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:

Family Action
Grandparents Plus
National Children’s Bureau
The Fostering Network
The Frank Buttle Trust
The Grandparents’ Association
The Who Cares? Trust
The Social Policy and Urban Regeneration Research Institute,
London South Bank University

January 2010

For further information contact:
Cathy Ashley, Chief Executive,
Family Rights Group
020 7923 2628/07931 570149
cashley@frg.org.uk
Summary

The Kinship Care Alliance is an informal network of voluntary organisations, local authorities and academics working with or having an interest in family and friends care. The Kinship Care Alliance has been meeting since 2006 and is serviced by the charity Family Rights Group.

The Kinship Care Alliance campaigns for greater recognition, respect and reward for family and friends (‘kinship’) carers. These carers (typically grandparents, aunts or uncles) step in to care for vulnerable children when they cannot live with their parents. This may be because of parental difficulties, mental or physical ill health, domestic abuse, alcohol or substance misuse, divorce or separation, imprisonment, or bereavement. 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 an estimated 200,000-300,000 children living with family and friends carers. Only 6,800 of them are looked after children, conferring a right to support;
- Family and friends placements are more stable than unrelated care placements. Children feel loved and report high levels of satisfaction;
- 3 out of 4 family and friends carers experience financial hardship;
- A third are lone carers and 1 in 3 live in overcrowded conditions;
- 3 out of 10 have a chronic illness or disability;
- Less than 1 in 6 (15%) of local authority foster placements are with family and friends carers;
- The vast majority (69%) of local authorities do not have a written coherent approach to family and friends care;
- 8 out of 10 people agree that family and friends carers should receive financial support.

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

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

Our recommendations for legal and policy changes to improve the circumstances of these children are set out in the accompanying recommendations document

---

1 Family and Friends Care: Raising children within the wider family as an alternative to care policy recommendations, www.frg.org.uk
1. INTRODUCTION

1.1 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.

1.2 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 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 Outline and recent guidance to local authorities 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 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 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

---

   www.justice.gov.uk/guidance/careproceedings.htm
   www.justice.gov.uk/guidance/careproceedings.htm
4 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)).
friends care as part of revised Children Act 1989 guidance to be completed in 2010, although the content at this stage remains unclear.

1.4 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.

1.5 This paper sets out the current context for family and friends carers and the Alliance’s concerns about their circumstances. It is accompanied by a Kinship Care Alliance briefing entitled ‘Family and Friends Care: raising children within the wider family as an alternative to care – policy recommendations’ which sets out immediate actions that could taken by government as well as more fundamental reforms required.

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 200,000-300,000 children, only 6,800 of whom are looked-after children, conferring a right to support.

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 socially, 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 advantages for children who cannot live with their parents to being raised by family and friends:

5 Richards A and Tapsfield R (2003) Funding Family and Friends Care: The Way Forward (Family Rights Group)
• 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.

• Children 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) 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.”

8 Farmer E and Moyers S (2008) ibid
4.2 Despite the benefits to children of maintaining contact with their parents, 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 arrangements.

4.3 In some cases however, the inadequacy of support for children living in such arrangements not only has a detrimental effect on the carer but also on the child’s well-being and development, and can even cause the placement to break down and the children to end up in the state care system after all.

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.

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 child. 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

9 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.

10 Farmer and Moyers (2008) ibid

11 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.
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 expensive\(^{12}\). If at least one of the child’s parents has died, the carer may additionally 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. Financially, the new carers lose out by taking precipitate action to prevent the child becoming looked-after and placed with unrelated foster carers. This can create a perverse incentive for a child to become looked-after, contrary to the spirit of the Children Act 1989.

5.3. The carer has obtained a residence order for the child from court.
5.3.1 This gives the carer parental responsibility\(^{13}\) 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 allowance\(^{14}\). The criteria used and rates paid therefore varies significantly across the country and even within authorities. FRG’s FOI survey of local authorities family and friends care policies found that one authority only paid residence order allowances for two children in their locality, compared to another authority paying such allowances towards the costs of 167 children. Whilst on average £4134 a year was paid by local authorities in residence order allowances towards the costs\


\(^{13}\) As defined in s.3 CA 1989

\(^{14}\) schedule 1, para 15 CA
of each child assisted, the range varied from an average of £1131 a year in one authority to £5746 in another\textsuperscript{15}.

5.3.3 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 carers either have to represent themselves in court or are left with significant legal bills. (see section 6.2.2)

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 support\textsuperscript{16} 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 \textit{in care}).

5.5.2 In these circumstances, the child is \textit{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 them accordingly. Only 1 in 6 (15\%)\textsuperscript{17} 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

\textsuperscript{15}Family Rights Group’s 2005-6 financial data based upon a Freedom of information survey of local authority policies on family and friends care  
\textsuperscript{16}s.14F CA 1989  
\textsuperscript{17}DCSF Children looked after in England, year ending March 2009
Services Regulations 2002), following which a full fostering assessment should take place.\(^\text{18}\)

5.5.4 However, we regularly encounter poor practice on this issue.\(^\text{19}\) Despite it being held to be unlawful\(^\text{20}\), 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 assert they are not under any duty to support and monitor the placement\(^\text{21}\) 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 support\(^\text{22}\). 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 carers\(^\text{23}\), 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 carers\(^\text{24}\).

5.5.6 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. In such circumstances either:

- the child remains looked after with 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.

\(^{18}\) 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.

\(^{19}\) 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

\(^{20}\) 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.


\(^{22}\) as required by s.23 (2) CA 1989 and the Fostering Services Regulations 2002, Regulations 17, Department of Health 2002.

\(^{23}\) 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.

\(^{24}\) The Fostering Network Survey of allowances and fee payment schemes 2007-08: recommended minimum allowances.
6. THE ADDITIONAL COSTS FOR FAMILY AND FRIENDS CARERS OF TAKING ON A CHILD

6.1 Parents are legally liable to support their children; relatives and friends are not. The legal responsibility to support children when their parents cannot therefore lies with the State, hence families and friends carers that need help should be entitled to assistance. In reality however, the additional financial as well as emotional costs regularly fall upon carers.

6.2 There is no academic or government study which has analysed in depth the costs to family and friends carers of bringing up a child who cannot live with their parents. However, based upon our work with such carers and children, we would identify four areas in which carers are often faced with a heavy financial burden directly as a result of taking on such caring responsibilities namely:

- The immediate costs of a child coming to live with the carer, often in an unplanned situation;
- The costs of applying for a legal order to provide the child with security and permanence;
- Lost income as a result of the carer reducing their working hours, foregoing career opportunities, losing pension rights or even giving up paid work;
- The actual ongoing costs of raising a child.

6.2.1 The immediate costs of a child coming to live with the carer, often in an unplanned situation

6.2.1.1 Many placements with family and friends carers occur in an emergency or initially as a temporary arrangement. Family Rights Group is aware from its advice line, the electronic family and friends care discussion board and its recent internet survey of over 200 family and friends carers of many cases where children have arrived at the door of carers with nothing, no nappies, bottles, suitable clothing, toys or bedding. Carers rarely receive local authority section 17 payments to cover these initial costs, instead it falls upon the carer to make do, despite their often impoverished state.

6.2.2 Costs of applying for a legal order, which may be contested

6.2.2.1 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

---

25 s.1 Child Support Act 1991
26 The only way in which they might become liable is if the adopted the child in which case they become the legal parents.
27 Family Rights Group (Jan 2010) The harsh reality – the financial situation of family and friends carers www.frq.org.uk
risk of harm. The recent survey\textsuperscript{28} by Family Rights Group on behalf of the Kinship Care Alliance found that average expenditure on legal costs was £3,456, however this ranged from less than £200 to £38,000. Some of the respondents had kept costs low by representing themselves in court. The majority of those who incurred substantial costs received no financial assistance. The survey found that 69% of those who had spent £2000 or more on legal costs had paid the full costs themselves and (78%) carers who spent over £10,000 were self-funded, while only two received legal aid. For example, in one case a grandmother and grandfather had incurred £24,000 of solicitors’ and barristers’ fees in the process of obtaining a Residence Order for their ten year old grandchild, during a protracted court case that involved drug tests on the mother and psychiatric reports. They did not receive any help with these costs.

6.2.2.2 Many of these carers don’t qualify for legal aid because they have a small amount of savings put away for their retirement or have substantial equity in their home or earn a modest salary, any of which may take them outside the financial eligibility criteria.

6.2.2.3 We also know that in many cases where the carer made such an application for a residence or special guardianship order with the encouragement of the local authority, in order to safeguard the child and prevent the child being in care, the local authority then refused to help with costs incurred. Family Rights Group’s recently carried out Freedom of Information Survey of local authorities’ family and friends care policies\textsuperscript{29} found that a majority of local authorities failed to provide clear criteria as to when and which carers might be assisted with legal fees when making an application for a special guardianship or residence order for the child.

6.2.3 Lost income as a result of reducing hours, foregoing career opportunities, losing pension rights or even giving up paid work

6.2.3.1 In taking on the care of a young relative, some family and friends carers are forced to reduce their hours, thus reducing their pay; and some potentially no longer qualify for working tax credit because the drop in their hours takes them below the 16 hours requirement. The recent FRG survey on behalf of the Kinship Care Alliance found that more than a quarter of survey respondees had reduced their working hours or taken a lower graded job to cope with looking after the child/ren and 13% said their partners had reduced their working hours.

6.2.3.2 Many others give up employment entirely or take early retirement which almost certainly means they find themselves on a lower income, both immediately and in the longer-term. More than one in three of FRG survey

\textsuperscript{28} Family Rights Group (Jan 2010) The harsh reality – the financial situation of family and friends carers www.frg.org.uk
\textsuperscript{29} Family Rights Group (September 2009) Report on Freedom of Information survey of local authority policies on family and friends care (Family Rights Group in association with the University of Birmingham)
respondents had left their job, lost their job or taken early retirement when they took on care of the child/ren. In some cases carers will therefore have lost their job because of the number of meetings that they are required to attend with statutory services in terms of the child’s care, particularly if the child has significant behavioural problems and is at risk or has been expelled from school. We also know of cases where social workers have made clear that the carer is expected to give up their job to look after a child, such is the child’s needs and difficulties.

“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

6.2.3.3 Moreover, unlike new birth parents or adoptive parents, family and friends carers aren’t entitled to statutory paid leave from employment when a child arrives.

6.2.3.4 Family and friends carers often don’t have the fore-warning to prepare to take on the care of the child(ren), and therefore have not have a chance to arrange their work, financial and personal circumstances accordingly. For example, longer-term, occupational and private pension rights may be lost for older carers who have to leave the labour market in order to provide care.

6.2.4 The on going costs of raising a child, who may have additional vulnerabilities

The FRG Freedom of Information Survey\(^{30}\) of local authorities found that 85% of local authorities lack explicit eligibility criteria stating which family and friends carers of children outside the care system are eligible for financial support and at what rate.

6.3 Inequities and complexities of the benefits system

6.3.1 As described what assistance, if any, carers are entitled to, depends predominantly on the legal status of the child. But the situation is extremely complex, with officials and benefit administrators from local and central government agencies often struggling to interpret current rules. The Grandparents’ Association benefits helpline service has found that that many family and friends carers are underclaiming benefits up to around £5,000 each per annum because of poor publicity and not knowing what they are entitled to.

6.3.2 As well as having to overcome the complexity of the current system, there are however, certain inequities within the benefits system or

\(^{30}\) FRG (2009) ibid
interpretation of current rules which disadvantage family and friends carers, namely:

6.3.2.1 **Residence order and special guardianship order allowances** are generally disregarded for tax credit calculations but they are NOT fully disregarded for the purpose of council tax benefit and housing benefit.\(^{31}\)

- This is not logical, because such allowances are disregarded for other benefit purposes, such as income support;
- It is particularly iniquitous that those receiving a disabled child premium don’t have the amount disregarded in respect of housing benefit and council tax, so are doubly disadvantaged;
- How residence order and special guardianship allowances are treated is inconsistent with how child maintenance from a non-resident parent will be treated from April 2010, when the full amount of child maintenance will be disregarded for all means-tested benefit purposes. Given that residence order and special guardianship allowances are analogous to child maintenance, in that it is a contribution towards meeting the costs of raising a child being borne by the carer, it is iniquitous that such allowances are to be treated differently from child maintenance.

6.3.2.2 Many family and friends carers are not only caring for a child(ren) with severe adversities but also have other responsibilities, for example caring for older relatives, and/or their own children.

6.3.2.3 Changes to income support rules mean that family and friends carers who are permanently raising children outside the looked after system who are aged 10 or over (or aged 7 or over from October 2010) no longer qualify for income support but will be switched to Job Seeker’s Allowance and must comply with specific job-seeking requirements. The responsibilities of taking on a child who isn’t your own are recognised by the dispensation from this rule given to foster carers, and family and friends carers who are temporarily caring for a child under 16 year old. We believe that such a dispensation should be extended to apply to all family and friends carers.

6.3.2.5 **Guardian’s allowance** - whilst the weekly amount paid out as a guardian’s allowance is extremely small, nevertheless it is an important source of additional income to impoverished carers of children whose parents have died or where one parent has died and the other parent has been sentenced to a custodial sentence with a minimum of 2 years left to serve or in a hospital by court order.

\(^{31}\) If the claimant is 'passported' to maximum HB/CTB then, in effect the residence order or special guardianship allowance would be disregarded and if the claimant, or their partner if they have one, is aged 60 or over the allowance is disregarded in full. However, If neither of the above apply, the allowance is taken into account as income up to the amount of the personal allowance for the child (£56.11 per week) and any disabled child premium which is applicable for that child (£51.24). Above that amount it is disregarded. For example, if someone received a residence order payment of £40 per week, the whole amount would be taken into account as income. If they got a payment of £70 (and assuming there was no disabled child premium in their applicable amount) £56.11 would be taken into account as income and £13.89 would be disregarded.
6.3.2.5.1 However, we cannot understand the logic of the stipulation that a carer cannot receive the Guardian’s allowance if the parent is in custody but has less than two years left of their sentence or is in custody on remand. The needs of the child are no less whatever the terms of their parent’s imprisonment. The unfairness of the situation was highlighted in a case where maternal grandparents are raising children whose mother was murdered by their father, the latter is remanded in custody due to be sentenced but meanwhile the carers don’t qualify for Guardian’s Allowance.

7. THE COSTS THAT FAMILY AND FRIENDS CARERS SAVE THE STATE

7.1 According to the cost calculator for Children’s Services designed by the University of Loughborough the total cost of looking after a child without any additional support needs, who remained in the same local authority foster placement over a twenty-month time period, was £35,106. In comparison, the total cost was more than six times higher £215,756 for a child with emotional and behavioural difficulties.

7.2 Their study found that the standard unit cost for maintaining a child for a week in residential care was eight times that of the cost of foster care, 9.5 times that of a looked after kinship placement and 12.5 times that of a looked after placement with the child’s own parents.

7.3 Analysis by The Fostering Network found that the cost of caring for a foster child is fifty percent higher than the cost of caring for a birth child. This is why foster carers receive specific allowances from local authorities, paid at substantially higher rates than the state benefits and tax credits from which foster carers are excluded. Family and friends carers raising children outside the looked after system, on the other hand, often have to rely solely on those benefits and tax credits, and to surmount considerable administrative problems even to access that level of support.

7.4 Family and friends carers raising a child who cannot live with their parents are doing so because of the love and security they feel they can offer the child. But as demonstrated they are also saving the state considerable amounts of monies, sometimes making huge sacrifices at a significant cost to themselves and with little or no external help.

8. WHAT ARE THE OTHER DIFFICULTIES FOR CHILDREN IN FAMILY AND FRIENDS CARE?

8.1 Invisibility of children with family and friends carers

32 Centre for child and family, Loughborough University, Research evidence issue 7
8.1.1 There are no official demographic or social economic statistics on the total number of children living with relatives but the estimated figure is between 200,000-300,000 children, only 6,800 of whom are looked-after children.

8.1.2 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.

8.2 Variations in policy and practice as to whether and when children are placed with family and friends carers

8.2.1 A recent study 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.

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

8.2.3 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.

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

- As a means of engaging the family to identify and support care arrangements for vulnerable children and their parents;
- 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

---

35 Farmer and Moyers (2008) ibid
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;

- 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;
- Prior to ‘pathways’ planning for children leaving local authority care.

8.2.4 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 largely adhoc. A few local authorities, such as Hampshire and the London Borough of Islington have introduced a policy mandate that families should be offered an FGC before proceedings are initiated, but this approach remains the exception rather than the rule.

8.3 Assessment of family and friends as suitable carers

8.3.1 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 not be assessed at all, despite the child and carers vulnerabilities.

8.3.2 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.

8.3.3 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.

8.4 Access to financial and practical support varies according to legal status of the child:

8.4.1 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 care, 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.

8.5 The postcode lottery: variations in local authority policies in overall approach, finances and practical support:

8.5.1 There are wide variations between and within 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.

8.5.2 The recent Freedom of Information (FOI) survey conducted by Family Rights Group\textsuperscript{36} revealed the vast majority (69\%) of local authorities do not have a written coherent approach to family and friends care and most authorities (61\%) do not have any dedicated family and friends care posts.

8.5.3 The survey found that there was in particular a dearth of explicit support available to carers of children outside the \textit{looked after} system. Some authorities do not publish 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.

\begin{quote}
"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
\end{quote}

\textsuperscript{36} Family Rights Group (2009) 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 they 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.

---

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

POLICY RECOMMENDATIONS

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

Endorsed by:
Grandparents Plus
The Fostering Network
The Grandparents’ Association

January 2010

For further information contact:
Cathy Ashley, Chief Executive,
Family Rights Group
020 7923 2628/07931 570149
cashley@frg.org.uk
Summary

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

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

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

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

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

Our proposals would not only assist children who are currently living in family and friends care arrangements, but we know from our direct work that, with the right support framework, more children who are currently in the care system could be living securely within their family networks. The latter would not only be beneficial to the outcomes for these children, but if it led to even a reduction of 5% in the care population, could reduce expenditure on the care system in England and Wales by over £109 million per annum, which could be very effectively reinvested at local and national level to develop and improve support to children in family and friends care arrangements.
Further information about the research and policy context of our recommendations can be found in the accompanying briefing by the Kinship Care Alliance entitled “A Policy Briefing on Family and Friends Care: raising children within the wider family as an alternative to care”.

DETAILED RECOMMENDATIONS

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

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

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

Immediate actions recommended:

a) That Ministers establish and lead a cross departmental working group including officials and key stakeholders to explore the feasibility of, and progress the collection of data on family and friends care. That the working group publishes their report including specific proposals within 6 months, or earlier. That the working group should address

   q Questions that could be included in national government commissioned surveys, such as the Family Resources Survey and the British Household Survey;

   q The inclusion of a question on family and friends care in the 2011 census;

   q What, if any, existing tax, benefits, child welfare or court data currently exists which could provide information on children being raised by family and friends carers;

   q The feasibility of collecting new information from tax, benefit, child welfare or court data on children being raised by family and friends carers.

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

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

1 See www.frq.org.uk
financial assistance and/or other support services each year, including the legal status of the children.

**Recommendations for future legislation to strengthen the above:**

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

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

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

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

**Family group conferences**\(^2\) are a proven effective way of identifying and enabling family members to come forward as potential carers, yet whether or not a family is offered an FGC is dependent upon where they live, and the approach taken of the social worker.

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

The proposals below are consistent with the Department for Constitutional Affairs, Department for Education and Skills and Welsh Assembly Government *Review of Child Care Proceedings* (2006), the Public Law outline\(^3\) and associated guidance\(^4\) to local authorities.

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

2.1 Identifying and supporting relatives to come forward as carers

**Immediate actions recommended:**

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

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

\(^3\) Ibid.

\(^4\) Volume 1 Children Act Guidance ibid
currently out for consultation and the forthcoming guidance outlining a framework for Family and Friends Care (due out for consultation in March) is drafted/amended to raise an expectation that local authorities will:

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

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

**Recommendations for future legislation to strengthen the above:**

I. That the local authority is under a duty to publish accessible policies and procedures in relation to family and friends care, in relation to children in and outside the looked after system;

II. That where the child is subject to child protection enquiries (s.47 CA 1989), the local authority is under a duty to assess, and provide support to meet the identified needs of, the child, their parents and wider family members to help them overcome the concerns raised during the enquiries;

III. That where the child is subject to child protection enquiries (s.47 CA 1989), the local authority is under a duty to ensure all safe alternatives for the child’s care are explored within the family network before, or where this is not possible as soon as reasonably practicable after the child becomes looked after;

IV. That the local authority is under a duty, to commission the provision of independent advice and advocacy services for all parents, relatives and friends who are involved in local authority decision-making processes when a child is subject to child protection enquiries (s.47 CA).
V. That the local authority is under a new duty to ensure the provision of local family group conference services in their area and that this duty is properly funded by central government;

VI. That the local authority is under a duty to offer a family group conference to the child and their parents and extended family before (or immediately afterwards in an emergency) care proceedings are commenced.

2.2 Assessment of potential family and friends carers

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

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

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

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

Immediate actions recommended:

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

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

c) That the forthcoming Family and Friends Care Guidance includes a clear expectation that both those conducting assessments and local panels which approve family and friends carers are aware of the difference between family and friends foster care and unrelated foster care. This would include the provision of local training and, potentially, setting up a panel specifically to deal with family and friends care placements.
d) That the revised Fostering Services National Minimum Standards and Fostering Services Regulations addresses family and friends foster care as a distinct form of foster care requiring a distinct set of standards and that the forthcoming Family and Friends Care Guidance reflects this.

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

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

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

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

Immediate actions recommended:

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

Recommendations for future legislation to strengthen the above:

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

3.2 Meeting needs where family and friends take on the care of a child on a long term or permanent basis
Currently, the only way in which such carers can be guaranteed a right to the support they need is for the child to be ‘looked after’ i.e. to be and remain formally in the state care system as described above. Yet there may be no other good reason why the child needs to be in care.

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

**Immediate actions recommended:**

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

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

i. Making support groups available for carers, to combat the isolation many find themselves in when taking on a parenting role and dealing with the complex needs of vulnerable children which they had not planned for.

ii. Ensuring such children and their carers have access to an assessment of their needs and to support services meet their identified needs.

iii. Providing therapeutic services for the child as appropriate.

iv. Providing family and friends carers with access to counselling, advice, information and other support services.

v. Providing assistance with the arrangements for contact so as to promote positive relationships between the child and his/her parents and other family members and friends. This assistance should include:
   - cash to help with the costs of contact (travel, entertainment) – it is not means tested; and
   - mediation to help resolve difficulties which may arise on contact.

vi. Providing assistance to ensure the carer has a positive and continuing relationship with the child which should include:
   - respite care where the carer has a need for temporary respite from their caring responsibilities;

---

⁵ These were introduced by the Adoption and Children Act 2002
• mediation, for example where there are difficulties over contact or there is disagreement between the carer and the parents about important decisions the child’s life; and
• training to support the carer to meet the child’s particular needs.

vii. Improved communication, co-ordination, understanding and prioritisation of the needs of these children and their families, including carers, by public agencies including schools, CAMHS, and housing departments and between adult and children’s services, for example in addressing the impact of parental alcohol and substance misuse.

viii. Government funding being available to local authorities to fulfil such duties.

Recommendations for future legislation to strengthen the above:

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

3.3 Financial support

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

3.3.1 National financial allowance

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

b) Where a child comes to live with the carer following a section 37 investigation;

c) Where a carer has secured a Residence Order or Special Guardianship Order to avoid a child being looked after, and there is professional evidence of the impairment of the parents’ ability to care for the child; and/or

---

6 This could include family friends
d) Where the carer has a Residence Order or Special Guardianship Order arising out of care proceedings; or

e) Where the carer has a Residence Order or Special Guardianship Order following the accommodation of a child.

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

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

Immediate action recommended:

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

Recommendation to amend legislation

I. That a new national non-means tested financial allowance should be made available to family and friend carers raising children who cannot live with their parents (with the eligibility criteria as set out above)

II. That the national financial allowance forms part of a new Family and Friends Care Act which also addresses access to other financial assistance, such as free school meals, school transport etc as well as support services.

3.3.2 Tax and benefits

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

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

Immediate actions recommended
a) Consistent with how child maintenance is to be treated from April 2010, the regulations\(^8\) should be amended so that residence order and special guardianship order allowances are entirely disregarded for the purpose of council tax benefit, housing benefit and all other means-tested benefits.

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

c) That, regardless of other proposed changes made to Guardian’s Allowance (could be made to the Guardian’s Allowance as set out in 3.3.1 above) immediate action is taken to amend the eligibility criteria for Guardian’s allowance as to
   i. remove the requirement that a parent in prison must have a minimum of 2 years left to service on their sentence; and
   ii. remove the requirement that a parent in prison must be convicted and sentenced i.e. so it includes situations where one parent is dead and the other is in custody on remand.

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

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

3.3.3 Legal costs of family and friends carers:

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

---

\(^{8}\) Schedule 5 paragraph 25(1)(ba) and (3) of the Housing Benefit Regulations 2006 (SI 2006 No 213) and Schedule 4 paragraph 26(1)(ba) and (3) of the Council Tax Benefit Regulations 2006 (SI 2006 No 215).
security for the child. Others find that, because they have savings towards their retirement, or substantial equity in their home, or they earn a modest salary any of which may take them outside the financial eligibility criteria for legal aid. As a result they end up representing themselves, which can time consuming for the court and very traumatic for the carers, particularly in contested cases when they are in effect having to make the case against the parent (to whom they may be related or connected). Given that in many cases these carers are taking this legal step to secure the child’s future with them instead of the local authority commencing care proceedings, it seems wrong that they cannot access public funding to help them in this task.

**Immediate actions required**

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

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

3.3.4 Ending financial discrimination against family and friends foster carers

There will always be cases where children are placed with family and friends carers but remain looked after because there are ongoing welfare or protection issues. These carers will access support through the fostering system like any other approved foster carers. However, currently some receive less support than unrelated foster carers. 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 carers. 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 worker.

---

9 Farmer and Moyers (2008) ibid
10 The Queen on the Application of L and others –v- Manchester City Council; The Queen on the Application of R and another –v- Manchester City Council [2002] 1 FLR 43
11 Farmer and Moyers (2008) ibid
Immediate action recommended
a) That the forthcoming Family and Friends Care Guidance makes clear that family and friends foster carers must no longer be discriminated against in terms of the financial allowance they receive.

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