in care*).

5.5.2 In these circumstances, the child is *looked after* and the local authority should assess and approve the relative or friend wishing to care for the child as a foster carer in order to place the child with them, and they should pay

¹⁵ As defined in s.3 CA 1989

¹⁶ schedule 1, para 15 CA

¹⁷ s.14F CA 1989

them accordingly. Only 1 in 6 (16%)¹⁸ of local authority foster placements are with family and friends carers, the rest are placed into non-relative foster care.

5.5.3 It is possible for the local authority to place a looked after child with a relative or friend without a full fostering assessment taking place for a period of up to 6 weeks provided certain minimal checks are made (Reg 38 Fostering Services Regulations 2001), following which a full fostering assessment should take place.¹⁹

5.5.4 However, we regularly encounter poor practice on this issue.²⁰ Despite it being held to be unlawful²¹, many local authorities argue that a child placed in such circumstances is not *looked after* (rather that the arrangement was a private one made between the parent and the carer concerned, which they merely facilitated) hence they are not under any duty to support and monitor the placement²² and can therefore choose to avoid providing any support whatsoever or, if the child is assessed as being *in need*, provide limited support.

5.5.5 Foster carers are entitled to receive a fostering allowance and other support²³. The child will have their own social worker and should have regular reviews. Family and friends carers who are approved as local authority foster carers are entitled to receive the same fostering allowance as unrelated carers²⁴, yet many still face financial discrimination in some local authorities: a survey in 2007-8 found that 25 authorities admitted to paying their family and friends foster carers at a lower rate than their other foster carers²⁵.

5.5.5 Some family and friends care arises after the child is in the looked after system and is living with an unrelated carer. The local authority then assesses and approves a relative or friend as a foster carer for that child.

¹⁸ DCSF Children looked after in England, year ending March 2008

¹⁹ This is consistent with the existing provisions in s.23(6) Children Act 1989 (CA), Article 8 of the European Convention, and will be reinforced when s.8 Children and Young Persons Act 2008 is implemented.

²⁰ FRG's advice service regularly receives calls from family members in such circumstances where the local authority has refused to accept responsibility to support the placement

²¹ In the case of Southwark LBC –v- D [2007] 1 FLR 2181, the Court of Appeal has confirmed that where the local authority has been involved in making such a placement and has not agreed otherwise with the carer, the child is treated as being looked after by the local authority, hence their carer should be assessed as a local authority foster carer and should receive a fostering allowance and support to care for the child according to s.23 (2) CA.

²² See for example R (on the application of A) Coventry City Council [2009] EWHC 34 (Admin); R (Collins) –v- Knowsley MBC EWHC 2551 (Admin QBD) Family Law Dec 2008 p1270.

²³ as required by s.23 (2) CA 1989 and the Fostering Services Regulations 2002, Regulations 17, Department of Health 2002.

²⁴ The Queen on the application of L and others v Manchester City Council; the Queen on the application of R and another v Manchester City Council [2001] Family Law Reports 43. In this case Munby J held that family and friends carers should be paid the same rate of fostering allowance by the local authority as unrelated foster carers.

²⁵ The Fostering Network Survey of allowances and fee payment schemes 2007-08: recommended minimum allowances

The child is then placed with that person and either:

- the child remains looked after with and the local authority retaining the duty to promote the child's welfare and monitor and support the placement, or
- that person, often with the encouragement of the local authority applies for a residence or special guardianship order, the effect of which confers parental responsibility on them and the child ceases to be looked after.

6. WHAT ARE THE OBSTACLES TO ACCESING ADEQUATE SUPPORT FOR CHILDREN IN FAMILY AND FRIENDS CARE?

6.1 Access to support varies according to legal status of the child:

Despite there being little or no difference in terms of need between those children who are in the looked after system and those on the brink of care¹¹, the overwhelming evidence from our advice work is that the more informal the arrangement the less likely the family member who takes on the care of the child is to receive support. As explained above this differential is largely explained by the fact that the *entitlement* of family and friends carers to receive support depends on the legal status of the child's placement as outlined above.

6.1.2 Where family and friends carers and the children they are caring for receive inadequate support, this generally has a detrimental effect on the child's well-being and development, and sometimes causes the placement to break down and the children to end up in the state care system after all.

6.2 The postcode lottery: variations in local authority policy:

There are wide variations between local authorities in policies, support, finance and attitudes towards family and friends care and in numbers of children placed with family and friends, especially where they have discretion. A recent Freedom of Information (FOI) survey conducted by Family Rights Group²⁶ revealed that some authorities don't have published policies setting out what support is available to carers; many have policies which allow the authority considerable discretion and don't spell out clear criteria upon which a carer/child will be assessed; and in a minority of cases the policies are unintelligible.

"We have never been told what we are entitled to. The reason given is that the policies are not written yet. Or nobody knows as this is new. How do we find out what we are entitled to?"

- grandparent carer, Family Rights Group Discussion Board

²⁶ Family Rights Group Freedom of Information Survey (2009. forthcoming)

6.3 Invisibility of children with family and friends carers in child poverty policy

There is a lack of basic demographic data and socio-economic information on family and friends carers. The Department for Work and Pensions, for example, claims to hold no information on the numbers of grandparents claiming income support allowances for their grandchildren. This absence of data means that children who are outside the care system and being raised by family and friends carers have to date been effectively 'invisible' in high-level discussions, for example on tackling child poverty.

7. NEW DETAILED RECOMMENDATIONS

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

7.1 Collection and publication of official statistics

Statistics – recommendation

1. That the government collects and publishes official statistics of children being raised by relatives and friends, including detailed socio-economic data.

7.2 Enabling more children to live with family and friends rather than in the state care system

A recent study²⁷ found that social workers initiated only 4% of family and friends placements, so if relatives do not put themselves forward, it is unlikely that the local authority will place the child with them. Yet some relatives are providing a lot of support to the child's parents (who may be their own son, daughter, sister or brother) and are fearful that presenting themselves as potential carers might be perceived by the parent as undermining them. Others may not have a full picture of what is going on and do not realise the situation is as serious as it is, and even if care proceedings are initiated, they may not be eligible for legal aid and may be very unclear as to their options.

The proposals below are consistent with the Department for Constitutional Affairs, Department for Education and Skills and Welsh Assembly Government *Review of Child Care Proceedings* (2006), the Public law outline²⁸ and associated guidance²⁹ to local authorities.

a) Family group conferences

Family group conferences are a proven effective way of identifying and enabling family members to come forward as potential carers.

Family group conferences are family-led decision making meetings involving all those who are significant in the child's life. Parents, relatives and friends develop a plan for the child's care, following significant earlier preparation by an independent co-coordinator who explores the issues with each person attending the meeting. The family plan addresses child welfare and/or protection concerns including those identified and communicated to the family by the local authority. The child is supported to be involved in the meeting, with the use of an advocate where appropriate. The family plan is approved by the local authority *provided* it satisfactorily addresses the welfare and protection concerns.

²⁷ Farmer and Moyers (2008) *ibid*

²⁸ *Ibid*

²⁹ Volume 1 Children Act Guidance *ibid*

FGCs are a proven mechanism to enable partnership between the state and families at all key decision making points for a child including:

- Ø As a means of engaging the family to identify and support care arrangements for vulnerable children and their parents;
- Ø As a way of identifying alternative care arrangements within the family when the parent cannot continue to look after the child, including identifying necessary support packages to avoid the child being received into state care. It also allows for contingency planning so that family members can come forward to be assessed as carers, whilst simultaneously supporting the parents' efforts to have their children back e.g. by undergoing drug treatment;
- Ø As a means of planning for the child to see members of their family and to return home safely to their family network from state care wherever possible;
- Ø Prior to 'pathways' planning for children leaving local authority care.

However, although the number of family group conferences taking place in England and Wales is increasing, whether or not a family is offered a family group conference is still adhoc, dependent upon where the family lives and who their social worker is. A legislative lead is therefore required to achieve a more consistent national approach.

b) Independent advice and advocacy

To support family and friends in understanding their options, having their views taken into account and to create a working partnership between family members and local authorities, relatives, as well as parents, need access to independent advice and advocacy once s.47 child protection enquiries are initiated.

Identifying and supporting relatives to come forward as carers - new recommendations:

1. All children with their families are offered a family group conference prior to care proceedings being initiated (or immediately afterwards in an emergency).
2. A new duty is placed upon children's services to ensure the provision of local family group conference service and independent family advice and advocacy services and that this duty is properly funded by central government.

7.3 Assessment of potential family and friends carers

Currently assessment depends on legal status rather than need, thus risking inconsistent and inappropriate assessments. Some family and friends carers are subject to full fostering assessments that are essentially geared to non

relative foster carers who have had no previous relationship with the child which means that many of the strengths and support needs of family and friends carers can be overlooked. Other family and friends carers may have had no assessment

A new approach is required to the assessment of family and friends carers: one which is child-led, and recognises that what a family and friends placement should be assessed on is whether the adult(s) can provide the particular child(ren) with the safe, loving and suitable environment they need, and also considers what assistance is required to support the relative in that task. There is also a need for those involved in carrying out such assessments and making associated decisions to have access to specialist training on family and friends care.

Currently Family Rights Group, in conjunction with BAAF and The Fostering Network and a number of local authorities are piloting a specially designed ***strengths-based, participative model of assessment for family and friends carers. But this isn't funded and thus can't be independently evaluated.***

Assessment – new recommendations

1. The Government should fund an evaluation of the pilot of the tailored family and friends care assessment currently being led by Family Rights.
2. Ensure that a new approach to assessments of family and friends carers outlined in the forthcoming family and friends care guidance recognises the difference between this type of care and unrelated foster care, and incorporates key Children Act principles, including: the potential impact of placement upon the child's welfare; ascertainable wishes and feelings of the child; their capacity to protect the child from harm; the level of continuity which these carers could provide for the child; how they would manage contact and critically what support they would need in order to meet the child's needs;
3. Ensure that the current review of the Fostering Services National Minimum Standards and Fostering Services Regulations deals with family and friends foster care as a distinct form of foster care;
4. Ensuring that those conducting assessments and local panels approving family and friends carers are aware of the difference between family and friends care and stranger care, including through training and potentially setting up a panel specifically to deal with family and friends placements.

7.4 Systems for providing support:

Family and friends support needs fall into two categories which should be addressed in distinct ways:

- Immediate/short term needs where family and friends come forward to care for a child in an emergency to avert the need for the child to be taken into state care.
- Longer term needs where family and friends take on the care of a child on a long term or permanent basis

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

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

Meeting short term needs - new recommendations

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

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

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

That a family and friends care support system needs to be developed on a statutory basis for family and friends carers who have an established caring arrangement of a child who is not, or does not need to remain, looked after. This would entail:

- i. The local authority being under a duty to establish family and friends care support services, including commissioning services from the voluntary sector. This would mirror the duties introduced under the Adoption and Children Act 2002 in respect of adoption and special guardianship.

- ii. Support groups being available for carers, to combat the isolation many find themselves in when taking on a parenting role and dealing with the complex needs of vulnerable children which they had not planned for.
- iii. Support for contact arrangements including specific services such as mediation to be available to promote positive relationships for such children with their parents and other family members and friends.
- iv. Children who are being raised by family and friends carers on a long terms basis (more than 28 days) and cannot live with their parents, having a right to an assessment of their needs and access to such support services.
- v. Improved communication, co-ordination, understanding and prioritisation of the needs of these children and their birth families, including carers, by public agencies including schools, CAMHS, and housing and between adults and children's services, for example in addressing the impact of parental alcohol and substance misuse.
- vi. Government funding being available to local authorities to fulfil such duties.

Meeting longer term needs of carers and children – new recommendations

In order to ensure carers receive the support they need to meet the needs of these children, we recommend that:

1. A new statutory framework is introduced that places local authorities under a statutory duty to ensure the provision of support services (including support with contact and respite care) for children being raised by family and friends, their carers and birth parents.
2. Government provides local authorities with the funds to enable them to run and commission such support services, including sustainable support groups.

7.5 Financial support

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

7.5.1 National financial allowance - detailed proposal

A national non-means tested financial allowance to cover the real costs of raising a child should be paid to relatives or other persons already connected

to the child³⁰, who take on the care of a child for more than 28 days continuously in the following circumstances:

- a) Where the child comes to live with the carer as a result of plans made within a section 47 child protection enquiry³¹; or
- b) Where a child comes to live with the carer following a section 37 investigation;
- c) Where a carer has secured a Residence Order or Special Guardianship Order to avoid a child being looked after, and there is professional evidence of the impairment of the parents' ability to care for the child; and/or
- d) Where the carer has a Residence Order or Special Guardianship Order arising out of care proceedings; or
- e) Where the carer has a Residence Order, Special Guardianship Order following the accommodation of a child.

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

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

For carers falling outside these categories, it's important that there is an information campaign as to what benefits and tax credits they may be entitled to, in their role as substitute parents and that local authorities are clear as to their eligibility criteria for discretionary support.

7.5.2 Legal costs:

4.6 Where a child is living with a relative with the consent of the parent but without a legal order, the carer may face continual problems because they do not have parental responsibility for the child, However many family and friends carers are left with crippling legal bills when applying to court, for example for a residence or special guardianship order to provide permanence and legal security for the child, as illustrated by the following example from a family and friends carer on Family Rights Group Discussion Board:

"I have a residence order for my granddaughter which cost me £2,500. This was contested by my daughter ... who only turned up in court 4 times. I work full time (supposed to be!) and therefore do not qualify for any assistance. Unfortunately my granddaughter's father

³⁰ This could include family friends

has now been released from prison after serving a 5 year sentence and has decided that he wants contact and custody! ...the case is still ongoing, to date this so far has cost me £1,200.”

Others find that without financial means, they have to represent themselves, which can be very traumatic, particularly in contested cases.

7.5.3 Ending financial discrimination against family and friends carers

There will always be cases where children are placed with family and friends carers but remain looked after children because there are ongoing welfare or protection issues. These carers will access support through the fostering system like any other approved foster carers. However, currently some receive less support than unrelated foster carers³². When this was challenged legally it was held that it was unlawful to discriminate against family and friends carers by paying them less than unrelated foster carers³³. Nevertheless information from our advice services suggests that the practice does appear to be continuing in various forms. Research evidence also indicates that family and friends carers are far less likely to have the support of an allocated family placements social worker³⁴. Government guidance needs to be issued to ensure that family and friends foster carers are no longer discriminate against in terms of the financial allowance they receive.

Financial support - New recommendations

1. Family and friends raising a child for more than 28 days as an alternative to being taken into care should be entitled to a national allowance to cover the core financial costs of caring for such children.
2. Relatives and friends should be entitled to receive public funding for legal proceedings which secure the child's future with them on a non-means and non-merits tested basis.
3. Government guidance needs to be issued to ensure that family and friends foster carers are no longer discriminate against in terms of the financial allowance they receive

³² Farmer and Moyers (2008) *ibid*

³³ The Queen on the Application of L and others –v- Manchester City Council; The Queen on the Application of R and another –v- Manchester City Council [2002] 1 FLR 43

³⁴ Farmer and Moyers (2008) *ibid*

Appendix A: Why legislation and practice needs to change - Family and friends carers' experiences

a) Is a child looked after? – What happens when the authority denies looked after status

Case 1 – Leonie and her 3 nephews and nieces

Leonie has been caring for her sister's 3 children since April 07. There were concerns about the mother's care of the children, who were on the child protection register. At the child protection conference the local authority indicated that unless problems were resolved, they would be considering taking care proceedings.

Leonie has received no support from the local authority. FRG wrote a letter to the local authority stating the children should be regarded as looked after children and that Leonie should be supported appropriately as a foster carer.

The local authority has verbally responded stating that they cannot treat Leonie as a foster carer. They suggest the family should go to court, "get parental responsibility" and the local authority will then assess if it can help financially. Leonie has got nowhere with the local authority and eventually, reluctantly, has said that she cannot continue to care for the 3 children

Case 2 – Fiona and her 3 nephews and nieces

Fiona is raising her niece and 2 young nephews (aged 4 and 7).

Jackie (Fiona's sister) and her children originally came to stay with Fiona in Autumn 2006, in order to provide Jackie with respite. Jackie disappeared for a few days but returned. Two weeks later Jackie left the children with Fiona during a contact visit arranged by Children's Services and Fiona has had no contact with Jackie since.

The children are on the child protection register and the local authority has said that if Jackie tries to remove the children they will go to court for an order. The local authority has advised Fiona to ring the police if Jackie tries to remove the children.

The local authority has so far provided no financial support but has advised about benefits although Fiona is not yet in receipt of these. The authority has said they will begin paying in total £50 p/w but won't pay retrospectively. It is not clear to Fiona how the local authority has come up with the figure of £50.

Case 3 - Tracey and her great grandson

Tracey's teenage granddaughter, Heather has a young son, Ben.

Heather went to the Children's Services' offices in January 2008 and said that she couldn't cope any more with bringing up Ben. The social worker took Heather and Ben to Tracey's home and asked Tracey to care for Ben.

Tracey is happy to continue to care for Ben, he's settled and contented and she feels she can give him a good home. However, Tracey is dependent upon her pension and is very concerned that she will be unable to continue to raise Ben unless she receives support.

The social worker has said that she "*cannot pay Tracey as she is a relative*"! She also said that Ben is not safe with Heather and if Heather tries to take Ben, Tracey should call Children's Services straight away.

FRG wrote a letter questioning whether the child was accommodated, but the local authority rejected this on the basis that the mother had been accompanied by the adolescents team not the assessment team when the placement with Tracey took place. The local authority's letter acknowledges that there are concerns about the mother's care which are not currently being pursued because Ben is safe with his great grandma.

Case 4 – John and his two grandchildren

John is a grandfather. His son and daughter-in-law got divorced. They have two children aged 6 and 7 years old. Children's Services told the children's parents that they had to remove the children and to take them to their grandparents. Initially Children's Services agreed this arrangement should last for 1 month but they have now revised that opinion. The children are now on the child protection register and the child protection plan states that the children must not go home and that mum can only have contact once a week – she is "*not allowed to have unsupervised contact with children*".

John and his wife stepped in and took on the care of the children since they would prefer their grandchildren to stay with them rather than go to strangers.

Children's Services stated that they did not regard the children as "looked after" instead they set out in writing that they regarded the children as "residing" with their grandparents. Consequently the children have not been considered a priority for CAMHS although this is clearly needed nor is any

financial support provided. A promised initial grant did not materialise nor the promised summer scheme provision.

The local authority rejected the argument that the children were accommodated because mother gave consent to the children staying with John. FRG challenged this view and Children's Services has now accepted that the children are looked after but won't backdate the decision to when the children were first placed.

Children's Services is now proposing a Special Guardianship Order and have agreed to financial support with legal costs after pressure from John.

Case 5 – Polly and Bill and their granddaughter

Polly and Bill agreed to care for their granddaughter, Sally who was unable to live with her parents due to child protection concerns. They shared Children's Services' concern and were happy to take on this arrangement. However, they are on a limited income and Polly has had to take unpaid leave from her job to care for Sally. Bill doesn't work and receives incapacity benefit. Taking on the care of Sally has left them financially very stretched and they reluctantly approached the local authority for support.

The local authority's response was to state it's a private arrangement, despite:

- a) the social worker contacting Polly prior to the child protection conference to ask whether she'd care for the baby and making no reference to it being a private arrangement';
 - b) the placement forming part of the child protection plan;
 - c) Children's Services making clear that the parents are not allowed unsupervised access;
 - d) the social worker informing Polly at the time of the initial placement conversation that finances would be "sorted out" after the child's birth; and
 - e) police checks being conducted and the house inspected by Children's Services prior to the baby's arrival.
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Case 6 – Dawn and her granddaughter

Dawn's daughter, Julia suffers from severe mental ill health. Julia was sectioned in front of Dawn and the social workers asked Dawn to take on the care of Julia's daughter. Since then Dawn has been contacting the mental health team asking for support to raise her grandchild, but has been told they don't have a budget and to contact Children's Services.

Dawn contacted Children's Services and was told that since it wasn't a Children's Services social worker who'd placed the child, they don't have any responsibility for the placement or to provide support.

b) Families in poverty – the consequences of failure to support and inaccurate information

Case 7 – Tim and his nephew

Tim has been asked by social workers to take on the care of his brother's children. The family do not know for how long, and neither do Children's Service and they cannot give a time frame.

If Tim hadn't taken the children they would have been put into care.

Tim is on a basic wage and is worried about how he will care for them financially. When the children were placed, all they had were a few sets of clothes, a couple of teddies and one bottle for the baby. Tim has already spent monies getting them more clothing and essentials but has received no assistance from the local authority.

One of the children should be starting primary school. Tim lives an hour away from her school, so that's not an option. He thinks the child should be schooled at a local school near him, yet one of her parents is not agreeing, and Tim is receiving no guidance from the local authority as to what to do. Instead he has been told to wait for at least another month to find out what is happening.

Case 8 – Nadine and her siblings

Nadine is 24 years old, the oldest of four children. Her mother died in Autumn 2007. She moved into her mother's flat and took over her tenancy, in order to care for her younger sister (age 15) and brother (age 10). The children's father does not have parental responsibility for the children. He is in and out of prison, and Nadine does not think he is a suitable person to be involved in bringing them up.

When she moved into the flat, Nadine contacted the local authority to ask for support. She was visited by a social worker, who told her that she would be financially supported as the children's kinship carer, and that the social worker would get back in touch with her.

Several weeks later, when she had still not heard from the social worker, she phoned her. Nadine was told that she could not be financially supported as

the children's kinship carer. The social worker said that there were two reasons for this:

1. The children had not been displaced, and had continued to live in their own home; and
2. Nadine was a close blood relative of the children.

Nadine told the social worker that she was struggling financially to look after the children. She was using her very limited income to provide for her two siblings as well as herself. The social worker advised her to give up work, so that she could claim welfare benefits for her two siblings.

Nadine advised the social worker that they were going to struggle to enjoy their Christmas because of a lack of money. The social worker advised her to come into the local authority social work office any time that Friday and that something would be sorted out. Nadine went in to the office, as advised. She was kept waiting for an hour and a half, despite the fact that there was no-one else waiting to be seen and she did not seem to be part of any queue. After an hour and a half, she phoned the social worker's direct line, and one of her colleagues told her that she'd come down to see Nadine. She arrived 20 minutes later, and gave Nadine £40 for her Christmas with the children. She passed a comment that seemed to be meant to inform Nadine how inconvenient it had been for her to see Nadine that day.

Since then, Nadine has continued to struggle to manage financially, and she recently had a bill from the Housing Association which is their landlord for over £1,300.

Case 9 – Dominique and her niece

Susan ran away from home and refuses to live with mum. Susan's mum has been suicidal in the past and has self-harmed. She has learning difficulties and is an alcoholic. Susan has exhibited disturbed behaviour and was in care earlier in the year.

Dominique is Susan's aunt although she didn't know Susan prior to her running away from home. Dominique took Susan in after she'd run away and a social worker then visited and asked Dominique to care for Susan long term. Susan is doing very well in Dominique's care and Dominique is happy for her to stay indefinitely but is on a low income. Susan's mum is also happy with the arrangement. However, they have received no financial support from the local authority nor has Susan received a full assessment of her complex needs.

c) A lack of transparency/ inaccurate information

Case 10 – Caprice and her grandchild

Caprice, a grandparent-carer reported the reasons she was given by the local authority for placing a time limit on the SGO allowance for her two-year-old grandchild:

“The cessation of payment is when the child enters full time education (age 4 usually) and is permitted as a condition under section 10. This is because in most cases it is reasonable to assume the special guardian will be able to go to work and not need the allowance.”

Lynn’s partner is 62 and disabled. Lynn is his carer.

Case 11 – Grandparent carer

Message from a grandparent carer:

“We have never been told what we are entitled to. The reason given is that the policies are not written yet. Or nobody knows as this is new. How do we find out what we are entitled to? We were told that the social worker didn't want to put anything in the report that would "rock the boat". We had been through enough and she wanted to make sure it was not turned down. Like most we have had a dramatic change of life style. All "retirement" plans gone. I had to give up work and if I try and return later I will have lost all seniority therefore will be on minimum wage. Like £27,800 down to £17,500.”

Grandparent carer