

Written evidence from Family Rights Group (GRC0025) June 2020

Executive Summary

We are extremely grateful to the Petitions Committee in this inquiry into an extension of maternity leave during the crisis, also being willing to recognise the experiences of adopters and kinship carers who have recently taken on the care of children who cannot remain safely with their parents.

Kinship carers are family members, such as grandparents, aunts, uncles, brother or sisters, or friends who are raising a child who cannot remain at home. The reasons why the child may be living with the relative or friend vary, with parental domestic abuse, mental ill-health, substance misuse or death often being a factor. Kinship care forms a vital part of the children's social care system. There are different legal arrangements under which the child may be living with the kinship care, including special guardianship orders. Despite different legal arrangements, there are many important commonalities that often feature in kinship care arrangements.

Children who move to live in kinship care have often experienced tragedy or trauma. They may have gone into unrelated care for a period or moved straight to the kinship carer. It may be a planned move but often, especially during the current crisis, the child may have moved in an emergency. The nature of kinship care does mean there is already a familial or relationship link between the carer and the child, however the transition for both the child, the carer and other members of the household, can be very demanding.

Our exercise of evidence gathering on behalf of the Parliamentary Taskforce on Kinship Care has made the need for better support provision for kinship carers very clear and this need is further heightened in the current crisis.

It is our belief that the arrangements for maternity leave for parents and parental leave afforded to adoptive parents, should also be available to kinship carers who are permanently raising children who the court, local authority or professionals have determined cannot live with their parents.

Who we are and why we are responding

Family Rights Group is the charity that works with parents in England and Wales whose children are in need, at risk or are in the care system and with members of the wider family who are raising children unable to remain at home. We advise parents, grandparents, other relatives and friends about their rights and options when social workers or courts make decisions about their children's welfare.

We campaign for families to have their voice heard, be treated fairly and get help early to prevent problems escalating. We champion policies and practices that keep children safe within their family and strengthen the family and community support networks of children in the care system.

The charity convenes a kinship carers' panel, runs a freephone specialist legal advice line for families involved in the child welfare system, hosts and moderates an online discussion forum

for kinship carers and has extensive advice resources for kinship carers on its website. It also conducts research into kinship care, and provides the secretariat, including legal and policy support to the Kinship Care Alliance and to the Parliamentary Taskforce on Kinship Care (in conjunction with Catherine McKinnell MP's office).

We are aware that the Petitions Committee inquiry on Coronavirus and the consideration of a petition for the extension of maternity leave has also focused on the leave rights of special guardians. Our experience of working with kinship carers has revealed the pressures on kinship families who take on the care of children. The provision of paid care leave, akin to adoption leave, for special guardians and other kinship carers is something we have been calling for. This evidence supports that case.

Kinship care

There are around 200,000 children in the UK who do not live with their parents but are being raised by relatives, such as grandparents, or friends. By stepping in and keeping children within family and friends networks, kinship carers are a vital element of our children's social care system. These children may not be able to live with their parents for many reasons, including the death of a parent, imprisonment, parental mental or physical ill-health, learning disabilities, domestic abuse, substance misuse or other factors.

Kinship carers are akin to foster carers and adopters although often without comparable support or recognition for their contribution to the welfare of children and the money they save the taxpayer. Central to work of the Parliamentary Taskforce on Kinship Care is the principle that where it is safe to do so, family should always be the first point of call for children who cannot live with their parents.

Research indicates that outcomes are positive for most children living in kinship care, and considerably better than for children in unrelated foster care. Children in kinship care are more likely to be securely attached to their carers, feel that they belong with their carers, and confident they will be able to stay living with them long term. They have a greater sense of identity and their culture. Similarly, kinship carers consistently demonstrate a level of commitment to the children they are raising.

Around half of kinship carers are grandparents – analysis of the 2011 census shows 51% of children in kinship care were living in households led by grandparents. A proportion of this group of people will be over the age of 70.

Surveys have shown that across the age groups of kinship carers, kinship carers are more likely to be suffering from chronic health conditions than the wider population. In Family Rights Group's 2019 survey: "the Highs and Lows of kinship care", a quarter of respondents had a limiting long-term illness or disability, putting them at greater risk if they contract the virus.

Children who are raised by kinship carers typically move to live with them in circumstances of trauma or tragedy within their family. The support that these families receive depends largely on the legal arrangement or what legal order that child is subject to. A child may live with a kinship carer under one of the following legal arrangements or orders:

- **An informal or private family arrangement, where there has been no involvement of children's services or the court** – the kinship carer does not have parental responsibility for the child, nor are they entitled to receive any specific form of support from children's services.

- **Family and friends foster carers** - If children's services have 'placed' a child with a relative, friend or other connected person, then that person does not have parental responsibility for the child, but may be recognised as a family and friends foster carer (or 'kinship foster carer'). The role that children's services had in placing the child will determine the extent to which children's services owe a duty to assess and support the carer.

A kinship carer can be a temporary foster carer once initial checks have been undertaken, to allow for a child to be placed with them immediately, rather than having to spend time in unrelated local authority care. A full assessment must be conducted within 16 weeks of the child being placed (this may be extended for a further 8 weeks in specific circumstances)¹.

Any kinship carer who is approved as a foster carer (whether it is temporary or full approval) should receive a fostering allowance for any looked after child in their care. This must be paid at the same rate as unrelated foster carers. The child is looked after, and entitled to the same support as other children in the care system.

- **A child arrangements order, which specifies that the child is to live with the kinship carer (or a residence order)** - this order gives the kinship carer parental responsibility for the child, which is shared equally with the parents. Children's services may have been involved in assessing the placement, or may have arranged the child to live with the kinship carer and supported them to obtain a child arrangements order. In this scenario, the kinship carer may receive a child arrangements order allowance² (children's services have the power to make these payments to support a placement, but do not have to). Such allowances are means tested and regularly reviewed.
- **Special guardianship order** – a special guardianship order is a long-term order which aims to secure a child's home with someone who is not their parent, until they turn 18. Special guardians have an enhanced form of parental responsibility, which they can use to the exclusion of the parents.

Special guardians should be rigorously assessed, and the court cannot make a special guardianship order without a report prepared by children's services. The Special Guardianship Regulations 2005 set out in detail the matters which must be covered in the suitability report. Special guardianship orders are made most commonly in the context of care proceedings, with the court making the order of its own motion, rather than the family member or friend specifically applying for the order.

In terms of support, as part of the special guardianship assessment, the local authority should consider the child and special guardian's support needs. The Children Act 1989 sets out the local authority's obligations to make arrangements in their area for the provision of support for special guardians, but ultimately the decision as to whether and what level of support to provide in each case is discretionary. As a result, the support that special guardians may receive is variable and determined on a case by

¹ Note: The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 have temporarily amended Regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010. Approvals for temporary foster carers have been extended to non-connected persons and placements can now last up to 24 weeks.

² Schedule 1, para 15(1) Children Act 1989

case basis. Special guardians may receive financial assistance in the form of a special guardianship allowance, which is means tested and subject to regular review.

The Special Guardianship Regulations also provide that consideration should be given to supporting special guardians with other matters including:

- Help to enable the child, their parents and you to discuss things related to special guardianship (including, for example, support groups).
- Help with the contact arrangements for the child to stay in touch with their parents and any other relatives/other person they have an existing relationship with. This help can include: Cash to help with the costs of contact, and unlike other financial support that would not be means tested.
- Therapeutic help for the child.
- Support for the special guardian to have a positive relationship with the child, such as respite care where the child could stay with an approved foster carer for a few days, where the special guardian is unable to care.

Recent guidance³ from the President of the Family Division also requires local authorities and the courts, when considering prospective special guardians, to focus on the relationship the family member or friend has with the child.

Impact of the Coronavirus pandemic on kinship families

As set out above, there is no specific or targeted support which all kinship carers can access.

Our exercise of evidence gathering on behalf of the Parliamentary Taskforce on Kinship Care has made the need for better support provision for kinship carers very clear and this need is only heightened in the current crisis.

Special guardians of children who were previously in the care system are able to access some specific therapeutic support through the Adoption Support Fund. However, the type of support that special guardians can receive through the Fund varies throughout the country; it is a postcode lottery across local authorities.

We have been gathering evidence specifically on the experiences of kinship care households during the crisis. We invited kinship carers to complete an online survey which heard from more than 650 kinship carers across the UK raising over 1000 kinship children. We have also been gathering information from organisations who work with kinship carers, including members of the Kinship Care Alliance. Our research has revealed many are struggling to deal with the additional hardship caused by the crisis and need extra support.

Not only are kinship carers at higher risk if they contract the virus, children in kinship care may have different or additional needs as a result of their experiences. Our 2020 survey identified that 54% of the kinship children of those who responded had special educational needs or disabilities. It is essential that these families receive adequate support in order to maintain these family placements. If kinship care placements break down, this will only exacerbate the challenges that the foster care sector is already facing. If kinship carers receive the short-term support they need now, then this will hopefully avoid the need for children to enter unrelated care.

³ <https://www.judiciary.uk/wp-content/uploads/2020/06/PLWG-SGO-Final-Report-1.pdf>

The full findings of our Coronavirus crisis survey are available to read in full [here](#), however for the purposes of this submission we will focus on the specific issue of the transition for new kinship carers including parental leave and access to childcare.

Stepping in to raise another child, as a kinship carer, places additional pressures on family life, in particular, financially, including the ability of the carer to maintain employment commitments. Surveys have consistently shown more than half of kinship carers who were in work had to give up their job and 24% reduced their hours when they took on the care of kin children. This is particularly the case if the child has additional needs and/or has suffered trauma, as is the case with over half of kinship children. Even prior to taking on the care of the child, kinship carers describe having to attend regular meetings with children's services during the assessment process, they also often have to attend numerous meetings at school, with health professionals and may be involved in very time consuming court proceedings, with the latter also potentially costing carers significant amounts in legal fees.

Carers who find themselves having to reduce their working hours, change their jobs, or in some cases leave employment entirely in order to care for a child, can be in financial hardship as a result. The Coronavirus crisis has exacerbated this financial hardship, with a quarter of kinship carers reporting they faced financial hardship that had worsened as a result of the current crisis, and a further 18% remained in a similar level of hardship than pre-crisis. This places huge pressure on kinship care placements and can be a deterring factor to families taken on the care of children.

We believe families should not find themselves in financial hardship as a result of having to make this decision to raise a child within a family and friend network and prevent them from entering or remaining in the care system.

Just as the state recognises the need to support new adoptive families, we believe the state should support new kinship carers through this often-difficult transition. Kinship carers should have the same rights to support as children who are adopted from the care system, including the right to employment leave and free childcare. Employers should also be encouraged to be flexible with staff who are kinship carers to aid this transition.

"My partner is furloughed on 80% and I'd already given up work to be full time (kinship) carer to the twins"

"I will have no childcare still and will then have to take unpaid leave as I rely on elderly relatives to watch the little one when I'm at work and they are staying indoors for 3 months due to their age and health conditions and nursery is closed."

Recommendations:

- The introduction of the right to a period of paid employment leave and protection to kinship carers, who are permanently raising children who the court, local authority or professionals have determined cannot live with their parents, akin to the rights adopters are entitled to.
- In a crisis, all kinship carers should be given a right to six weeks unpaid adjustment leave to deal with the immediate, emergency situation when a child comes to live with them.
- Employers, including public bodies, should be encouraged to develop employment policies that recognise the needs of staff who are kinship carers and councils should encourage local employers in their locality to do likewise.

- All children being raised by kinship carers for more than 28 days (where there is court, local authority or professional evidence that they cannot live with their parents) should have the same rights currently available to children who are adopted from care, and those who ceased to be in care as a result of a special guardianship order – this would include free childcare for 2 year olds, which will assist many kinship carers with employment issues.
- The spare room subsidy ('bedroom tax') should be suspended for kinship carers who have to self-isolate due to Coronavirus.