



**Briefing for 2nd Reading of the Children and Young
Persons Bill**
***Children on the brink of care including children being
raised by family and friends carers***

Family Rights Group welcomes the Bill that is being presented before the House of Lords. We are particularly pleased the Government has listened to the experiences of families by:

- removing the phrase 'exceptional circumstances' from s.17 (6) support, thus enabling local authorities to have the flexibility to provide support to families with children in need, including the unfettered discretion when necessary to provide cash payments.
- enabling grandparents and other relative carers who have been caring for a child for at least a year to apply for a residence or special guardianship order, without having to seek the leave of court

We do however believe that the Bill could be significantly strengthened in order to support more very vulnerable children, who are on the brink of care, to be safely raised within their families. We are particularly disappointed about the absence of proposals to provide a national support framework for family and friends carers including financial support to grandparents and other family members who are raising children who cannot live with their parents. These children have similar behaviour and emotional difficulties to children living with unrelated foster carers. Yet family and friends carers are significantly more impoverished, more likely to be living in overcrowded accommodation, in worse health and are older than unrelated foster carers. Despite the vulnerability often of both children and carers, many of these families neither receive financial nor practical support, for example such carers are significantly more likely to be left alone to manage contact arrangements despite the considerable strain it can place on such placements and is to the detriment of the child¹.

The rest of this briefing sets out steps that could and should be taken.

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¹ Farmer E and Moyers S (2008 forthcoming) *Kinship Care: Fostering Effective Family and Friends Placements*, Jessica Kingsley

A. Supporting family and friends care

The system for supporting family and friends care needs to be fundamentally revised. Family and friends carers support needs fall into two categories which should be addressed in distinct ways:

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

There is a full discussion of our proposal in a separate briefing from the Kinship Care Alliance (which can be downloaded at http://www.frg.org.uk/policy_papers.html). However here is a summary of what we are seeking to improve the support to family and friends carers.

1.1 Meeting immediate short term needs of children and carers

We are seeking an amendment to the definition of who is a child in need to include children being raised by family and friends carers – this could be achieved by amending s.17 (10) to include *(d) children being cared for by family members or friends*

The immediate short term support needs of children with family and friends carers are best met by such carers having a prima facie right to assessment of their needs under s.17 Children Act 1989, as is the case for disabled children.

The proposed amendment to the definition of a child in need would enable family carers to have better access to immediate support particularly where they have stepped in to care for a child or a group of siblings in a crisis without having the opportunity to reflect on the details of how they will manage and where the child(ren) has acute needs as a result of earlier abuse.

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

Currently, the only way in which such carers can be guaranteed access to the support they need is for the child to remain a 'looked after' child i.e. to remain formally in the state care system. Yet there may be no other good reason why the child needs to stay in care. Hence in order that children do not remain in state care unnecessarily, we are seeking a new duty be placed on local authorities to provide a family and friends care support service for family and friends carers who have an established caring arrangement. This would mirror the framework introduced for special guardianship support services and would be available irrespective of the legal status of the child where a relative or friend took on the care of a child with the intention that it should last for more than 28 days. It would entail:

- i. The local authority being under a duty to establish family and friends care support services, including commissioning services from the voluntary

sector. This would be consistent with the duties introduced under the Adoption and Children Act 2002 in respect of adoption and special guardianship.

- ii. Such services to include support groups for carers, to combat the isolation many find themselves in when taking on a parenting role and dealing with the complex needs of vulnerable children which they had not planned for.
- iii. Support for contact arrangements
- iv. Respite care
- v. Therapeutic support
- vi. In recognition of the longer term and on-going support that may be entailed, a right for individual children and families to an assessment of their needs and access to such support services. These should reflect the services the family themselves view as necessary and should be available where the arrangement is or is intended to be for longer than 28 days.
- vii. Improved communication, co-ordination, understanding and prioritisation of the needs of these children and their birth families, including carers by public agencies including schools, CAMHS, and housing and between adults and children's services, for example in addressing the impact of parental alcohol and substance misuse;
- viii. Cash help, including help with the costs of contact and applying for a legal order to secure the placement of a child with them.

1.3 Financial support:

In law, at least, relatives and friends are not financially liable for the children they are raising. Therefore it follows that the core financial needs of caring for such children should be met by central government. We are therefore seeking a new provision that there should be a national non-means tested financial allowance to cover the real costs of raising a child should be paid to relatives or other persons already connected to the child², who takes on the care of a child for more than 28 days continuously in the following circumstances:

- a) Where the child comes to live with the carer as a result of plans made within a section 47 child protection enquiry³; or
- b) Where a child comes to live with the carer following a section 37 investigation;
- c) Where a carer has secured a Residence Order or Special Guardianship Order to avoid a child being looked after, and there is professional evidence of the impairment of the parents' ability to care for the child; and/or
- d) Where the carer has a Residence Order or Special Guardianship Order arising out of care proceedings; or

² This could include family friends.

³ The status of the arrangement might be that the child is looked after if the local authority has made the arrangement (see R V Southwark) or it may be a private arrangement under the auspices of section 47 planning

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

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

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

2. Promoting and arranging family and friends care:

2.1 *Duty to offer Family Group Conferences before child looked after:*

We are seeking a new duty on local authorities to offer a family group conference to every family where there is a strong likelihood of a child becoming looked after. This would be achieved by inserting a new s.22(4)(A) with the following wording:

Before making any decision with respect to a child whom they are proposing to look after the local authority shall, unless it is not reasonably practicable or consistent with the child's welfare, offer the child's family a family group conference to enable them to make a plans for their child.

Family group conferences are family-led decision making meetings at which parents, relatives and friends following significant preparation by an independent co-ordinator, develop a plan for the child's care which addresses child welfare or protection concerns as identified by the local authority. The child is supported to be involved in the meeting and the family plan is approved by the local authority if it addresses satisfactorily the welfare and safety concerns.

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

- Ø As a means of engaging the family to identify and support care arrangements for vulnerable children and their parents and identify alternative care arrangements where the parent cannot continue to look after the child, including identifying necessary support packages required for such a plan to work.
- Ø As a preventative measure to avoid a child being received into state care prior to legal action being undertaken (other than in emergencies)
- Ø As a means of planning for the child to return home to their family network from state care wherever possible prior to permanent plans being made
- Ø Prior to 'pathways' planning for children leaving local authority care

Recent research that found that family and friends placements were only initiated by social workers in 4% of cases, with the vast majority of placements being initiated by relatives and friends⁴. There is therefore clearly scope to improve practice to increase the number of family and friend placements FGCs are an effective way of

⁴ Farmer and Moyers, ibid

enabling family members to be come forward to care for child, if the child cannot live at home. The number of family group conference taking place in England and Wales is increasing and we welcome the commitment in the *White Paper Care Matters: Time for Change* to develop capacity to deliver FGC services, nevertheless whether or not a family is offered a family group conference is currently dependent upon where they live and who their social worker is. In other words it is a postcode lottery. We believe it should be the right of every child to know that it hasn't been removed from his/her family, without the state fully exploring options for the child to remain safely within its wider family network.

3. Duty to allow contact with siblings in care:

The findings of a new study⁵ reiterates earlier research that a significant minority of children in care (37%) feel that they do not see enough of their siblings.

We believe that the best way to address this would be to add the term '*sibling*' to the list of people with whom the local authority should allow children in care to have contact in s.34 (1) CA. This would ensure that the local authority had to arrange contact with siblings, and that they could only refuse such contact where authorised to do so by the court.

There should also be associated guidance to reinforce the requirement to promote contact for all-looked after children including those who are accommodated with siblings and other important relatives, since the same survey reveals that 49% of children in care feel they did not see enough of other significant family members.

⁵ Timms J, Bailey S and Thoburn J (2007) '*Your Shout*' (NSPCC)