Could do better... Must do better
A study of family and friends care local authority policies

Local authority report card

- Published a policy
- Consulted with local carers
- Financial information
- Support groups
- Sources of legal advice
- Help with housing
- Information about universal services

Mercer A, Lindley B, Hopkins A, Edited by Ashley C

FAMILY RIGHTS GROUP
Keeping children safe in their families
Could do better…Must do better:
A study of family and friends care local authority policies

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Key findings

- 126 (83%) of English local authorities have a published family and friends policy.
- 26 (17%) of local authorities do not have a published policy setting out their approach towards promoting and supporting the needs of children living with family and friends carers, thus failed to comply with statutory guidance which requires them to have a published policy by September 2011.
- A further 7 policies were primarily about friends and family foster care, with very little focus on services to the other 95% of friends and family carers.
- Of those that have published a policy, most have not used local demographic and needs data to underpin the policy and most have not involved collaboration with local partner agencies.
- One third of the policies analysed made no reference to a senior manager with responsibility for implementation and ensuring that staff and partner agencies understood their responsibilities in relation to family and friends carers.
- Only 13% of policies analysed indicated that the authority has a dedicated worker or team to support friends and family carers. Of these only two indicated that this is available to all friends and family carers, rather than just foster carers.
- More than half of the policies analysed did not provide information about universal services available to family and friends carers and the children they are raising.
- Although there have been some improvements since 2012, it is clear that local authorities are still failing to comply fully with the statutory guidance, to the detriment of children in family and friends care.
Key recommendations

- Local authorities who have not yet complied with the statutory guidance should publish a family and friends care policy as soon as possible.
- Local authorities should collate and analyse local data on children in family and friends carer and use this data to inform their policies.
- Local authorities who have published a family and friends care policy should review it to ensure that it covers all the issues in the statutory guidance and provides the information needed by all family and friends carers, not just those who are connected persons foster carers.
- The Government should now regulate to require local authorities to publish a family and friends care policy to maximise the identification of and support for children raised by family and friends carers and place a new duty on local authorities to establish and commission family and friends care support services.
- Ofsted inspections of children’s services departments should specifically ensure that this duty is complied with and Ofsted should conduct a thematic family and friends care review. The Local Government Association should also be encouraged to provide a family and friends care peer review and support network for local authorities.
- There should be a new legal duty on local authorities to ensure that potential placements with family and friends carers are always explored and assessed for suitability including offering all families the opportunity to have a family group conference before a child enters the care system (unless there is an emergency).
- The Government should adequately fund free specialist independent legal advice and information services to family and friends who are considering, or have taken on a child, including sibling carers, not least so they can navigate a field of complex child welfare law and variable local policy and practice, in order to make informed decisions.
Chapter 1 Introduction

1.1 Context

In 2012 the Government introduced statutory guidance\(^1\) for local authorities on family and friends care. The statutory guidance sets out the requirement for a local authority to publish a family and friends care policy.

“In collaboration with local partners, each local authority with responsibility for children’s services must, no later than 30 September 2011, publish a policy setting out its approach towards promoting and supporting the needs of children living with family and friends carers. The policy must address the needs of children in family and friends care, whether or not they are looked after children, and should be clearly expressed, regularly updated, made freely and widely available and publicised by relevant means, such as websites and leaflets."\(^2\)

The guidance also included detailed guidelines on what the policy should address and the need for a senior manager in each authority to have overall responsibility for the family and friends care policy.

Chapter 2 of the report sets out in more detail what the guidance covers. The statutory guidance makes clear that children and young people who are unable to live with their parents should receive the support that they and their carers need to safeguard and promote their welfare, whether or not they are looked after\(^3\).

The reality of the current financial climate is that local authorities are having to make cuts, particularly to discretionary services, whilst thresholds to access specialist service are being raised. Meanwhile many family and friends care households, who had to give up work to care for the children and became reliant on benefits, are finding life particularly tough. In such an environment, it is even more imperative that local authorities work in partnership with family and friends carers to deliver the best outcomes for children, make it easy for family and friends carers to access the help that is available and ensure that children do not have to become taken into care in order to receive support.

\(^1\)DfE (2011) Statutory Guidance for Local Authorities on Family and Friends Care paragraph 1.2. This guidance is issued under s.7 Local Authority social Services Act 1970 which means that the local authority must comply with it unless there are exceptional local circumstances to justify not following it.

\(^2\)DfE (2011) Statutory Guidance for Local Authorities on Family and Friends Care paragraph 4.2

\(^3\)Looked after children are those who are in the care of the local authority under a Emergency Protection or Care Order, or who are accommodated by the local authority under Section 20 Children Act 1989
1.2 Who are family and friends carers?

A family and friends carer is a relative, such as a grandparent, aunt, uncle or older sibling, or a friend who is raising a child who is unable to live with their parents. They are also sometimes known as kinship carers.

There are estimated to be around 200,000 children being raised by family and friends carers. Children may be living with the family and friends carer for a range of reasons, including parental death, imprisonment, divorce, mental and/or physical ill health, alcohol and/or drug misuse, learning disability; a breakdown in relationships between child and parent; and child abuse.

1.3 What research tells us

Many more children who cannot live with their parents are brought up by relatives or family friends than are adopted or are in foster care. Research and case law evidence is that the option of children being raised by members of their wider family or friendship network is too often dismissed or overlooked until late into court proceedings.4

Research evidence tells us that:

- Children in family and friends care have suffered similar adverse experiences in the past as those living with unrelated carers in the care system.5
- Many family and friends carers end up in severe financial hardship as a result of raising a child in their family.6 Nearly half have to leave their job or cut their hours when the child comes to live with them. A high proportion of family and friends carers have limiting physical conditions or disabilities and often their own relationships come under severe strain.
- The children and their family and friends carers often receive little or no support, with those getting the least support from local authorities being the ones who are bringing up the children with the highest levels of emotional and behavioural difficulties. The main determinant of access to support is the child’s legal status, in particular whether the child is in or out of the care system, rather than their needs.7
- Despite this, most children in family and friends care are thriving, and doing significantly better than children in unrelated care – in particular they feel more secure and have fewer emotional and behavioural problems and are also doing better academically.

8 Hunt & Waterhouse (2013) It’s Just Not Fair! Support, need and legal status in family and friends care (Family Rights Group)
9 Selwyn et al (2013) The Poor Relations? Children & Informal Kinship Cares Speak Out (University of Bristol)
1.4 Aims of the study
In 2012 Family Rights Group published a report analysing the extent to which local authorities were complying with the family and friends care statutory guidance. It found that 45% of local authorities had not published a family and friends care policy and a significant number of policies did not adequately cover all of the requirements of the guidance. This follow up study examines whether local authorities are complying with the statutory guidance.

1.5 Methodology
In the research for the 2012 study we sent a freedom of information request to all English local authorities, asking them to provide us a link to their family and friends care policy. We published the links on Family Rights Group’s website. In 2014, Edward Timpson MP, the Parliamentary Under Secretary of State for Children and Families, wrote to all English local authorities with responsibility for children and families services reminding them of their duty to have a published friends and family care policy.

We liaised with the Department for Education who shared the links to family and friends care policies provided to them by local authorities. We also searched the local authorities’ own websites to access the most up to date policies available. We have updated our website to reflect the latest information. We then undertook a detailed analysis of a sample of policies, to consider whether they complied with the statutory guidance.

1.6 Acknowledgements
Our grateful thanks to the Esmee Fairbairn Foundation who generously funded this study. Thanks also to members of the Kinship Care Alliance for their contribution to the project and to the Department for Education for their co-operation. We are grateful to the many officers within local government who responded promptly to our request for information, to those who have produced excellent policies and those who are striving to do so. We also pay tribute to family and friends carers across England raising children, often in very difficult circumstances, who deserve recognition and support.

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10 Roth D, Aziz R and Lindley B, Edited by Ashley C (2012) Understanding family and friends care: local authority policies – the good, the bad and the non existent (FRG)
Chapter 2 Legal Context

2.1 Introduction

As stated in chapter 1, the government issued statutory guidance to local authorities on family and friends care\(^\text{12}\) in April 2011. This guidance requires every English local authority to have a policy, by 30\(^{th}\) September 2011, setting out the support they will provide to such carers. This chapter sets out the legal framework in England for promoting and supporting family and friends care.

Typically, relatives and friends who step in to care for children who cannot remain at home with their parents have two key needs:

i) the need to be able to make decisions about how the child in their care is raised; and frequently,

ii) the need to have financial and other support to care for them.

Research has confirmed that financial and practical support is often determined by the legal status rather than the needs of the child.\(^\text{13}\) This is in the main because when children are *looked after* local authorities must support them and when they are not, local authority support is at the council’s discretion.

However, the statutory guidance says that ‘*No child or young person should have to become looked after… for the sole purpose of enabling financial, practical or other support to be provided to the child’s carer.*’\(^\text{14}\) The guidance sets out how local authorities can support children being raised by family and friends carer who are not looked after, as well as those who are.

We have set out below the duties on the local authorities to promote family and friends care for children unable to remain with their parents and the expectations of the statutory guidance in terms of support to be provided.

2.2. Local authority duties to promote family and friends care for children who cannot live at home

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\(^{13}\) Hunt & Waterhouse 2013 ibid

\(^{14}\) DfE (2011) Ibid paragraph 2.19
Pre-proceedings statutory guidance (2014)\textsuperscript{15} says

- It is important wider family are identified and involved as early as possible in supporting the child and helping parents address identified problems. If problems escalate & children can’t remain safely with parents, local authorities should seek to place children with suitable wider family members where it is safe to do so\textsuperscript{16}.

- Enabling wider family members to contribute to decision-making where there are child protection or welfare concerns, including when the child can’t remain safely with birth parents, is an important part of pre-proceedings planning.\textsuperscript{17}

Potential family and friends carers, should therefore always be fully explored before any application is made for an emergency protection, care or supervision order.

The same guidance encourages the use of family group conferences\textsuperscript{18} in this context:

- FGCs are an important means of involving the family early so that they can provide support to enable the child to remain at home or look at alternative permanence options.\textsuperscript{19}

- Local authorities should consider referring the family to an FGC if they believe there is a possibility the child may not be able to remain with their parents, or in any event before a child becomes looked after unless this would be a risk to the child.\textsuperscript{20}

- The use of FGCs ensures that wider family members understand at an early stage the seriousness of the situation & have the opportunity to make contingency plans for alternative care within the family if the parents do not satisfactorily resolve their problems within the child’s timescale.\textsuperscript{21}

There are certain placement duties on the local authority when the child is looked after i.e. when a child is subject to an emergency protection or care order or is voluntary accommodated under Section 20 Children Act 1989. These duties require the local authority to place with a suitable parent, and where there is none, they should (unless they are considering adoption) give preference to a family and friends

\textsuperscript{16} DfE (2014) Ibid paragraph 2.22
\textsuperscript{17} DfE (2014) Ibid paragraph 2.24
\textsuperscript{18} Family group conferences are an approach in which the young person and their wider family are supported to take the lead in making a plan at a meeting which addresses local authority concerns about a child. To read more go to http://www.frg.org.uk/involving-families/family-group-conferences
\textsuperscript{19} DfE (2014) Ibid paragraph 2.24
\textsuperscript{20} DfE (2014) Ibid paragraph 2.24
\textsuperscript{21} DfE (2014 ibid page 16
carers or connected persons who are approved as foster carers\textsuperscript{22}. Approval can be granted in an emergency\textsuperscript{23}.

If court proceedings are started, before a court is able to make a final placement order (under which a child may be placed for adoption) it must be satisfied that all other realistic options for long term care for the child have been considered\textsuperscript{24}. This means that children’s services must present evidence of their investigation and assessment of any family and friends carers when they make their application to the court (or very soon afterwards)\textsuperscript{25}.

\textbf{2.3 Requirements and expectations of the statutory guidance on family and friends care}

The statutory guidance specifically addresses how local authority family and friends care policies should be produced, and what they should cover.

\textbf{2.3.1 local authorities should ensure that the policy is developed in the following way:}

\begin{itemize}
\item It should ‘promote permanence for children by enabling those who cannot live with their parents to remain with members of their extended family or friends, where this is a better alternative to growing up in the care of the local authority.’\textsuperscript{26}
\item It should be ‘underpinned by the principle that \textbf{support should be based on the needs of the child rather than merely their legal status}\textsuperscript{27} (our emphasis).
\item It should be ‘clearly expressed, regularly updated and made freely and widely available with publicity, via websites and leaflets.’\textsuperscript{28}
\item Local authorities ‘must \textbf{consult children and young people, family and friends carers and parents} when drawing up their policies\textsuperscript{29} (our emphasis).
\item There should be ‘a senior manager who holds overall responsibility for the family and friends care policy.’\textsuperscript{30}
\item The policy should be evidence based, drawing upon information about the number of family and friends foster carers and the special guardians and adopters the local authority is supporting.\textsuperscript{31}
\item Local authority staff should ‘understand the policy’ and ‘operate within its framework so that \textbf{it is applied in a consistent and fair manner across the authority}\textsuperscript{32} (our emphasis).
\end{itemize}

\textsuperscript{22} Section 22C Children Act 1989 (as amended)
\textsuperscript{23} Regulation 24 Care Planning Placement and Case Review Regulations 2010
\textsuperscript{24} Re B [A Child] [2014] EWCA Civ 565; Re B-S (Children) [2013] EWCA Civ 1146
\textsuperscript{25} Court procedure says that the local authority must have all their assessments done by at the latest, day 18 of the court proceedings – Practice Direction 36B FPR 2010
\textsuperscript{26} DfE (2011) Ibid, para 4.5
\textsuperscript{27} DfE (2011) Ibid para 4.6
\textsuperscript{28} DfE (2011) Ibid para 4.2
\textsuperscript{29} DfE (2011) Ibid para 4.8
\textsuperscript{30} DfE (2011) Ibid para 4.9
\textsuperscript{31} DfE (2011) Ibid, para 4.10
Staff who are responsible for working with family and friends carers and are implementing the policy 'should have the appropriate training and understanding of the issues which family and friends carers face'.

2.3.2 Contents of the Policy:

The statutory guidance also states that the local policy should include the following:

2.3.2.1 Legal framework this includes:

- An explanation of the authority's powers and duties in relation to children in need and looked after children;
- The meaning and implications of different legal arrangements for family and friends care;
- The rights of carers and of the children’s parents when children are in family and friends care;
- The kind of decisions which family and friends carers will be able to make about the child depending on the legal arrangement; and
- The effect of a residence order, special guardianship order or adoption order.

This must be in a format which is accessible to family and friends carers and parents. The purpose is to ensure that members of the public have the necessary information to make informed choices about the options open to them.

2.3.2.2 Easily accessible, local information for carers about:

- How to access targeted and specialist services which may be required, such as special educational needs services and CAMHS;
- Where to get independent advice;
- ‘The respective implications of court orders which give them parental responsibility, so that they fully understand the implications of applying for such an order’;
- ‘Their entitlement to any state benefits and allowances, such as child benefit and child tax credit’ and where they can go for information and advice, such as benefits advice services. These agencies should also be made aware of the particular difficulties which many family and friends carers face so that they provide a responsive service;
- Local contact centres and family mediation services to help them resolve any contact difficulties which may arise, although where there are safeguarding

35 DfE (2011) Ibid para 4.18
concerns children’s services may need to be involved to support safe contact arrangements.\footnote{DfE (2011) Ibid para 4.30} 

2.3.2.3 Financial help\footnote{DfE (2011) Ibid paras 4.19-4.23}: Policies should:

- Acknowledge that family and friends carers who are struggling to cope financially may need financial assistance for one-off expenditure, such as school clothing or bedroom furniture, or on a more regular basis either to enable them to make adjustments or to make it possible to continue to care for a child in the longer term;
- Ensure family and friends carers are included in the eligibility criteria for payments under s.17(6)\footnote{DfE (2011) Ibid para 3.7. Note also that s.17(6) Children Act 1989 was amended by the Children and Young Person’s Act 2008 to remove the qualification that s.17(6) payments could be made in exceptional circumstances only. Thus payments under this section can now be made routinely.}, and that they are made aware of this fact and when means testing applies and how they can apply for these payments; and
- Ensure that when financial support is offered, a written agreement is drawn up\footnote{DfE (2011) Ibid para 4.23} setting out the level and duration of the support that is to be provided, and the mechanism for review so that everyone involved is clear about the arrangements.

2.3.2.4 Housing:

Carers who need it should receive support with accommodation which can also come out of the s.17(6) budget\footnote{DfE (2011) Ibid para 4.22} unless the child is looked after, and the guidance also states that whenever possible family and friends carers living in social housing should be given appropriate priority to move to more suitable accommodation if this will prevent the need for a child to become looked after.\footnote{DfE (2011) Ibid para 4.24}

2.3.2.5 Family Group Conferences:

Local policies should also set out the arrangements’ for holding a family group conference as a way of identifying family and friends carers for a child.\footnote{DfE (2011) Ibid para 4.34-37}

2.3.2.6 Support Groups:

Local authorities should work with partner agencies and the voluntary sector to find ways to encourage peer support and access to support groups.\footnote{DfE (2011) Ibid para 4.38-40}
2.3.2.7 S.20 Accommodation (i.e. where children are ‘looked after’ voluntarily, and not by a court order):

Local policies should include information about the local authority’s powers and duties including when a child may be accommodated or when care proceedings may be instigated, and how and by whom such decisions are made.\(^\text{46}\)

2.3.2.8 Family and friends foster care:

Family and friends foster carers should be fully supported to care for children placed with them, including receiving training and tailored support and should not be disadvantaged because they had a prior relationship with the child. This includes being paid a fostering allowance which should be at least the minimum set annually by the Department for Education and this should be calculated for family and friends foster carers on the same basis as for all other foster carers.\(^\text{47}\) Any variations should relate to the child’s needs, the skills of the carer or some other relevant factor that is used as a criterion for all other foster carers.\(^\text{48}\)

The guidance does not specifically mention the payment of legal fees to help family and friends carers get advice about, and apply for, a relevant court order (for example a child arrangements order saying where the child should live or a special guardianship order) to secure the arrangement for the child to live in their care. However the local authority has a discretionary power to pay legal fees in special guardianship which is not means tested. Local authorities can and some do fund applications for child arrangements orders.

\(^\text{46}\) DfE (2011) Ibid para 4.43
\(^\text{47}\) This is consistent with case law which requires that local authorities pay family and friends foster carers at the same rate as unrelated foster carers including the fees element of the allowance – see 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 & R (on the application of X) v London Borough of Tower Hamlets [2013] EWHC 480 (Admin)
2.4 Legal options for family and friends care arrangements

The key legal statuses\(^{49}\) include:

- **Private arrangements** whereby children are living with family and friends carers as a result of a private arrangement between the parents and the carer. This can include private fostering;
- **Private law orders** - children live with relatives or friends under a child arrangements order or special guardianship order; or
- **In local authority care** - children are *looked after* by the local authority (whether under a care order or in voluntary accommodation) and placed with relatives or friends who are approved as local authority foster carers on a short or long term basis.

Appendix A sets out the legal framework for decision making and support in more detail.

\(^{49}\) Carers could also be testamentary guardians if they were appointed by the parents/special guardians in writing (often but not always in a will) to raise their child after they die, the parents have now died and the appointment has taken effect (s.5 Children Act 1989); or they could also have adopted the child. In both cases they have parental responsibility, giving them the right to make decisions about how the child is raised and the child will not be looked after by the local authority unless this has occurred subsequently. However, since these statuses occur relatively rarely in family and friends care, we have not included the detailed legal provisions which would apply but further information about this could be obtained from Family Rights Group free confidential advice service on 0808 801 0366 open 9.30-3.00pm Mon-Fri or read our advice resources www.frg.org.uk
Chapter 3 Family and friends care policies – current state of play

Table 3-1 Does the local authority have a published family and friends care policy? Analysis of all local authorities by region

<table>
<thead>
<tr>
<th>Does local authority have a published policy?</th>
<th>Yes</th>
<th>No</th>
<th>% with policy Feb 2015</th>
<th>% with policy in 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East</td>
<td>9</td>
<td>3</td>
<td>75%</td>
<td>62%</td>
</tr>
<tr>
<td>North West</td>
<td>20</td>
<td>3</td>
<td>87%</td>
<td>32%</td>
</tr>
<tr>
<td>Yorks &amp; Humber</td>
<td>11</td>
<td>2</td>
<td>85%</td>
<td>40%</td>
</tr>
<tr>
<td>East Midlands</td>
<td>10</td>
<td>1</td>
<td>91%</td>
<td>56%</td>
</tr>
<tr>
<td>West Midlands</td>
<td>13</td>
<td>1</td>
<td>93%</td>
<td>43%</td>
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<tr>
<td>East of England</td>
<td>11</td>
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<td>100%</td>
<td>64%</td>
</tr>
<tr>
<td>London</td>
<td>23</td>
<td>10</td>
<td>70%</td>
<td>61%</td>
</tr>
<tr>
<td>South East</td>
<td>16</td>
<td>3</td>
<td>84%</td>
<td>79%</td>
</tr>
<tr>
<td>South West</td>
<td>13</td>
<td>3</td>
<td>81%</td>
<td>63%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>126</td>
<td>26</td>
<td><strong>83%</strong></td>
<td><strong>55%</strong></td>
</tr>
</tbody>
</table>

We found that 126 local authorities have published friends and family care policies. This is 83% of local authorities and represents a significant improvement since our initial report in 2012. However, it is unacceptable that four years after the publication of the statutory guidance, 26 local authorities have still not complied with the guidance by publishing a policy on family and friends care. The lowest performing region is London, with only 70% of authorities having published policies. This is particularly worrying as we know that the prevalence of friends and family care is high in London.\(^5\)

Of the 26 authorities without a published policy, 4 had a policy in draft form, 10 had a published policy which was exclusively about connected persons foster care and did not cover the 95% of children in family and friends care being raised under other legal options, and 12 had no published policy at all.

Even amongst the 126 published policies, we found that 7 were primarily about connected persons foster care, with very little focus on services to other categories of friends and family carers.

As the purpose of requiring all local authorities to publish a policy is to ensure that information about local services and policies is readily available to all those who need it, the accessibility of the policy is key. We found that the policies are not

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\(^5\) Nandy, Selwyn, Farmer and Vaisey (2011) Spotlight on Kinship Care: Using Census microdata to examine the extent and nature of kinship care in the UK at the turn of the Twentieth century (University of Bristol)
always appropriately named. For example, some local authorities use the term connected persons policy even when the policy referred to all family and friends carers. This is confusing to practitioners and not meaningful to the majority of family and friends carers, who are not approved foster carers but are caring for children in informal arrangements or through special guardianship or child arrangement orders. Using the title Family and Friends Care Policy is consistent with the term used in the statutory guidance and would enable the policy to be found more easily via a website search. In order to check which authorities have a published policy, see Family Rights Group website http://www.frg.org.uk/involving-families/family-and-friends-carers/local-policies-and-contacts. This list will continue to be kept up to date.
Chapter 4  Local family and friends care policies: analysis

4.1 Policies selected for analysis
In the previous 2012 study, detailed analysis was undertaken of 52 local authorities. In this follow-up study we analysed 53 policies. The sample included 9 local authorities identified in the previous survey as being exemplars, or having some areas of good practice. The remaining 44 were selected to give a cross section of regions, urban and rural authorities, large counties and smaller unitary authorities. The number of authorities included represented approximately one third of the total for each region.

Table 4-1: Policies analysed by region

<table>
<thead>
<tr>
<th>Policies analysed by region</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>North East</td>
<td>4</td>
</tr>
<tr>
<td>North West</td>
<td>7</td>
</tr>
<tr>
<td>Yorks &amp; Humber</td>
<td>6</td>
</tr>
<tr>
<td>East Midlands</td>
<td>4</td>
</tr>
<tr>
<td>West Midlands</td>
<td>5</td>
</tr>
<tr>
<td>East of England</td>
<td>4</td>
</tr>
<tr>
<td>London</td>
<td>12</td>
</tr>
<tr>
<td>South East</td>
<td>6</td>
</tr>
<tr>
<td>South West</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
</tr>
</tbody>
</table>

4.2 Consultation and needs assessment
The Family and Friends Care Statutory Guidance states that the local policy should be supported by good demographic and needs data, developed in ‘collaboration with local partners’ and that local authorities ‘must consult children and young people, family and friends carers and parents as appropriate in drawing up their policies, and set out how policies have been informed by their views.’ DfE (2011) ibid paragraph 4.8

Policies should reflect the needs of friends and family carers in the local area.

---

51 DfE (2011) ibid paragraph 4.8
Table 4-2: Is the policy supported by good demographic and needs data?

<table>
<thead>
<tr>
<th>Does the policy state whether it is ‘supported by good demographic and needs data’?</th>
<th>Frequency</th>
<th>% in 2015</th>
<th>% in 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>8</td>
<td>15%</td>
<td>13%</td>
</tr>
<tr>
<td>Partly</td>
<td>6</td>
<td>11%</td>
<td>12%</td>
</tr>
<tr>
<td>No</td>
<td>39</td>
<td>74%</td>
<td>75%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 4-3: Is the policy produced in collaboration with local partners?

<table>
<thead>
<tr>
<th>The policy is supposed to be produced ‘in collaboration with local partners’. Does it specify whether this has happened?</th>
<th>Frequency</th>
<th>% in 2015</th>
<th>% in 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>7</td>
<td>13%</td>
<td>13%</td>
</tr>
<tr>
<td>Partly</td>
<td>6</td>
<td>11.5%</td>
<td>13%</td>
</tr>
<tr>
<td>No</td>
<td>40</td>
<td>75.5%</td>
<td>73%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 4-4: Is the evidence based upon consultation with children, carers or parents?

<table>
<thead>
<tr>
<th>Does the evidence base for the policy include consultation with children, carers and parents?</th>
<th>Frequency</th>
<th>% in 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>14</td>
<td>26.5%</td>
</tr>
<tr>
<td>Partly</td>
<td>5</td>
<td>9.5%</td>
</tr>
<tr>
<td>No</td>
<td>34</td>
<td>64%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Tables 4-2 to 4-4 show that the situation has changed very little, if at all, since the last report, when few local authorities were using local information to inform their policy. Three quarters of the policies were not informed by local demographic and needs data; even fewer authorities stated that the policies had been produced in collaboration with local partner agencies. Two thirds of authorities did not undertake
consultation with children, young people, carers and parents in drawing up their policies.

It is extremely disappointing that, in the three years since the original report, the situation has not improved and that policies too often lack a sound basis of involvement with local agencies, analysis of local demographic and needs data and consultation with those who are most affected by the policies.

We found that 17 policies (32%) were identifiably produced by a company or companies who sell policy writing services to councils. While this has some advantages in that it usually means that at least the basic legal information is covered, it is inadequate and insufficient in itself. The policy should reflect local circumstances and need and be developed with those who the policy most affects. It is not a national basic information leaflet. Instead it is a policy that should set out how the local authority is meeting the expectations of the statutory guidance; it should influence how resources are used and local needs are met; and provide information for families as to what services are available locally and how these can be accessed. All local authorities, including those using external policy writing services, need to address local context, needs, consultation and services.

Some of the policies analysed provided positive examples of the use of data and consultation.
**GOOD PRACTICE BOX 1** - An example of good practice from Oxfordshire County Council in its use of consultation with family and friends carers

**Feedback from Oxfordshire's Kinship/Family and Friends Carers**

<table>
<thead>
<tr>
<th>YOU SAID</th>
<th>WE DID</th>
</tr>
</thead>
<tbody>
<tr>
<td>In relation to assessment Family and Friend carers said that they understood why the assessment had to take place and were generally happy with the process but wanted more understanding from those undertaking assessments about the particular difficulties facing Family/ Friend Carers</td>
<td>With your help we have provided training for staff on assessing Family and Friends care</td>
</tr>
<tr>
<td>Family/Friend carers said they would have like staff to provide information about practical help, including financial help</td>
<td>We have published information about practical and financial support for family/friend carers and given them membership of fostering network which includes access to legal advice and mediation</td>
</tr>
<tr>
<td>Family/Friend carers who have accessed training available to unrelated foster carers and adopters wanted this training to be offered to other carers</td>
<td>All foster carer training has been made available to Family and Friend carers</td>
</tr>
<tr>
<td>Carers asked for the opportunity to meet other Family and Friend carers</td>
<td>Family/Friend are members of OFCA and receive invitations to all foster carer events (e.g. foster carer picnic, consultations and focus groups). Support groups have been set up specifically for Family and Friends carers to meet each other</td>
</tr>
<tr>
<td>Carers have asked for specific training on behaviour management</td>
<td>Attach services offer specific help on behaviour management. We are piloting an evidenced based behaviour management programme &quot;Keep&quot; Family/Friend carers are encouraged to attend</td>
</tr>
<tr>
<td>Carers have asked for access to the psychology service</td>
<td>All Family/Friend carers have access to psychology and support services (NB Adopters and Special Guardians are the responsibility of the placing LA for the first three years after placement)</td>
</tr>
<tr>
<td>Carers have appreciated the help they receive from social work staff</td>
<td>Family/Friend carers receive ongoing support from social workers for the child/a supervising social worker and foster carer coordinators whilst the child is looked after and at a reduced level for at least one year after a legal order has been granted</td>
</tr>
</tbody>
</table>
### GOOD PRACTICE BOX 2: Wirral Council, an example of good practice in the use of research and consultation

“In order to draw up the Family and Friends Care Policy, key messages from research were identified and consultation was carried out with children and young people, family and friends carers, parents and partner agencies through focus groups and the completion of questionnaires.

“Wirral Council will continue to meet and consult with children and family and friends carers to ensure that we listen to their views and work with them to collate evidence of what works in supporting family and friends carers to meet children’s needs. This will also allow additional support for carers to be identified. The evidence collated will underpin a Family and Friends Care action plan which Wirral Council and partner agencies will work towards to improve communication, services and support for family and friends carers and the children they care for.”

- Wirral Children and Young People’s Department: Family and Friends Care Policy

### 4.3 Values and principles

The statutory guidance makes clear that the principles within the Children Act 1989 should provide a sound basis for local family and friends care policies. In 2012 two thirds of the policies did not refer to the 1989 Act.

Table 4-5: Do the policies’ values and principles refer to the 1989 Children Act?

<table>
<thead>
<tr>
<th>Do the values and principles refer to the 1989 Children Act?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>28</td>
<td>53%</td>
</tr>
<tr>
<td>Partly</td>
<td>15</td>
<td>28%</td>
</tr>
<tr>
<td>No</td>
<td>10</td>
<td>19%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 4-5 shows that in the current analysis over half of the policies analysed did make reference to the Children Act 1989 in setting out the values and principles. A further quarter made some reference to the principles of the Act. Just under a fifth of authorities did not make any reference to the Children Act in the values and principles of their policy. Although this is less than satisfactory, it did present a more positive picture than the previous report.
The statutory guidance makes clear that the following principles must be clear in local family and friends care policies:

- The key principle is that children should be enabled to live within their families unless this is not consistent with their welfare
- Policies should promote permanence for children by seeking to enable those who cannot live with their parents to remain with members of their extended family or friends
- Support should be based on the needs of the child rather than merely their legal status.
- Family and friends carers (whether or not they are approved foster carers) are provided with support to ensure that children do not become, or remain longer than is needed, voluntarily accommodated by the local authority under section 20(1) of the 1989 Act.
- Children are active participants and that their wishes and feelings should be taken into account in all relevant processes when adults are trying to solve problems and make decisions about them.

Table 4-6: Does the policy adhere to the key principles set out in the guidance?

<table>
<thead>
<tr>
<th>Does the policy cover all the key principles?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>32</td>
<td>60%</td>
</tr>
<tr>
<td>Partly</td>
<td>19</td>
<td>36%</td>
</tr>
<tr>
<td>No</td>
<td>2</td>
<td>4%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

It is encouraging that almost all of the policies fully or partly covered the key principles as set out in the guidance. Where these were only partly covered, the main principle not covered was that children should be active participants and their wishes and feelings should be taken into account. Given that this is a key principle within the Children Act it is worrying that this is not consistently spelled out in the policies for family and friends care.

52 DfE (2011) ibid Paragraph 4.4-4.7
We then looked in more detail at whether two key principles were made explicit; that support should be based on the needs of the child, rather than their legal status; and that support should be provided to ensure that children do not become looked after, or remain looked after longer than is needed. These two important principles can make the crucial difference in supporting grandparents and other family members, to care for children without the need for the local authority to accommodate the child.

**Table 4-7: Does the policy cover these two key principles?**

<table>
<thead>
<tr>
<th>Does the policy state explicitly that</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>• support should be based on the needs of the child not merely legal status?</td>
<td>34</td>
<td>64%</td>
</tr>
<tr>
<td>• Support should be provided to ensure that children don't become or remain looked after longer than is needed?</td>
<td>9</td>
<td>17%</td>
</tr>
<tr>
<td>No</td>
<td>10</td>
<td>19%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>99%</td>
</tr>
</tbody>
</table>

Good Practice Box 3: Gateshead Council – statement of values and principles

“Support to children living with family and friends carers is underpinned by the principles that a child’s welfare is paramount, and respect should be given to individual, cultural, family and community diversity. Children and families should be active participants in services provided for them. Services will work in partnership with professionals, children, parents and extended family. Evidence based practice will be used to inform decision making and practice intervention.”

- Gateshead Council: Family and Friends and Connected Persons Carers Policy
It is unacceptable that support may be being withheld from a child because they are being cared for by a family or friends carer and that the only way to access such support is for the local authority to accommodate the child. To omit these important principles from the policy is likely to militate against the best interests of the children concerned and of the local authority itself.

**GOOD PRACTICE BOX 4: Stockport Council –statement of principles**

“To enable family and friends to offer appropriate care for children and young people who cannot live with their parents, access to a range of high quality universal and targeted services will be needed. Support services should not be withheld because a child is living with a carer in a private/informal arrangement. Early intervention, underpinned by the Common Assessment Framework (CAF) will help prevent difficulties escalating to the point where specialist services are required.”

- Stockport Metropolitan Borough Council: Family and Friends Policy

**4.4 Evidence base**

The statutory guidance makes clear that the policy should be based on evidence of what works in family and friends care and knowledge of the services that carers and children want to support them.

**Table 4-8: How well does the policy reflect the evidence base?**

<table>
<thead>
<tr>
<th>Is the policy evidence based?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>16</td>
<td>30%</td>
</tr>
<tr>
<td>Partly</td>
<td>11</td>
<td>21%</td>
</tr>
<tr>
<td>No</td>
<td>26</td>
<td>49%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Analysis showed that only half of the policies made reference to the use of an evidence base to inform the policy. This is a slight improvement on the previous study which showed that 60% of the policies did not deal at all with the evidence base. Of the policies analysed in the current study which did include consideration of the evidence base, most dealt only with messages from national research, with very few stating that they had used local research or data on family and friends care to
inform the policy. Despite the statutory guidance stating “Clear policy frameworks, supported by good demographic and needs data, will ensure the development of appropriate local services”, available data is not being used consistently to inform policy development. Without gathering and analysing local data, local authorities will be unable to respond to the needs of the local population.

GOOD PRACTICE BOX 5: Sunderland Council – use of evidence

“In 2011, Sue Robson and Kate Conqueror, both grandparent carers themselves, carried out participatory action research among grandparent kinship carers in Sunderland where the birth parents are involved in substance misuse. They found that “barriers and difficulties facing grandparent carers were complex and multidimensional”. Of those carers who had taken part in the research, many were uncertain about their future and that of the children they were caring for – for example, carers expressed concerns about the financial implications of retirement, managing teenagers as elderly carers, care of children if the grandparent was to become very ill or die.”

Sunderland City Council: Family and Friends Care Policy

4.5 Management accountability

The guidance states that Directors of Children’s Services should identify a senior manager to hold responsibility for the policy, ensuring that staff are trained to implement it and that local partner agencies are aware of their responsibilities to family and friends carers.

Table 4-9: Does the policy identify a senior manager who holds overall responsibility for the family and friends care policy?

<table>
<thead>
<tr>
<th>Does the policy deal with management accountability?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>35</td>
<td>66%</td>
</tr>
<tr>
<td>Partly</td>
<td>2</td>
<td>4%</td>
</tr>
<tr>
<td>No</td>
<td>16</td>
<td>30%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

---

53 DfE (2011) Ibid paragraph 4.1
54 DfE (2011) ibid paragraphs 4.9-4.12
Two thirds of authorities’ policies deal with management accountability for the policy, unfortunately 30% did not. This is an improvement on the previous study, which found that almost half (48%) of policies did not deal with management accountability at all. By identifying a responsible manager, Directors of Children’s Services should prioritise taking forward the implementation of the policy.

Only 7 authorities (13%) indicated that they have a dedicated worker or team to support friends and family carers. Of these only two indicated that this support was available to all friends and family carers, rather than solely foster carers.

GOOD PRACTICE BOX 6: London Borough Barnet dedicated team

London Borough of Barnet has a dedicated Kinship and Permanence team. This team can provide information and advice on all aspects of kinship care to social workers, other agencies and members of the public.

- LB Barnet: Family and Friends Care Policy.

GOOD PRACTICE BOX 7: West Sussex, support for family and friends carers

In addition to universal and targeted services, all family and friends carers in West Sussex can request support from either:
- The support worker for informal family and friends carers
- The Special Guardianship Support Team
- The allocated fostering worker or
- The Adoption Support Team

Contact numbers have been given in the sections above. The support offered will be tailored to the needs of the child and/or carers.

- West Sussex County Council: Family and Friends Care Policy
Chapter 5 Information about legal status and related support: analysis of local policies

5.1 Different legal arrangements
The guidance states that local policies should set out the relevant legal framework including children in need, children looked after, residence orders, special guardianship and adoption orders. Residence orders have now been replaced by child arrangements orders. Most of the policies had not been updated to reflect the change in the law with the introduction of child arrangement orders. Only 20 (38%) had been amended to reflect this change. We have however, assumed in our analysis that local authority policies referring to residence orders now apply to child arrangements orders.

Table 5-1: Does the policy cover the range of legal arrangements for family and friends care, including the local authority’s powers, duties and responsibilities, and the effect of the legal arrangement or order?

<table>
<thead>
<tr>
<th>Does the policy cover the relevant law?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>51</td>
<td>96%</td>
</tr>
<tr>
<td>Partly</td>
<td>2</td>
<td>4%</td>
</tr>
<tr>
<td>No</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 5-1 shows that all policies analysed covered the relevant law, with 2 doing so only partially. This indicates an improvement on the situation described in the previous study, when 71% only partly covered legal status. A significant number of policies analysed in the current study chose to reproduce Annex A of the statutory guidance which summarises the legal framework, information on the rights of parents and family and friends carers, the nature of decisions that carers would be able to make in different legal situations .and entitlements to support services. We found that several authorities provided little additional information and did not cover local implementation in more detail.

We have provided in Appendix A in this report a summary of the legal statuses for children being raised by family and friends carers and associated provisions for decision making and support.
### GOOD PRACTICE EXAMPLE BOX 8: Northamptonshire – information about legal status

<table>
<thead>
<tr>
<th>Child in need supported under s 17</th>
<th>Child accommodated under s 20</th>
</tr>
</thead>
<tbody>
<tr>
<td>- the child is not looked after by the local authority</td>
<td>- the child is looked after by the local authority</td>
</tr>
<tr>
<td>- the child will not have a care plan but there may be a child in need plan or child protection plan</td>
<td>- the child must have a care plan (including health plan and personal education plan) which will be reviewed by an independent reviewing officer</td>
</tr>
<tr>
<td>- if there is a child in need plan a social worker or other worker may visit the child and carers</td>
<td>- a social worker will visit the child and carers and oversee the child’s welfare</td>
</tr>
<tr>
<td>- the child may be offered access to an advocacy service</td>
<td>- the child must have access to an independent advocate</td>
</tr>
<tr>
<td>- the carers will not usually have a separate social worker</td>
<td>- a supervising social worker will be appointed for the foster carers</td>
</tr>
<tr>
<td>- the local authority has discretion to give financial assistance (which can be on the basis of regular payments) but there is no entitlement and payments may be means tested</td>
<td>- a weekly fostering allowance will be paid</td>
</tr>
<tr>
<td>- Child Benefit and Child Tax Credit may be payable</td>
<td>- there is no entitlement to Child Benefit or Child Tax Credit</td>
</tr>
<tr>
<td>- support may be offered to the carers and/or child but is discretionary</td>
<td>- training and support must be offered to the foster carers</td>
</tr>
<tr>
<td>- there is no entitlement to leaving care support</td>
<td>- on leaving care the young person may be eligible for ongoing support under the 1989 Act (as amended by the Children (Leaving Care) Act 2000)</td>
</tr>
<tr>
<td>- any support offered will cease when the young person becomes 18, unless criteria are met for support from adult services</td>
<td>- the local authority is able to offer continuing support (including financial support) to the carers until the young person is 21, and to support the young person in respect of education and training until they become 25.</td>
</tr>
</tbody>
</table>
Table 5-2: Information about the rights and voice of service users in family and friends care arrangements

<table>
<thead>
<tr>
<th>Does the policy cover the rights of children, carers and parents?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>18</td>
<td>34%</td>
</tr>
<tr>
<td>Partly</td>
<td>27</td>
<td>51%</td>
</tr>
<tr>
<td>No</td>
<td>8</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

One of the main aims of the statutory guidance is to ensure children and their families have the information they need to work together with local authorities to do what is best for the children concerned. Many family and friends carers will not have dealt with children’s services before, and will not know their rights, or how to make sure their voices are heard. Children and young people may not be aware of their right to be consulted on the plans for their care and the implications of the range of legal options.

Where local authorities only partly addressed rights of service users, most omitted the rights of children and young people. It is a fundamental principle of the Children Act that children and young people children are active participants and that their wishes and feelings should be taken into account in all relevant processes. It is therefore unsatisfactory that many local authority policies on family and friends care do not make this clear.

**GOOD PRACTICE EXAMPLE BOX 9: Sandwell statement on children’s wishes**

The assessment for temporary and full approval of family and friends as foster carers includes the requirement that the wishes and views of the child or young person, the birth family and the carer’s immediate and extended family, where relevant are sought as part of the planning process and that they be taken into account when making the final recommendations. Children have asked us to try and find family and friends placements first and “keep trying even if at first there seems to be no one”.

- Sandwell MBC Family Friends and Connected Persons Policy for Carers.
Table 5-3: Did the policy explain the relevant law?

<table>
<thead>
<tr>
<th>Did the policy explain the relevant law?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Wholly covered and a particularly good example</td>
<td>3</td>
<td>5.5%</td>
</tr>
<tr>
<td>3 Wholly covered</td>
<td>11</td>
<td>20.5%</td>
</tr>
<tr>
<td>2 Partly covered</td>
<td>37</td>
<td>70%</td>
</tr>
<tr>
<td>1 Not covered at all</td>
<td>2</td>
<td>4%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

The current analysis is broadly comparable to the previous study, where 71% of policies analysed had only partly covered the legal framework and 4% had not covered it at all.

Relevant case law was not referred to in most of the policies, with only six of the 53 policies analysed making any reference at all to the Southwark and Kent judgements and of those, four were indirect references. Another common gap was information on the implications of orders which give parental responsibility. Family and friends carers need this information so that they fully understand the effects of applying for such an order.

**GOOD PRACTICE BOX 10: Southend on Sea citing case law**

The High court judgments **Re H (2003)** and **Southwark v D (2007)** have important implications for how social workers and support staff representing local authorities must demonstrate the way in which they are working with children, their parents and family and friend carers.

An important lesson from these judgments is that in situations where a local authority has not properly explained the nature of their involvement at the outset and established agreement with the parent and family/friend carer about how support will be provided to a child, courts, in cases of dispute about the legal status of the child, will inevitably assume that the child is looked after (by virtue of section 20(1) and section 23 (2), the Children Act 1989) and not subject to Section 17 support.

- Southend Borough Council: Family and Friend Carers Policy

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55 Southwark LBC –v- D [2007] 1 FLR 2181; A –v- Kent Local Authority [2011] EWCA 1303 See Appendix A for more information
5.2 Information about support services
We analysed the policies to find out whether they provide information for carers about local resources / universal services to support children, e.g. early years provision, day care, out of school services, schools, colleges, health services, leisure facilities, youth support services, or any other local services.

Table 5-4: Does the policy provide information about universal services?

<table>
<thead>
<tr>
<th>Information about universal services</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>18</td>
<td>34%</td>
</tr>
<tr>
<td>Partly</td>
<td>8</td>
<td>15%</td>
</tr>
<tr>
<td>No</td>
<td>27</td>
<td>51%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

The statutory guidance makes clear the importance of giving information on universal services to family and friends carers, who may be less aware of these services than other families. Despite this, over half of the policies analysed did not give information about universal services. Of those who did mention them, many stated that information would be provided on request, rather than providing information in the policy or an Annex.

The great majority of policies analysed gave no information about support for young people in further and higher education. Nor did they give information about entitlement to priority school admissions and enhanced Pupil Premium, if the child was currently looked after or had been immediately prior to the making of a child arrangements order or a special guardianship order.

5.3 Information about sources of independent advice
Of the policies analysed, only 22 (42%) gave information on sources of independent advice. Of these, only 6 gave information about both local and national organisations. Many of those giving details of national organisations did so by reproducing Annex D from the statutory guidance “Useful organisations and information for family and friends carers”. While it is helpful to provide this information to family and friends carers, contact information can change and local authorities should make sure that they check and update the information on a regular basis.

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56 See Appendix A for more information
GOOD PRACTICE BOX 11: Bristol, support services

“There are many places providing free support and information for people looking after children and young people in Bristol. Bristol City Council and its partners want to support carers so that they have the confidence, skills, knowledge and understanding to build a strong family life which keeps children safe, healthy, happy and successful. ‘Parenting support’ is a term used to describe any activity aimed at providing information, advice and support to parents and carers to help them in bringing up their children. This includes:

• One-to-one and group parent support
• Parenting programmes and courses
• Information, advice and guidance about parenting issues
• Opportunities for parents to get involved and have a say
• Resources to help parents do a good job.

Further specific information on parenting support is available in Appendix Two, where there is also general information to support families.”

- Bristol City Council: Family and Friends Care Policy
Chapter 6 Financial advice: analysis of local policies

6.1 Financial support for family and friends carers: analysis of local policies
Research\(^{57}\) makes clear that family and friends carers often face financial difficulties as a result of taking on the care of one or more children. The statutory guidance stresses the need for policies to state how the authority will provide information about entitlement to any state benefits and allowances\(^{58}\) and how to apply for any discretionary financial support which may be available.

Table 6-1: Does the policy advise about benefits and allowances?

<table>
<thead>
<tr>
<th>Information about benefits and allowances?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>37</td>
<td>70%</td>
</tr>
<tr>
<td>Partly</td>
<td>9</td>
<td>17%</td>
</tr>
<tr>
<td>No</td>
<td>7</td>
<td>13%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Despite the emphasis in the statutory guidance, 13% of policies analysed did not provide any information about benefits and allowances. Of those that did, many relied on the information in Annex A of the statutory guidance which they reproduced as an annex to their policy, and made no mention of local arrangements to support this.

Table 6-2: Does the policy signpost carers to local sources of information and advice about benefits and allowances, e.g. benefits advice services?

<table>
<thead>
<tr>
<th>Does the policy signpost to specialist benefits advice?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>26</td>
<td>49%</td>
</tr>
<tr>
<td>Partly</td>
<td>4</td>
<td>8%</td>
</tr>
<tr>
<td>No</td>
<td>23</td>
<td>43%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Only 57% of policies signposted carers to any local sources of information and advice about benefits and allowances.


\(^{58}\) DfE (2011) Ibid Paragraph 4.20
6.2 Children in need (Section 17) payments
Some families will experience financial hardship, due to the additional costs of taking on the child. Some may need financial support from the local authority as children in need, under section 17 of the 1989 Children Act. Family Rights Group published a study of family and friends carers in London in 2013\(^{59}\). The study found evidence of family and friends carers households in London suffering significant poverty; they were more likely to be managing on a very low household income; 46% of London family and friends carers had to give up work to take on the care of the children.

<table>
<thead>
<tr>
<th>Information on section 17 payments to children in need?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>27</td>
<td>51%</td>
</tr>
<tr>
<td>Partly</td>
<td>20</td>
<td>38%</td>
</tr>
<tr>
<td>No</td>
<td>6</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

The statutory guidance makes clear that the local policy should state how family and friends carers are made aware of the eligibility criteria and when means testing applies, how to apply for any such financial help, and how and when decisions are made about eligibility\(^{60}\). Our analysis shows that only half of the policies analysed did so, with a further 38% giving partial information. Where partial information was given, this was usually because the authorities relied on reproducing Annex A to the

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\(^{60}\) DfE (2011) Ibid Paragraph 4.23
statutory guidance as an annex to their own policy to give general information, with no information given on the local context.

6.3. Fostering allowances
The statutory guidance makes clear that the fostering allowances paid to family and friends carers must be calculated on the same basis as for other foster carers. We looked at whether the policies covered the level of fostering allowances paid to family and friends foster carers.

Table 6-4: Does the policy cover the level of fostering allowances paid to family and friends foster carers?

<table>
<thead>
<tr>
<th>Level of fostering allowances</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>22</td>
<td>42%</td>
</tr>
<tr>
<td>Partly</td>
<td>25</td>
<td>47%</td>
</tr>
<tr>
<td>No</td>
<td>6</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Six policies made no reference to the level of fostering allowances paid to family and friends carers. Of the rest, about half gave full information, with the others giving only partial information, again, most relying on the information in Annex A to set out the situation regarding fostering allowances, without giving any local context.

6.4 Special guardianship and residence order allowances
The guidance states that advice and guidance about the implications of special guardianship orders and child arrangements orders (formerly residence orders) should be provided. One of the important implications is the eligibility criteria for financial support available. Local authorities should also set out where carers can find out further information about how it exercises its duties and powers when such orders have been made.62

Table 6-5: Does the policy cover payment of residence order allowances and special guardianship allowances?

<table>
<thead>
<tr>
<th>Level of RO/CAO and SGO allowances paid to family and friends foster carers?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>24</td>
<td>45%</td>
</tr>
<tr>
<td>Partly</td>
<td>24</td>
<td>45%</td>
</tr>
<tr>
<td>No</td>
<td>5</td>
<td>10%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

The analysis shows that most gave some information about the payment of allowances, but less than half gave full information.

GOOD PRACTICE BOX 13: Solihull, setting out full information about its financial eligibility criteria

The same process and criteria and rates will applied across Child Arrangement Orders, Special Guardianship Orders and Adoption. When Support is payable

Broadly, financial support is payable only in the following circumstances:

(a) Where the local authority consider it necessary to ensure that the carer or prospective carer can look after the child;
(b) Where the local authority considers that the child needs special care which requires a greater expenditure of resources that would otherwise be the case because of illness, disability, emotional or behavioural difficulties or the consequences of his past abuse or neglect;
(c) Where the local authority considers that it is appropriate to contribute to any legal costs associated with the making of the care order;
(d) Where the local authority consider it appropriate to make a contribution to expenditure necessary for the purpose of maintaining and accommodating the child.

- Solihull MBC: Family and Friends Care Policy

6.5 Legal fees

Whether the local authority will help with the cost of legal fees, is not specified in the statutory guidance, but is of great importance to family and friends carers.
Research\textsuperscript{63} shows that family and friends carers often face financial hardship as a direct result of taking on the care of children. Legal costs can be significant and may act as a disincentive to family and friends carers applying for a legal order, particularly when they are ineligible for legal aid.

\begin{tabular}{|l|c|c|c|}
\hline
\textbf{Does the policy address payment of legal fees and expenses?} & \textbf{Frequency} & \% in 2015 & \% in 2012 \\
\hline
Yes & 19 & 36\% & 21\% \\
No & 2 & 4\% & 8\% \\
Not mentioned & 32 & 60\% & 71\% \\
Total & 53 & 100\% & 100\% \\
\hline
\end{tabular}

Our analysis shows that although only two policies stated explicitly that no help is given towards legal costs, the majority of policies did not mention legal fees and expenses at all. However, a comparison with the previous report shows that there has been an increase in the number of policies which do indicate that help with legal costs will be considered in some circumstances. In the previous study, 11 authorities (21\%) indicated that they would consider paying a family and friends carer’s legal fees, all or in part. In the current study this had increased to 19 (36\%).

\textsuperscript{63} Aziz, R., Roth, D. and Lindley, B. (2012) \textit{Understanding family and friends care: the largest UK survey} (London) Family Rights Group
Chapter 7 Other support for family and friends carers: analysis of local policies

7.1 Housing
The statutory guidance makes clear that friends and family carers may need support with accommodation in order to be able to take on the care of a child or a sibling group. Local policies should address the need for housing and social care services to work in partnership to support the housing needs of friends and family carers.  

Table 7-1 Does the policy deal with housing issues?

<table>
<thead>
<tr>
<th>Does the policy deal with housing issues?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>29</td>
<td>55%</td>
</tr>
<tr>
<td>Partly</td>
<td>11</td>
<td>21%</td>
</tr>
<tr>
<td>No</td>
<td>13</td>
<td>24%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Three quarters of the policies indicated that help could be given to those in social housing to apply to move to more suitable accommodation. However, few mentioned that section 17 funding could be made available to assist with housing costs, or that a partnership agreement or protocol had been negotiated with housing providers. A quarter of policies made no reference to supporting friends and family carers to meet their housing needs.

GOOD PRACTICE BOX 15: Brighton and Hove, housing

In Brighton and Hove, a Housing Options group made up of social care services and housing staff meets regularly to ensure that the departments work in partnership to support the housing needs which may face family and friends carers across a range of legal circumstances. The child’s social worker or a family’s supervising social worker can refer to this group. Families can be nominated to a priority allocation system of housing.

Brighton and Hove has the authority under section 17 of the 1989 Children Act to financial support towards accommodation costs where they assess this as the most appropriate way to safeguard and promote a child’s welfare.

- Brighton and Hove City Council: Family and Friends Care Policy

64 DfE (2011) Ibid Paragraph 2.24-2.26
7.2 Supporting contact

The Children Act 1989 states that “Every local authority shall take such steps as are reasonably practicable, where any child within their area who is in need and whom they are not looking after is living apart from his family—

(a) to enable him to live with his family; or

(b) to promote contact between him and his family,

if, in their opinion, it is necessary to do so in order to safeguard or promote his welfare."\(^{65}\).

Where a child is looked after, the local authority must promote contact between the child and their family, unless it is not practicable or consistent with the child’s welfare. The statutory guidance says that local policies should identify services available to family and friends carers to support the management of contact arrangements, and where necessary to offer independent supervision of contact, particularly where there are safeguarding concerns.\(^{66}\)

Table 7-2: Do policies address support with managing contact

<table>
<thead>
<tr>
<th>Do policies address contact?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>28</td>
<td>53%</td>
</tr>
<tr>
<td>Partly</td>
<td>16</td>
<td>30%</td>
</tr>
<tr>
<td>No</td>
<td>9</td>
<td>17%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

The majority of policies analysed do address issues of contact, but many state only that family and friends carers will be given information about facilities for supporting contact, local contact centres and family mediation services. Family and friends carers looking for information on what services exist and how to contact them, or their referral criteria, would often not find this in the policies.

GOOD PRACTICE BOX 16: Sandwell Council, supporting contact

“Sandwell Children’s Social Care have a duty to promote safe contact between children living away from home and their parents and family. Contact arrangements will always be set up to meet the child’s needs. However, it is acknowledged that the management of contact can be a source of considerable anxiety and sometimes conflict for Family and Friends Carers. Under these circumstances, advice and support will be provided to make contact arrangements that reduce anxiety and especially any conflict that may affect the ongoing quality of contact for the child.”

- Sandwell Borough Council: Family, Friends and Connected Persons Policy for Carers
7.3 Family Group Conferences
The guidance says that policies should set out the arrangements to offer a family group conference or other form of family meeting at an early stage, to engage families and support them to identify solutions to difficulties in caring for their children. 67

Table 7-3: Does the policy address family group conferences?

<table>
<thead>
<tr>
<th>Does the policy address family group conferences?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>40</td>
<td>75%</td>
</tr>
<tr>
<td>Partly</td>
<td>5</td>
<td>10%</td>
</tr>
<tr>
<td>No</td>
<td>8</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Our analysis shows that most policies did address family group conferences, though some gave fuller information than others. However 15% did not mention family group conferences, even though family group conferences are seen as an effective method of engaging the support of wider family and friends and enabling children to remain within the extended family. What is of use to family and friends carers is information about the referral criteria and process. Very few policies provided this information.

GOOD PRACTICE BOX 17: Leeds, Family Group Conferences

Where there are support needs or concerns about children’s welfare and those at risk of harm, Leeds City Council will always look within the kinship network for a short-term and / or permanent solution for the child and will offer the family a Family Group Conference to help achieve this. Family Group Conferences are meetings with family members, which aim to achieve the best outcomes for children.

- Leeds City Council: Kinship Care (Family and Friends) Care Policy

7.4 Support groups
The guidance says that support groups for family and friends carers (whether or not the child is looked after) can be effective in reducing isolation, accessing information and providing support. Local authorities should work with partner agencies and the

67 DfE (2011) Paragraphs 4.34-.37
voluntary sector to find ways to encourage peer support and access to support groups.\textsuperscript{68}

Moreover, Special Guardianship Regulations 2005 require the local authority to make arrangements for the provision of support groups for special guardians and prospective special guardians, children subject to special guardianship orders and their parents.

**Table 7-4: Does the policy address the running of local support groups?**

<table>
<thead>
<tr>
<th>Does the policy address the running of local support groups?</th>
<th>Frequency</th>
<th>% in 2015</th>
<th>% in 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>29</td>
<td>55%</td>
<td>14%</td>
</tr>
<tr>
<td>Partly</td>
<td>5</td>
<td>9%</td>
<td>25%</td>
</tr>
<tr>
<td>No</td>
<td>19</td>
<td>36%</td>
<td>62%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Our analysis and comparison with the previous study shows that there has been a marked increase in the number of policies which address the running of support groups. This is a welcome improvement, given the benefits to family and friends carers and children, but still over a third of local authorities did not address support groups, despite them being relatively cheap and easy to set up.

Of those policies which did mention support groups for family and friends carers, 18 were for family and friends foster carers only. Most gave no details about how to access information about support groups, nor who to contact in order to set one up. Only two policies specifically mentioned grandparents in relation to support groups, and none mentioned support groups for children and young people in friends and family care.

**GOOD PRACTICE BOX 18: London Borough Southwark, setting up support groups**

This authority works with other agencies voluntary organisations to find ways to encourage peer support and access to support groups. There are varieties of national support groups: they may be specifically for grandparents, or just informal family and friends carers, or mixed groups. This authority provides support groups for certain groups. Information about existing groups is available on request from either the supervising social worker or the family and friends social worker. Advice about how to set up a new group is available from organisations such as Family Rights Group and The Grandparents Association. See Annex B - Useful Organisations and Information for Family and Friends Carers for contact details.

- London Borough of Southwark: Family and Friends Policy
Specialist support services
Only 15 local authorities mentioned access to specialist services such as Child & Adolescent Mental Health Services (CAMHS) or the Special Educational Needs (SEN) Service. Of these, 5 gave no details about the services offered or how to access them. Information that would be of use to family and friends carers, such as what the services provide and how to access them, was given in only a handful of policies. This represents a missed opportunity to provide information to family and friends carers to enable them to access sources of help and support. As the statutory guidance states, children should not have to become looked after in order to access support.

7.5 Specialist support services
The guidance does not address support for children in family and friends care in schools or other educational establishments, aside from in relation to special educational needs referred to above. However, subsequent to the issuing of the guidance, provision has been made by the Government to give priority school admissions to children subject to a child arrangements order or special guardianship order, who were looked after immediately before the order was made. Enhanced support via the pupil premium is also now available to these children. There is also a right to support for young people in further education who are looked after, and on a

GOOD PRACTICE BOX 19: Leeds, support groups in the area
Leeds Grandparents’ Association provide support groups for kinship carers around the city, including at the prison, and Leeds City Council’s Kinship care team provide monthly support groups for Kinship Foster carers. There is also a regular Support group for Special Guardians which is run jointly by Leeds City Council and Grandparents’ Association.

- Leeds City Council: Kinship Care (Family and Friends) Policy

GOOD PRACTICE BOX 20: NORFOLK, access to specialist services
The child you are looking after may need specialised services and in this case you may need to talk to other professionals about your child; for example, you will need to talk to the child’s school in the first place about any special educational need the child has or to your doctor if your child appears to have mental health problems. A doctor may then make a referral to the Child and Adolescent Mental Health Service for you, if this is needed.

- Norfolk County Council: Policy for family and friends care

The guidance does not address support for children in family and friends care in schools or other educational establishments, aside from in relation to special educational needs referred to above. However, subsequent to the issuing of the guidance, provision has been made by the Government to give priority school admissions to children subject to a child arrangements order or special guardianship order, who were looked after immediately before the order was made. Enhanced support via the pupil premium is also now available to these children. There is also a right to support for young people in further education who are looked after, and on a
discretionary basis, to others with identified needs. Unfortunately, policies rarely addressed how carers could be supported to take advantage of these provisions.

7.6 Support for family and friends foster carers
The guidance says that family and friends foster carers must be fully supported to care for children placed with them, including having access to training to support them in their role. They should not be disadvantaged as a result of their prior relationship with the child.69

Table 7-5 Does the policy address support for family and friends foster carers?

<table>
<thead>
<tr>
<th>Support for family and friends foster carers?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>23</td>
<td>43%</td>
</tr>
<tr>
<td>Partly</td>
<td>21</td>
<td>40%</td>
</tr>
<tr>
<td>No</td>
<td>9</td>
<td>17%</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>100%</td>
</tr>
</tbody>
</table>

Over three quarters of the policies analysed did address support for family and friends foster carers, either fully or partly. However, 17% did not address this, despite the requirement that family and friends foster carers should not be disadvantaged as a result of their prior relationship with the child.

GOOD PRACTICE BOX 21: LB Croydon

Support services to connected person carers
The LA gives an undertaking that children in placement will have an allocated social worker and that all foster carers will have a named supervising social worker. Training, support and advice will be made available to facilitate carers in meeting the needs of the child placed with them. On approval carers will also be joined as members of Fostering Network.

LB Croydon: Family and Friends Carers Policy

7.7 Complaints
The guidance makes clear that local policies should explain or signpost how children and young people, families and friends carers and other relevant people may make a complaint about the service.70

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69 Dfe (2011) Ibid Chapter 5
70 DFE (2011) Ibid Paragraph 4.52-4.54
Almost 90% of policies analysed did include information about how to make complaints. However, most of these included only partial information, for example by omitting to give any information about the rights of children and young people to make a complaint about the service.

### 7.8 Accessibility and relevance

The statutory guidance states that “The policy must address the needs of children in family and friends care, whether or not they are looked after children, and should be clearly expressed, regularly updated, made freely and widely available and publicised by relevant means, such as websites and leaflets.”

This implies that the policy should be written in language that is accessible to family and friends carers, and should, at least in part, be addressed to them. Our analysis showed that many of the policies were written as internal policy and procedural documents aimed primarily at staff. There was often little or no recognition of family and friends carers as an important resource in caring for children and young people, who are often children in need. The best policies were clearly written for family and friends carers, recognising their important role and providing or signposting information about resources to support them in their key task of providing good quality care for children and young people.
Many of the policies seemed to be focussed on gatekeeping, designed to inform friends and family carers of what they were not entitled to and what support, particularly financial support, would not be provided. The best policies were those which recognised friends and family carers as an asset to be nurtured and supported in their important role. In the current climate of financial austerity, with local authorities under increasing pressure to provide effective services with reducing resources, there would be much to be gained from greater promotion and support for family and friends care. Such investment is likely to be effective in terms of outcomes for children. Research confirms that most children in kinship care thrive and do significantly better than those in unrelated care.  

GOOD PRACTICE BOX 22: Camden Council, tone of policy

Sometimes, children who cannot live with their parents are cared for by relatives or family friends. Camden recognises that being cared for by someone they already know is best for children and that is why the council wants to promote family and friends care arrangements.

The council is also aware that family and friends carers are often caring for children under difficult circumstances. The children may have had a poor start in life and so have lots of needs. Carers may have given up work to care for the children, may not have enough space in their home and may be dealing with difficult family relationships.

This policy statement sets out how Camden, through the Family Services and Social Work division (FSSW) will support people who are caring for other people’s children and explains what kind of support they can get.

- Camden Council: Support for Family and Friends Carers in Camden.

GOOD PRACTICE BOX 23: West Sussex, tone of policy

“This policy sets out to help any member of the public who is caring for someone else’s child to understand the legal basis for this care, and how West Sussex County Council may be able to support them. It is also intended to provide advice for professionals who are seeking to advise families or friends about the options available to them.”

- West Sussex County Council: Family and Friends Care

Selwyn et al, (2013) The Poor Relations? Children and informal kinship carers speak out (University of Bristol)
The promotion and development of friends and family care requires effective leadership from within children's services. The policy should not be a static document, but should be reviewed and updated regularly. Unfortunately, there was little evidence in this in our analysis.

Senior managers need to recognise and promote the importance of friends and family care in promoting positive, cost-effective outcomes for children. Family and friends carers must be seen as part of the solution rather than part of the problem. Politicians need to play a key role in championing the development, and implementation of, a successful family and friends care policy. An excellent illustration of this is Leeds City Council, whose scrutiny committee in 2015 is holding an inquiry into family and friends care in the City.
Chapter 8 Local authority policy development check list

The following is an easy to use checklist which we’ve drawn up, in order to assist local authorities to develop and improve their policies. We have based the checklist upon statutory guidance and identified subsequent best practice.

1. Do you have a published friends and family care policy and does it cover all categories of carer, not just connected persons foster care?

2. Is your policy supported by good, local demographic and needs data, developed in collaboration with local partners and with children and young people, family and friends carers and parents?

3. Does the policy make clear the key principles, particularly that support should be based on the needs of the child, rather than their legal status; and that support should be provided to ensure that children do not become looked after, or remain looked after longer than is needed?

4. Does your policy make clear who holds management responsibility for implementing and publicising the policy and give their contact details?

5. Does the policy cover all legal arrangements including
   o informal arrangements with a close relative
   o informal arrangements with friends or other family members which last for a period of less than 28 days
   o private fostering arrangements
   o looked after children placed with foster carers
   o child arrangements order (residence order) or special guardianship order
   o arrangements which may lead to an adoption order.

6. Does the policy give full information about the implications of legal arrangements and local implementation? Does it make clear the implications of case law in determining the legal status and payment arrangements?

7. Does the policy make clear the rights of children, their parents and friends and family carers in planning for children?

8. Does the policy give accurate and up to date information about universal support services and how to access them?
9. Does the policy give information about how to access independent advice from both national and local organisations? Is the contact information up to date?

10. Does your policy set out the circumstances (including eligibility criteria), in which you will provide assistance with legal costs of advice and applying for an order, where relevant.

11. Does your policy give information about benefits and allowances and how and where to seek advice?

12. Does your policy give information about your policy and arrangements for Section 17 payments? Is the information specific to your local authority?

13. Does your policy give information about payments to family and friends foster carers and case law which requires that friends and family foster carers must not be disadvantaged because of their prior relationship with the child?

14. Does your policy deal with support to family and friends carers to meet their housing needs, by support for priority moves, protocols for partnership with housing, financial support for housing costs?

15. Does your policy address support for friends and family carers in dealing with contact, particularly where this may be difficult?

16. Does your policy give information about Family Group Conferences, as a good way of identifying potential family and friends carers and as a requirement as part of proceedings? Does it give information about how to request an FGC?

17. Does your policy give detailed information about local support groups for all categories of family and friends carers, including carers raising children outside the looked after system? If not, does it give information what help is available to set up a support group?

18. Does the policy provide information about support groups for young people raised in family and friends care?

19. Does your policy give information about specialist support services, CAMHS, SEND, what they do and how to access them?

20. Has your policy been developed with child care providers, local schools and colleges in order to enable children in family and friends care to thrive educationally, including providing them and their carers with information about school admissions, pupil premium and support for further education.
21. Does your policy make clear the arrangements for training and support for family and friends foster carers?

22. Does the information on complaints make clear that children and young people, their parents and family and friends carers in all legal arrangements, may complain about the support offered to them and give information about how to do so?

23. Is your policy addressed to family and friends carers, giving them in plain English, the information they need to provide the best care for the children they are caring for?

24. Is there a version of the policy available for children and young people?

25. Is the policy regularly reviewed and updated and is it championed by local politicians, senior managers and partners? What training has been made available to support this?
Appendix A: The legal framework for decision making and support for children in family and friends

Set out are the different legal statuses for children raised in family and friends care. We explain the implications of the orders, including who has a right to make decisions about the child and how support may be accessed.

1. Private arrangements

1.1 What is a private arrangement and what are the implications?

When arrangements for a child to live with a relative or friend are made directly between the parents and the carers and the local authority is not involved, the carer does not have parental responsibility for the child (unless they subsequently apply to court for a child arrangements order or special guardianship order). Whilst the carer has a right to make decisions on most day to day matters they must refer back to the parents or others with parental responsibility for all important decisions about their care. This can be very difficult when there are tensions between the parent and carer or if the parent is absent since they will need their consent to important routine things like medical or dental treatment and school trips.

In these circumstances many carers need to be referred to:

- sources of independent advice and advocacy to find out how they may get parental responsibility, for example by applying to court for a child arrangements order or special guardianship order; and

- family mediation to help them negotiate any difficult issues with the parents. Public funding is available for mediation in this context, although it is means tested.

The local authority is not usually involved in such arrangements unless they are providing support for the arrangement as outlined below. If the family and friends carer is not a local authority foster carer or a close relative (grandparent, aunt, uncle, stepparent or sibling or step sibling) and the arrangement is to last more than 28 days, then it will also be termed a private fostering arrangement. In these circumstances both the parent and the carer are under a duty to notify the local authority which must then investigate, inspect the premises and monitor the arrangement by regular visits.

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73 Parental responsibility is defined as: “All the rights, duties, powers, responsibilities and authority, which by law a parent has in relation to the child and the administration of his or her property.” (s.3(1) CA 1989). This includes consent to medical/dental treatment and school trips, what religion they will follow, agreeing to the child being taken outside the UK etc. One or more people can have parental responsibility at the same time.
74 s.3(5) Children Act 1989
75 ss. 2 & 3 Children Act 1989
76 They can be referred to Family Rights Group’s free confidential advice service on 0808 801 0366 open 9.30-3.00 Mon-Fri or email advice@frg.org.uk. They may also be signposted to FRG’s advice sheets http://www.frg.org.uk/need-help-or-advice/advice-sheets
77 This is the definition of ‘relative’ set out in s.105 Children Act 1989
1.2 Financial support for private arrangements
The starting point is that the parents remain legally liable to support their child; the family and friends carer is not legally liable to maintain the child. However, the very nature of these placements (which commonly arise out of parental tragedy, trauma or abuse) means that the parents are often unable to provide for their child. The only other sources of financial support for family and friends carers’ in a private arrangement are:

- state benefits, including child benefit and certain means tested benefits and tax credits to which they may be entitled if the carer is on a low income or is not working, and,
- if the child is assessed as being in need under s.17 Children Act 1989, they may be able to get discretionary support from the local authority under s.17 (6). This can include cash payments, so that both one off and ongoing cash help can be given to family and friends carers provided the child is deemed to be in need. The statutory guidance on family and friends care says that the
  - ‘local authority should have in place clear eligibility criteria in relation to the provision of support services under section 17, including financial support to children living with family and friends carers’. And
  - ‘where financial support is offered, a written agreement should be drawn up detailing the level and duration of the support that is to be provided, and the mechanism for review, to ensure that all parties remain clear about the arrangements’.

1.3 Support for young people in further and higher education
Children in private family and friends care arrangements may receive some financial help with further and higher education:

- **Further education**: There is a '16 to 19 Bursary Fund' (which replaced Education Maintenance Allowance) for 16-19 year olds who stay on in further education after GCSEs.
  - **Discretionary bursary** - If the child is not looked after by the local authority, the young person can apply to their school or college for the bursary but there is no right to it – it is administered by schools and colleges on a discretionary basis for students in non-advanced education (i.e. below degree level).

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78 s.1 Child Support Act 1991
79 For more detailed information see FRG advice sheet Support for relatives and friends who are caring for someone else’s child [http://www.frg.org.uk/need-help-or-advice/advice-sheets](http://www.frg.org.uk/need-help-or-advice/advice-sheets)
80 DfE, Statutory Guidance on Family and Friends Care (2011), para 3.7
81 DfE (2011) Ibid paragraph 4.23
- **Vulnerable student bursary** - Some young people who are living in a private family arrangement may have a right to the £1200 per year payment – if they are disabled (getting both ESA and DLA).\(^{82}\)

- **Higher Education** - A student applying for university financial support is assessed on the basis of their own and their parents’ household income. A parent is defined as a *natural or adoptive parent*, so it does *not* include any other type of carer. This means that the income of a family and friends carer under a private arrangement will not be taken into account unless they have adopted the child. The young person will still be financially assessed on the basis of their parents’ household income, even if they do not live with them, unless they are classed as an *independent student*\(^{83}\). If the student is an *independent student* they will be financially assessed on their own income.

### 1.4 Practical and emotional support

The local authority must also provide *other practical and emotional support* to children who are assessed as being *in need* in their area under s.17,\(^{84}\) including those in family and friends care. However, how this is applied in individual cases depends on the local authority assessing their needs to decide both if they fall within their eligibility criteria to receive services under s.17 and what services would be appropriate to meet those needs. The statutory guidance on family and friends care specifically states that the eligibility criteria for s.17 support should include criteria for when that support is available for children living in family and friends care.\(^{85}\). The kind of services they can provide include:

- **Counselling and social work support** for the child;

- **Day Care** which could include day nurseries, playgroups, child minding, and out of school clubs;

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\(^{82}\) See: https://www.gov.uk/1619-bursary-fund for more information.

\(^{83}\) A young person is treated as ‘independent’ where they are estranged from their parents (in the opinion of the Secretary of State), or their parents have both died, or they were looked after by Children’s Services for 3 months ending on or after their 16th birthday and before the first day of their further education course. The ‘independent student’ category is decided on a case by case basis, depending on the particular circumstances of that family. Usually a young person will not be considered estranged from their parents unless they have had no contact for more than one year, or can show in some other way that their relationship with their parents has broken down irreconcilably. Further information can be found at https://www.gov.uk/browse/education/student-finance

\(^{84}\) s.17(1) Children Act 1989

• **Advice and guidance** for example about services available in their area including childcare, nurseries, schools, colleges, leisure facilities etc.\(^{86}\); and also signposting to advice about benefits and tax credits\(^{87}\)

• **Help with contact arrangements** to enable the child to stay in touch with members of the family whilst they are in family and friends care. This can include financial help and also being referred to contact centres and mediation services where support is needed to help resolve contact difficulties or adjust the arrangements.\(^{88}\) If the carer is not eligible for public funding, help with the costs of mediation could be given out of the s.17 (6) budget.

• **Help with accommodation:** This should include help to obtain suitable accommodation with the housing and social care departments of the local authority working together to ensure that family and friends carers housing needs are prioritised to avoid the child becoming unnecessarily *looked after* (i.e. going into local authority care)\(^{89}\). It could also involve Children’s Services giving the family and friends carer financial help with the deposit to rent a bigger flat where their existing accommodation is too small to include the child, again out of the s.17(6) budget.

• **Respite accommodation** whereby the child may go to stay with unrelated foster carers for a short period, with the agreement of the parent or someone else with parental responsibility, in order to give the family and friends carer a break from their caring responsibilities. This service is most frequently available to disabled children on a ‘short break’ basis, but children’s services can provide respite accommodation for any child in need who would benefit from this if they meet the criteria in s.20.\(^{90}\)

• **Support groups** for family and friends carers.\(^{91}\) The local authority should publish information about these services, and how they can be accessed, in leaflets and on websites and should make sure that they are disseminated through a wide range of agencies. They should also appoint a senior officer who is responsible for ensuring that all staff are trained and are sensitive to the needs of family and friends carers, both in the local authority and in other agencies. This person will be accountable for any failings of the local authority to have and implement such a family and friends care policy. There is no requirement to have a dedicated...

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\(^{86}\) DfE (2011) Ibid paragraphs 4.15-18  
\(^{87}\) DfE (2011) Ibid paragraph 4.20  
\(^{88}\) Sched 2 para 10 Children Act 1989 and ibid paras 4.27-33  
\(^{89}\) DfE (2011) Ibid paragraph 4.24  
\(^{90}\) s.20 Children Act 1989  
\(^{91}\) DfE (2011) Ibid paragraphs 4.38 –4.41
kinship or family and friends care team but the statutory guidance suggested that this may be helpful.\textsuperscript{92}

1.5 What about children who are placed with family and friends carers by the social worker but are then treated as though they are in a private arrangement?
When there is a crisis in the parental home and there is a risk to the child’s safety and well-being, the local authority is likely to be involved in making sure plans for the child are safe and that their well-being will be promoted. This may be in the context of child protection enquiries\textsuperscript{93} and/or they may refer the family to a family group conference.\textsuperscript{94} It is increasingly common practice in these circumstances for the local authority to ask relatives or friends to look after a child without any court proceedings being initiated and sometimes without the parents being actively involved in making the arrangement. Such placements may be made in an emergency, with little or no planning, yet frequently become the long term or permanent arrangements by default.

Such arrangements can be problematic for family and friends carers. It is common for the local authority to argue that the child is in a private arrangement, that they do not need to remain involved and that, as a result, they are not under any legal duty to provide financial or other support to the placement.\textsuperscript{95} This leaves the carer unclear as to what they are allowed to decide about raising the child since they do not have parental responsibility for the child and it also removes their right to support from the local authority and leaves them dependent on discretionary support.

This practice has been held to be unlawful: 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 should be treated as being looked after by the local authority,\textsuperscript{96} although obviously parental consent or a care or emergency protection order must also be obtained. In such circumstances, the family and friends carer should be treated as a local authority foster carer and should be assessed and

\textsuperscript{92}DfE (2011) Ibid paragraphs 4.9 and 4.12
\textsuperscript{93}s.47 Children Act 1989
\textsuperscript{94}Further information about FGCs can be found in FRG advice sheet on Family Group Conferences http://www.frg.org.uk/need-help-or-advice/advice-sheets
\textsuperscript{96}Southwark LBC –v– D [2007] 1 FLR 2181; A–v– Kent Local Authority [2011] EWCA 1303
approved as such. They should also be entitled to receive a fostering allowance and support to care for the child. This is discussed further under section 4.

However many local authorities still seek to avoid this legal status for the child, at least in part because of the resource commitment involved. Family and friends carers in this situation should be referred to sources of independent legal advice as a matter of urgency.

2. Child arrangements orders (saying who the child should live with)

2.1 What is a ‘child arrangements order’?
These are private law orders, which means that it is an order made by the court on the application of a private individual to settle the arrangements about where a child should live – the local authority is not usually involved. A ‘child arrangements order’ must specify either who the child should live with (formerly a ‘residence order’) or, who the child should spend time with (formerly a ‘contact order’).

2.2 What are the implications of having a child arrangements order (saying who the child should live with)?
A family and friends carer who wishes to have more autonomy over their care of the child often decides (sometimes with the encouragement of the local authority) to apply for a child arrangements order. The local authority can provide financial assistance towards the legal costs incurred out of their s.17(6) budget but again this is discretionary.

A child arrangements order can direct who a child will live with and confers parental responsibility on the person in whose favour the order is made. It normally lasts until the child is 18 unless it is revoked or otherwise specified by the court.

Unless a court order specifically says otherwise, a family and friends carer with a child arrangements order saying the child should live with them may make most

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97 Emergency assessments of family and friends carers would take place under Reg 24 CPPCRR; full fostering assessments are conducted in accordance with Regulation 3 Fostering Services Regulation 2011.
98 s.22C Children Act 1989
99 They can be referred to Family Rights Group’s free confidential advice service on 0808 801 0366 open 9.30-3.30 Mon-Fri or email advice@frg.org.uk, or to a specialist child welfare solicitor: contact Solicitors Regulation Authority, Ipsley Court, Redditch, Worcestershire B98 0TD Telephone: 0870 606 2555 http://www.sra.org.uk/consumers/find-use-instruct-solicitor.page; or The Law Society of England and Wales, 113 Chancery Lane, London WC2A 1PL Tel: 020 7242 1222 Minicom: 0870 600 1560 Fax: 020 7831 0344 E-mail: info.services@lawsociety.org.uk www.lawsociety.org.uk or search their website for local solicitors who are members of the Children Panel: http://www.lawsociety.org.uk/choosingandusing/findasolicitor.law
100 S.17(6) Children Act 1989
101 The court can make a prohibited steps or specific issue order to determine a particular question relating to the exercise of parental responsibility for the child (s.8 Children Act 1989). A parent has a
important decisions about the child’s care, for example regarding contact arrangements and can also consent to dental and medical treatment, school trips etc. However they may not take the child outside the UK for longer than one month without the consent of everyone else with parental responsibility. Also, they may not appoint a testamentary guardian for the child which can leave carers worrying about what may happen to the child after they die.

The child’s parents have a right to apply to court to revoke a child arrangements order. They can also apply to the court for a prohibited steps order or specific issue order (s.8 CA) to ask the court to decide how parental responsibility should be exercised by the carer in relation to a particular issue that is in dispute. This opens up the possibility of the parent challenging the carer about key decisions relating to the child’s care, such as medical treatment.

### 2.3 Child arrangements orders and support

In terms of support, the position is similar to private arrangements (see Appendix A 1.2). The parents are legally liable to support the child financially and the carer with the child arrangements order (saying the child should live with them) is not, although they may end up having to do so in practice. The carer with the child arrangements order may be entitled to:

- state benefits, including child benefit, certain means tested benefits and tax credits, depending on their circumstances;
- if the child is assessed as being in need, the carer and the child may receive discretionary financial and other support from the local authority under s.17;
- a child arrangements order allowance which the local authority has a discretionary power to pay. Case law confirms that this can be paid by the local authority even if it was requested by the carer after the child arrangements order was applied for.

### 2.4 Child Arrangement Orders: Support for children in school

If it is necessary for the child to change school as result of their new living arrangements, they may be entitled to priority school admission. If the child was looked after immediately before the child arrangements order was made, they must be given the highest priority if the school is over subscribed. In addition, if the child was previously looked after, the school will be entitled to £1,900 of Pupil Premium funding.

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right to apply for such an order, hence they have the ability to make a legal challenge of the carer’s decisions which can be undermining for the carer.

102 Re B (A Child) CA (Civ Div) 24/7/2007
103 Sched 1 para 15 Children Act 1989
104 R(H) –v- Essex CC [2009] EWHC 353
105 Para 1.7 School Admissions Code, Dec 2014
2.5: Children Arrangements Orders: Further and Higher Education
The position regarding support for further and higher education is the same as for private arrangements as set out under Appendix 1.3 above.

3 Special guardianship orders

3.1 What are the implications of having a special guardianship order?
Family and friends carers, who wish to seek a more permanent legal arrangement for a child, are increasingly choosing to apply for a special guardianship order (often with the support of the local authority). A special guardianship order lasts until the child is 18 unless it is revoked by the court. It gives the carer parental responsibility for the child which they may exercise to the ‘exclusion of anyone else with parental responsibility’\(^{106}\). This means that the special guardian can make most decisions about the child without referring back to the parents and they can also appoint a testamentary guardian to look after the child if they die\(^{107}\). However they still need the consent of everyone with parental responsibility or the permission of the court in certain circumstances:

- to change the child’s surname,
- to remove the child from the UK for more than 3 months, and
- where parental consent is required by law (e.g. marriage between 16-18)\(^{108}\).

A special guardianship order is more secure legally than a child arrangements order (saying who the child should live with) because a parent cannot apply to revoke it unless they have the permission of the court and they will not get this permission unless they have evidence of a significant change in circumstances since the order was made\(^{109}\). However, unlike an adoption order, a special guardianship order does not sever the legal relationship between the child and his/her birth family.

3.2 Special guardianship orders and support
In terms of support for the arrangement, the position is similar to private arrangements in that the parents are legally liable to support their child financially and the person with the special guardianship order is not, although they may end up having to do so in practice. A carer with the special guardianship order may be entitled to:

- state benefits, including child benefit, other means tested benefits and tax credits, depending on their circumstances

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\(^{106}\) s.14C(1)(b) Children Act 1989. But, a parent retains the right to apply to the court for a prohibited steps order or specific issue order (s.8 Children Act 1989) to ask the court to determine how parental responsibility is exercised in relation to a particular issue which is in dispute, but the court is less likely to grant such an order because of the exclusive nature of the special guardian’s parental responsibility.

\(^{107}\) s.5 Children Act 1989 as amended by s.115(4) Adoption and Children Act 2002

\(^{108}\) S.14C Children Act 1989

\(^{109}\) s.14D(3)(b) Children Act 1989
• if the child is assessed as being in need, the carer and the child may receive discretionary ongoing financial and other support from the local authority under s.17 CA.

In addition, the local authority has a duty to establish special guardianship support services\(^{110}\), including financial assistance and other support services. This can include help with contact, support groups and assistance with legal costs.

This does not mean an individual carer is entitled to a specific service, it will depend upon eligibility criteria and an assessment of needs. The local authority should therefore have in place a special guardianship financial support scheme, with clear eligibility criteria. The scheme should cover payment of a regular income set at the level of fostering allowances to support the placement\(^{111}\), subject to a means test\(^{112}\).

As stated above, an individual child or carer’s access to these services will depend on an assessment of need. If the child was looked after immediately before the special guardianship order was made, the carer and child have a right to have their support needs assessed; but in all other cases, although there is a strong expectation that the local authority will carry out an assessment, this is identified in statutory guidance as being discretionary\(^{113}\). In all cases, whether or not services are provided to meet the identified needs of a special guardian is a matter for the local authority’s discretion informed by their assessment of need and detailed statutory guidance\(^{114}\). When setting the rate at which special guardian support is paid, children’s services should be guided by the amount of the foster care allowance they would pay if the child was being fostered\(^{115}\).

3.3 Special Guardianship: Support for children in school
If it is necessary for the child to change school as result of their new living arrangements, they may be entitled to priority school admission. If the child was looked after immediately before the child arrangements order was made, they must be given the highest priority if the school is over subscribed\(^{116}\). In addition, if the child was previously looked after, the school will be entitled to £1,900 of Pupil Premium funding.

3.4 Special Guardianship: Further and higher education
The position regarding support for further and higher education is the same as for private arrangements as set out under Appendix A 1.3 above.

\(^{110}\) s.14F Children Act 1989
\(^{111}\) Regulation 3, 6, 8, 9, 10 & 13 Special Guardianship Regulations 2005 (SGR)
\(^{112}\) R (on the application of B)(Claimant) –v- Lewisham LBC and MB [2008] EWHC 738
\(^{113}\) Regulation 11 SGR
\(^{114}\) Regulation 12-16 SG
\(^{115}\) SG Guidance para 65 and R(B)v Lewisham LBC (2008) EWHC 738
\(^{116}\) Para 1.7 School Admissions Code, Dec 2014
In addition, if the child was looked after in the care system before the Special Guardianship Order was made, the local authority should also provide advice and assistance including financial support to the young person after they reach 18.  

4 Children who are looked after by the local authority and placed with family or friends:

4.1 Who is a looked after child?  
A child is looked after when they are in care under a care or emergency protection order or when they are in local authority accommodation by voluntary agreement with the parents/those with parental reasonability. The vast majority (around 95%) of children in family and friends care are not looked after.

4.2 Priorities for deciding where a looked after child should be placed  
When a child is looked after in the care system, the local authority must first of all consider making arrangements for the child to live with their parents or others with parental responsibility, subject to essential checks being made, unless to do so would be contrary to their welfare, or is not reasonably practicable. But if they are unable to make such an arrangement, then, provided it is consistent with the child’s welfare, they must place the child with relatives, friends or other people connected with the child, who are approved as local authority foster carers, in preference to unrelated foster carers, children’s homes or other statutory placements. Such carers will be assessed under the Fostering Services Regulations 2011 and the National Minimum Standards for Foster Care 2011.

4.3 Emergency placements with family and friends carers  
It is possible to place a looked after child with a relative, friend or other ‘connected person’ in an emergency. These emergency arrangements can last up to 16

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117 s.14F (1) s.24 (1)A Children Act 1989 and Regulation 22 Special Guardianship Regulations 2005  
118 s.22(1) Children Act 1989  
119 Add ref  
120 Reg 15-20 Care Planning, Placement and Review Regulations 2010  
121 s. 22C(2),(3)&(4) Children Act 1989. Following current case law, if a child was to live with a parent etc under these arrangements, they would no longer be ‘looked after’ unless they were the subject of a care order or interim care order - see GC v LD, DD, RBK, LCC [2009] EWHC 1942 (Fam) for review of case law on this point  
122 s22C (5)(6) & (7) Children Act 1989  
123 As of 1 April 2015 there is a new duty on local authorities to require the authority to carry out an assessment of support needs before a child returns home from care. (The Care Planning & Fostering Miscellaneous Amendment Regulations 2015, plus associated guidance (forthcoming))  
124 Reg 3 Fostering Services Regulations 2011  
125 Reg 24 Care Planning, Placement and Review regulations 2010
weeks (and in exceptional cases they can be extended to 24 weeks) during which time the carer needs to be fully assessed and approved as a foster carer\textsuperscript{126} in order for the placement to continue beyond that time. However there is a requirement for detailed checks to be undertaken for any emergency placements.\textsuperscript{127} These do not necessarily have to be completed before the child goes to live with the carer but where this has not been possible, they must be done within days of the placement starting\textsuperscript{128}.

A relative or friend caring for a child in this context is required to enter into a fostering agreement with the local authority which includes mutual expectations and terms of the placement, including social work and other support to be provided. They are able to make decisions about day to day care but, in relation to important decisions about the child’s upbringing, must refer back to the local authority. This can seem quite onerous for a relative or friend caring for a child as they have little autonomy, but it reflects the fact that in such an arrangement they are a local authority foster carer and they do not have parental responsibility for the child.

\subsection*{4.4 Decisions and plans for looked after children}

The child’s needs, and how they will be met, should be set out in the child’s care and placement plans. The placement plan should specifically include details of contact arrangements including with parents, grandparents and the child’s other siblings, the financial arrangements for the placement and any delegated authority the carer has been given. For example, they may be given specific authority to agree to a child staying overnight with a friend without having to refer back to the social worker. If the child is accommodated voluntarily, the child’s care plan must be agreed with a parent or someone with parental responsibility or the last person caring for the child or the young person themselves if aged 16 or over.\textsuperscript{129} However if they are in care under a court order the local authority should consult with parents/others with parental responsibility but they do not need their agreement to the plan.

\subsection*{4.5 Support for looked after children}

In terms of support, family and friends foster carers have the same right to financial and other support as unrelated foster carers although there is discretion as to how much is paid, subject to the minimum allowances for fostered children in England\textsuperscript{130}. This is confirmed by the Manchester case\textsuperscript{131} in which Munby J (as he was then) held that is unlawful to discriminate against family and friends foster carers by paying them a lesser amount as a fostering allowance than unrelated foster carers.

\begin{footnotes}
\item[126] Again, this assessment is in accordance with the Fostering Services Regulations 2011 and the new National Minimum Standards for foster care (2011).
\item[127] Sched 4 Care Planning, Placement and Review regulations 2010
\item[128] Ibid para 5.5
\item[129] Reg 4 Care Planning, Placement and Review regulations 2010
\item[130] s22B and 22C(10) Children Act 1989
\item[131] 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
\end{footnotes}
4.6 Support for looked after children in school

If it is necessary for the child to change school as result of their new living arrangements, they will be entitled to priority school admission. The school will be entitled to a Pupil Premium of £1,900 of funding.

4.7 Looked after children: further and higher education

The child is also entitled to a mandatory grant of £1,200 per year for further education and, provided they fall into one of the categories outlined in the Children (Leaving Care) Act 2000, support with higher education including vacation accommodation and a higher education bursary of £2000.\textsuperscript{132}

\textsuperscript{132} For further information see FRG advice sheet Support for relatives and friends caring for someone else’s child and Support for young people leaving the care system \url{http://www.frg.org.uk/need-help-or-advice/advice-sheets}