



Kinship Care Policy and Guidance June 2021

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1. Introduction

- 1.1 When a child or young person cannot live with, or remain with, or return to the care of their birth parents, the preferred option is for them to live within their wider family and community circle. In its broadest sense this is known as Kinship Care.
- 1.2 There are many children who live with friends and family without the involvement of statutory services. These carers are often referred to as informal Kinship Carers and the children are not looked after. In some cases they may have Social Work involvement under Section 22 of the Children (Scotland) Act 1995.
- 1.3 This Guidance sets out the processes for assessment and approval to be followed where a child is placed with relatives or close friends on an emergency basis; on a supervision requirement; or similar legislation which makes the child looked after away from home (see 'Definitions and Eligibility'). This Guidance should also be used where a relative is being considered to care for a child who is already accommodated.
- 1.4 The Guidance includes the following areas:-
 - ◆ criteria and eligibility for assessment approval and payment of Kinship Carers
 - ◆ supports for Kinship Carers including those carers seeking residence/Kinship Care orders
 - ◆ payment and allowances

2 Background – The National Context

- 2.1 This Guidance is informed by a number of policy and legislative drivers.
- 2.2 The national strategy 'Getting it Right for Every Child in Kinship and Foster Care' was launched by the Scottish Government in December 2007.
- 2.3 The strategy outlined a number of key principles:-
 - ◆ it is the right of every child to have their family and friends explored as potential carers if they need to leave the care of their parents
 - ◆ any arrangement for care by family or friends must be in the best interests of the child
 - ◆ the safety and needs of the child in any assessment of family or friends as carers must be paramount
 - ◆ a child's need for a good family and friends, carers should take precedence over the wishes of a parent to exclude the family from providing such care
 - ◆ support to a family or friends placement should be available when needed
- 2.4 Since its publication in 2007 a number of legislative and policy initiatives have been introduced. The concordat between the Scottish Government and the Convention of Scottish Local Authorities (COSLA), agreed that allowances would be paid to all approved Kinship Carers of Looked After Children.
- 2.5 Following recent representation by national kinship groups and the Equalities and Human Rights Commission, the Scottish Government has restated its commitment and intention that children in Kinship Care placements who meet the criteria should receive 100% of the equivalent fostering allowances minus any child related benefits in respect of the child.

3 Relevant Legislation and Guidance

3.1 Relevant legislation and guidance include the following:-

- ◆ The Children (Scotland) Act 1995
- ◆ The Children and Young People Scotland Act 2014
- ◆ The Children's Hearings (Scotland) Act 2011
- ◆ Foster Children (Private Fostering) Scotland Regulations 1985
- ◆ The Looked After Children (Scotland) Regulations 2009
- ◆ Guidance on the Looked After Children (Scotland) Regulations 2009 and the Adoption and Children (Scotland) Act 2007

4 Definitions and Eligibility

4.1 Definition

4.1.1 The Looked After Children Scotland Regulations (2009) define a Kinship Carer as a person who is related to the child (through blood, marriage or civil partnership or a person with whom the child has a pre-existing relationship. (This could include close friends or people who know the child well through regular contact and can be seen as part of the child's network).

4.2 Eligibility

4.2.1 For the purposes of this guidance an eligible Kinship Carer includes those who care for children who are looked after and are placed in a Kinship Care arrangement by the local authority. These include children who are legally secured by:-

- ◆ a Compulsory Supervision Order made by a Children's Hearing under Section 83 of the 2011 Act
- ◆ a child accommodated by the local authority under Section 25 of the 1995 Act
- ◆ an order made, authorisation or warrant granted by virtue of chapter 2, 3, or 4, of part II of the 1995 Act
- ◆ a placement made by a local authority which has taken parental responsibility under Section 80 of the Adoption and Children (Scotland) 2007

4.3 Eligible Kinship Carers also include some 'non-looked after' children, who live in a Kinship Care arrangement. These children will be subject to Section 11 of the Children (Scotland) Act 1995 (also referred to as a Residence Order or Kinship Care Order). Please refer to Section 17 below for further information.

5 Private Fostering

5.1 Kinship Care should not be confused with Private Fostering. Private Fostering involves the care of children by people other than close relatives for a period of more than 28 days. Such arrangements are usually, but not always, made by the child's parents. All staff should be aware of the Private Fostering Procedures and bring any such arrangements to the attention of their line manager for appropriate action. Please refer to the section in the Looked After Children (Scotland) Regulations 2009 for further detailed guidance.

6 Exclusions

6.1 While South Lanarkshire's Kinship Care Scheme will endeavour to support all Kinship Care arrangements, there are a number of exclusions that will apply to the eligibility of the Kinship Care allowance. These are as follows:-

- ◆ where the parent is a member of the household, where the carer and the child reside, this will not be deemed as a Kinship Care arrangement regardless of looked after status
- ◆ likewise, fathers who have not obtained parental rights and responsibilities will not be regarded as Kinship Carers

- ◆ carers unwilling to co-operate with the Kinship Care assessment process (those taking part in the Kinship Care assessment but refuse the Money Matter Kinship calculation will not be excluded, but will have child benefit and child tax credits deducted from their final payment)

7 Emergency Placement

- 7.1 When an unplanned placement is required for a child who is looked after by the local authority via Section 25 (Children (Scotland) Act 1995 or following an application for a Child Protection Order, the local authority may place the child with a relative or any person who is known to the child and has a pre-existing relationship with that child for a period not exceeding three days. (Regulation 36 Looked After Children Regulations 2009).
- 7.2 In doing so the local authority must:-
- ◆ be satisfied that an emergency placement is the most suitable way of meeting the child's needs
 - ◆ be satisfied that the person with whom the child is to be placed has signed a written agreement with the local authority (template c&f200)
 - ◆ provide the person with whom the child is placed with information about the child's background, health and emotional development
- 7.3 The carer must:-
- ◆ care for the child as if that child were a member of that person's family and in a safe and appropriate manner
 - ◆ allow any person authorised by the local authority to visit the child at any reasonable time
 - ◆ where the placement is terminated to allow the child to be removed at any time by the local authority
 - ◆ ensure that any information relating to the child or to their family is kept confidential
 - ◆ allow contact with the child in accordance with arrangements agreed by the local authority

8 Duties of the Child's Social Worker when placing a child on an emergency basis

- 8.1 The child's allocated Social Worker has responsibility to:-
- ◆ seek the child's view about the proposed placement
 - ◆ consult with parents about the proposed placement unless to do so would put the child or carers at risk
 - ◆ interview the proposed carers
 - ◆ inspect accommodation
 - ◆ collect information about others living in the house
 - ◆ confirm the proposed Kinship Carer is a friend or relative of the child
 - ◆ carry out emergency checks with Police on all members of the household over 16 years
 - ◆ complete medical consent form in child's medical book with parent(s) of child
 - ◆ complete consent form with regards to agency/interagency checks and explain purpose, carryout SWIS Plus checks on all household members within local authority area or make relevant enquiries if living in another local authority
 - ◆ discuss appropriateness of immediate placement with relevant team leader/fieldwork manager and record decisions made
 - ◆ complete a written placement agreement with proposed Kinship Carer (Regulation 36 (2) (b))

- ◆ confirm legal status and authority of placement. Does a Hearing need to be called regarding change of placement for example, if child is on Section 83 CH(S) A 2011
- ◆ assess the need for support with reference to Section 22 and discuss with team manager/ fieldwork manager for authorisation

8.2 It is important to emphasise that staff should make it clear to the Kinship Carer at the outset that these are emergency arrangements and the plans to meet the child's longer term needs and suitable place of residence will be informed by the completion of a comprehensive assessment and planning led by the locality Social Worker.

8.3 The aim is either to rehabilitate the child with their parent(s) or to secure them in a permanent placement best suited to their individual needs without unnecessary delay, whether that be with Kinship Carers or in another placement. In these circumstances, there should be no expectation that the child will be "looked after" on a long term basis.

9 Interim Payment of Kinship Care Allowance

9.1 An interim payment of £50 per week, per child, will be paid, from the point a child is looked after by the Kinship Carers. The Social Worker must complete the Pre-Kinship – Payment Processing / Income Verification Pro Forma FORM A. If at the three day meeting, it is agreed that the child will remain with the carers whilst a kinship care assessment is undertaken, arrangement should be made for the carers to have an appointment with Money Matters to increase kinship payment in line with fostering allowances. It should be noted that the interim payments will automatically cease after 12 weeks.

10 Review of Emergency Placements

10.1 Within three working days of the Emergency Placement there should be an initial placement meeting chaired by the Team Leader who should arrange consideration of the of the day to day placement arrangements (Regulation 38).

10.2 The Team Leader should satisfy themselves that, as far as practicably possible, the following have been consulted (Regulation 38):-

- ◆ the child, taking into account their age and maturity
- ◆ the person with whom the child has been placed
- ◆ any person with parental responsibilities and rights in respect of the child

10.3 When considering the case the Team Leader should address the following:-

- ◆ whether the child continues to require to be placed away from home and if compulsory measures of care are required
- ◆ whether placement of the child with that Kinship Carer is in the best interests of the child (if not, identify what action needs to be taken) and the ability of the Kinship Carer to meet the needs identified in the child's plan, with appropriate support
- ◆ ensure that the Kinship Carer has signed and has a copy of the Kinship Carer Agreement
- ◆ ensure the Kinship Carer has all the relevant LAC material (see LAC Procedures) especially the Day to Day Placement Agreement or arrange for its completion and distribution
- ◆ arrange formal PVG checks on all adult members of the household
- ◆ establish what the contact arrangements should be and how they will be supported

- ◆ arrange for a Health Assessment to be completed. NB Parental consent is required for this (see LAC Procedures)
- ◆ discuss the support the Kinship Carer may need in caring for the child(ren) and refer to Money Matters or CAB for income Maximisation
- ◆ identify any legal action required and explain this to the child, family and Kinship Carers
- ◆ identify who will send the notifications required by Regulation 13, Looked After Children (Scotland) Regulations, 2009. Notifications should be sent to all relevant local authorities, health boards and parents and relevant persons etc

10.4 The local authority cannot allow an emergency placement to continue for a period exceeding 12 weeks unless the carer has been formally approved as a Kinship Carer. If the placement has been formally approved The Social Worker must complete the Kinship – Payment Processing / Income Verification Pro Forma FORM B to ensure continued payments are in line with fostering allowances minus state benefits.

10.5 Should the three day review consider the placement to be in the child's best interests and that the placement is likely to last more than the 12 weeks, the meeting should identify the lead worker for completion of the comprehensive assessment of the Kinship Carers. This will normally be the Child and Family Social Worker.

10.6 A formal Looked After Children's review should take place within six weeks of the initial placement meeting to identify if the placement continues to meet the child's needs; ensure that the Kinship Carer's assessment is progressing and identify any additional supports that the Kinship Carer may need (Regulation 45); a second review should be held within three months of the date of the first review and six monthly thereafter in line with local authority's "Looked After and Accommodated" procedures.

11 Permanence in Kinship Care Placements

11.1 A planning meeting chaired by the locality Fieldwork Manager should be held within six months of the child becoming "looked after" (that is Section 25/Section 83) to identify the long term needs of the child/the carers and agree a permanence plan and legal route to achieving this.

11.2 If a plan for permanence is agreed, the following options should be considered:-

- ◆ Residence Order (under S.11 of the 1995 Act). The meeting should consider any financial constraints on the family applying for this Order. The payment of legal costs and kinship allowances may be considered. If this is the case, the Fieldwork Manager would require to have this authorised by the Service Manager for the locality
- ◆ Permanence Order (under S.80 of the 2007 Act). A Form E and legal report would be required to register the child for permanence at the Fostering Panel

12 Section 11 – Residence Orders

12.1 Payment of Legal Fees

12.1.1 If the carer is making an application for a Residence Order, they would be encouraged to pursue an application for legal aid in the first instance, however, in some cases financial assistance with legal costs will be made available to enable carers to pursue an application for a Residence Order. This should be discussed by the Social Worker and carer in the first instance. If a Kinship Carer is making an application for a Residence Order and seeking financial assistance from the

resource, then approval for the payment of legal fees should be discussed on a case by case basis and agreement would be sought by the Fieldwork Manager from the locality Children and Justice Service Manager.

13 The Assessment and Approval Process

- 13.1 When children are placed with Kinship Carers this can often be on an emergency with only initial emergency checks undertaken to provide some assurance of the appropriateness of the carers in the short-term.
- 13.2 Following the initial placement, it is imperative that a **full** and robust assessment of the placement is undertaken.
- 13.3 The assessment must focus on both the Kinship Carers' capacity to meet the needs of the individual child/children as identified in the child's plan, and the support carer may need to assist them in meeting these needs fully.
- 13.4 An assessment template and fuller guidance has been developed (KC5) which will cover the statutory requirements of these assessments. This will also help contribute to ensuring a high level of practice standard to the assessments in terms of depth and rigour.
- 13.5 There are a range of stipulations about the matters to be addressed in that assessment of the child's needs and how these can be met and the resulting plan, including:-
 - ◆ their immediate needs and how these can be met
 - ◆ their long term needs and how these can be met
 - ◆ proposals for safeguarding and promoting the child's welfare
- 13.6 As outlined previously all assessments should be completed within 12 weeks of the initial placement.

14 Kinship Care Approval

- 14.1 All new statutory Kinship Care arrangements made in respect of "looked after" children or young people, regardless of whether or not financial assistance is being sought, must be assessed.
- 14.2 The Scottish Government guidance highlights the need for local authorities to identify a process for approving Kinship Carers. Within South Lanarkshire, all kinship assessments require to be countersigned by a Team Leader and a Fieldwork Manager. The primary function of the kinship assessment is to make recommendations to the Agency Decision Makers (Locality Service Manager) on:-
 - ◆ whether to recommend the approval of applicants as Kinship Carers or not to recommend them for the care of specific child/children
 - ◆ whether the assessment should be continued for further information
 - ◆ recommendations in relation to termination of approval or de-registration of carers
 - ◆ recommendation and approval in relation to the award of allowances and assistance for Kinship Carers
 - ◆ recommendation and guidance in relation to the payment of legal fees to carers seeking Residence Orders
- 14.3 Recommendations from the kinship assessment will be sent to the Agency decision-maker for approval. This process allows for a robust and independent approval process. It will provide for scrutiny of assessments as well as openness

and transparency to the decision making process, ensuring it does not sit with any single individual.

- 14.4 Where a person has been approved as a Kinship Carer, under Regulation 10 of the Looked After Children (Scotland) Regulations 2009, the Kinship Carer must sign a written agreement which will cover the Kinship Carer and local authority's obligations as appropriate. (KC Agreement)
- 14.5 Approved Kinship Carers will be asked by the social worker to sign the written agreement and a copy of this will be given to the carers and maintained by the Resource.
- 14.6 As per Regulation 13 of the Looked After Children (Scotland) Regulations 2009, the locality Fieldwork Manager will arrange for the following, where relevant, to be notified that a new Kinship Care arrangement has been approved in their area that is:-
- ◆ all relevant local authorities
 - ◆ health boards
 - ◆ parents or relevant person, etc

15 Kinship Arrangements Not Approved

- 15.1 If the child is subject to a Compulsory Supervision Order/Interim Compulsory Supervision Order, a LAC Review and a Children's Hearing would be called to consider a change of placement.
- 15.2 If the child is subject to Section 25 an LAC Review would be called to consider a change of placement.
- 15.3 A child would only be moved in an emergency basis against the wishes of the Kinship Carer if there were child protection concerns which merited such an action.
- 15.4 If the Kinship Panel decides that an assessment of the Kinship Carers should not be approved, the Fieldwork Manager will write to the carers outlining the reasons for this decision. The letter should detail how the carers can appeal this decision, that is, by contacting swcomplaints@southlanarkshire.gov.uk within 20 days.
- 15.5 On receipt of any kinship appeal, the Governance and Planning Team will log this under a Stage 2 Complaint and allocate to the Service Manager. The Service Manager will acknowledge this appeal within three days and request all paperwork carried out from the original assessment.
- 15.6 Within 20 days, the Service Manager will consider the Kinship Assessment and write to the carers giving details on their decision as to whether they approve the carers or not. If the carers are once again not approved, the letter sent to them will outline the reason for this and provide details on how the carers can ask the SPSO to review the decision of the Social Work Resources.

16 Allowances and Support

- 16.1 Allowances will be paid to all approved Kinship Carers at age related fostering allowances rates minus child related benefits. This will include child tax credits and child benefit and any other allowances paid towards the maintenance and accommodation of the child.
- 16.2 Payment of allowances will be considered as a well-being payment.

- 16.3 Approved Kinship Carers will receive a letter advising of this, when approved (template kin018).
- 16.4 All carers should be referred to Money Matters at the earliest stage in the assessment process by their Social Worker to ensure that their income from benefits are maximised. Social Work staff should also request that Money Matters undertake a Kinship Care Maximisation Exercise to calculate the proposed kinship allowances should the carers be approved by the Kinship Panel.
- 16.5 Requests for backdating Kinship payments should not exceed 12 weeks from Kinship Care Panel approval.

17 Kinship Care Assistance

- 17.1 From August 2016, there are now duties placed upon the local authorities under part 13 of the Children and Young People (Scotland Act) 2014 to further support carers who have or are applying for a Kinship Care Order and children and young people who are subject to Kinship Care Orders. Social Work staff should refer to the National Guidance on Part 13: Support for Kinship Care. The Guidance outlines the support for Kinship Carers and assistance that may be provided and this includes:
- ◆ the provision of advice and information for eligible children
 - ◆ the provision of advice and information for Kinship Carers
 - ◆ the provision of financial allowance
 - ◆ assistance with the financial cost of an Order
- 17.2 In order to establish if adults or children meet the eligibility criteria a local authority has a responsibility to determine whether or not a child is at risk of becoming looked after; was previously looked after; or was placed with the involvement of the local authority.
- 17.3 In determining whether a child is at risk of becoming looked after, a local authority must consider whether the child's wellbeing is being, or is at risk of being, adversely affected by any matter, such that the child is at risk of becoming looked after. In order to establish the above, Social Work staff should use the C60 Integrated Assessment Framework to establish eligibility.
- 17.4 On receipt of a request for Kinship Care assistance from a carer or child who fits the criteria above, a Social Worker should be allocated to undertake an assessment in order to ascertain if financial assistance or advice and information should be made available. This assessment should take no longer than six weeks and the carers should be notified by letter about the outcome of the assessment (Template kin027).
- 17.5 Rules governing the financial awards for carers seeking Kinship Care assistance who have a Kinship Care Order or who at a later stage are granted an Order by the Courts:
- ◆ carers who already have a Kinship Order will receive payments from the date they first approached the Resource and requested Kinship Care assistance
 - ◆ carers who subsequently achieve a Kinship Care Order will be awarded financial assistance from the date the Order is awarded by the Court
- 17.6 The Social Worker must complete the Kinship – Payment Processing / Income Verification Pro Forma FORM C for carers who have secured a Section 11 or

Kinship Order to ensure payments are in-line with fostering allowances minus state benefits.

18 Monitoring and Review of a Child or Young Person's Placement

- 18.1 Regulation 48 of the Looked After Children (Scotland) Regulations states that where a looked after child or young person is placed with a Kinship Carer, they must be visited within one week of the placement and after that no more than three months from the date of the last visit and every three months after that, unless more often is required or agreed as part of the child's or young person's care plan. Good practice would suggest that visits to the child and Kinship Carer are undertaken on a monthly basis.
- 18.2 Minimum contact solely in relation to financial allowances is not appropriate as in all cases allocated Social Workers have a safeguarding responsibility in respect of those children or young people.
- 18.3 In all instances where a looked after child or young person is placed in a Kinship Care placement, review arrangements are in accordance with the looked after procedures and guidance. It is however, recognised, that the level of review in some Kinship Care placements could be reduced if the circumstances allow this. The minimum requirements are as follows:-
- ◆ the initial review of the child or young person's plan must be convened within three working days of the placement having been made
 - ◆ within six weeks of the placement commencing, the Social Worker and Team Leader should review the progress of the kinship assessment and placement in supervision. This should be recorded in an I38
 - ◆ within 12 weeks of the placement commencing, the kinship assessment should be presented to the locality Kinship Panel for approval
 - ◆ within six months of the placement commencing, the Locality Fieldwork Manager should chair a planning meeting to identify the long term needs of the child/the carers and agree a permanence plan and legal route to achieving this
 - ◆ thereafter, reviews of the kinship arrangements must be convened on an annual basis within supervision between the Social Worker and the Team Leader and recorded on an I38
- 18.4 The Looked After Children (Scotland) Regulations 2009 state that a review of Kinship Carers should take place on an annual basis. This review must include an updated financial assessment and Disclosure Scotland and health checks. It should also consider issues in relation to the Kinship Carer and their ability to continue to meet the needs of the child and any specific issues for the Kinship Carer.

19 Recording of Reviews

- 19.1 All minutes of reviews must be recorded on the review screen on SWiS.
- 19.2 All approved Kinship Carers must have a separate carer's file opened which must include copies of:-
- ◆ a robust assessment of all adults within the household (including their ability to provide safe and supportive care)
 - ◆ copies of any review minutes
 - ◆ signed and approved KC assessment report (and consideration of full financial circumstances)
 - ◆ evidence of disclosure checks in respect of all adults in the household, which should be updated on an annual basis

- ◆ if requested, copies of any medical checks undertaken
- ◆ copies of any paperwork issued by the panel

- 19.3 All approved Kinship Carers must be recorded on SWiS as an ‘approved Kinship Carer’ in the referral screen and linked to the child or young person. They must be allocated to a Social Worker on SWiS.
- 19.4 The Looked After Children (Scotland) Regulations 2009 states that a Kinship Carer’s file must be retained for 25 years from the date of the placement terminating on the death of the child or young person if earlier.

20 Termination of Kinship Care Placements

- 20.1 Where a decision is made to terminate a Kinship Care placement, either by a Children’s Hearing or a locality Fieldwork Manager, written notification must be sent to the Service Manager at Headquarters.
- 20.2 All carers where a placement has been terminated or a placement ended must be referred to the Kinship Panel to ensure that the carer is de-registered and the reasons for this recorded.
- 20.3 The locality Fieldwork Manager will arrange for details of the termination of the Kinship Care arrangement to be sent to all who received notifications in the first instance that the child or young person was placed in their area in a Kinship Care arrangement:-
- ◆ all relevant local authorities
 - ◆ health boards
 - ◆ parents and relevant persons etc

21 Other information

- 21.1 The introduction of Universal Credits may impact on Kinship Carers, especially with its full implementation in South Lanarkshire in 2019/2020. Existing claimants, who are Kinship Carers, moving from Legacy Benefits to new claims, may have the Child Tax Credit element of their claim withdrawn. This will not impact on the level of Kinship payments.

If you need this information in another language or format, please contact us to discuss how we can best meet your needs.

Phone: 0303 123 1015

Email: equalities@southlanarkshire.gov.uk