



# Advice and legal aid for kinship carers

Briefing for Oral Question raised by Baroness Drake on Monday 14 November 2022

## Summary

- Access to clear information and advice, including legal advice, for kinship carers is crucial. Too many are left to navigate the welfare system, children's services and the family courts without support, leaving kinship carers vulnerable to being exploited and left unfairly out of pocket if they do not know their rights.
- 29% of kinship carers told us they did not receive any information about being a kinship carer before or shortly after their child moved in. All kinship carers should have access to free, independent and expert advice services, such as those provided by Kinship, available before their child moves in and for as long as it's needed.
- Existing reforms to legal aid for kinship carers are insufficient. The Government should respond positively to the recommendation made by the Independent Review of Children's Social Care on legal aid, but ensure this is non means tested and available to all kinship carers.

## Advice and information

Often, people become kinship carers in times of crisis, stepping up out of instinct to provide a child with a safe and loving home when their parents aren't able to. Kinship carers often take on great responsibility without knowing what the role entails and what their rights and legal responsibilities are. Despite the complexities of a kinship care role, the advice provided to prospective kinship carers is often inadequate or non-existent and varies greatly between local authorities. This makes clear and consistent guidance on the practicalities of kinship care – such as financial allowances – very difficult to find.

Our *Cost of Loving* report found that **only 29% of kinship carers had received any information about being a kinship carer** from the local authority before or shortly after their child moved in, and only 28% had ever been signposted to other places where they could get information and support.<sup>i</sup>

*“All the info I have had to find out myself on internet and through support groups... this should be offered straight away... no one should be left in the dark like we were.”*

**Kinship carer, quoted in Kinship's *The Cost of Loving* report (2022)**

The need for information and advice does not end once the child is in the kinship carers' care; there is a continued need for good advice and guidance as they develop into their new role, and in response to the needs of their children as they grow up often dealing with trauma and complex needs. The Local Government and Social Care Ombudsman found in 2018 that **special guardians were sometimes given incorrect advice and information by their own local authorities**<sup>ii</sup>. Receiving poor or incorrect advice can negatively impact on the stability of the kinship placement, leaving carers feeling disadvantaged and less likely to ask for support later down the line.

## Legal aid

Provision of legal aid is a postcode lottery for kinship carers in relation to legal costs incurred when obtaining a court order, especially in private care proceedings. Some local authorities support kinship carers with all their legal fees and others offer no support at all. Many special guardians have to fund their own legal representation, and our 2019 annual survey of kinship carers found that **19% of carers paid for legal advice themselves**<sup>iii</sup>. Another survey found that it cost kinship carers an average of £5,446 to gain a court order for a

child with many paying significantly more, and 40% of carers received no support to finance the legal application<sup>iv</sup>.

*“Due to red tape, we have never received any allowance, had to fund legal costs ourselves for over £9K. We only got £260 plus court fees. We are in debt and will take us a long time to pay it off. We get very little support from the local authority”.*

**Kinship carer, quoted in Kinship’s *Out of the Shadows* report (2020)<sup>v</sup>**

Last month, the Ministry of Justice extended the scope of legal aid to include special guardians (subject to means and merit testing) applying to take on the care of children in private law court proceedings. Whilst this is a step in the right direction, these reforms do not go far enough. The Independent Review of Children’s Social Care’s recommendation on legal aid made in its final report in May is more comprehensive and unlocks independent legal advice for prospective kinship carers considering a legal order, funding for family and friends pursuing a legal order in public or private law proceedings, and protection from costly litigation for existing kinship carers taken back to court by birth parents.<sup>vi</sup> **This should be non means tested so that all families can make the best possible decision for the child**, and to ensure kinship carers don’t continue to pick up the bill when they step up to do the right thing.

## #ValueOurLove campaign

The recommendations made by the Independent Review of Children’s Social Care in May to “unlock the potential of family networks” marked a pivotal moment for kinship care.<sup>1</sup> Through the #ValueOurLove campaign, we want to see the Government respond boldly and positively to the Review and **commit to a first ever kinship care strategy which includes these four urgent changes** so that kinship families are entitled to the same support as foster and adoptive families.



- 1. Equalise allowances between foster and kinship families:** All kinship families should receive the financial support they need, when they need it. This should include a financial allowance that matches the current minimum fostering allowance to help them cover the unexpected costs of caring for a child.
- 2. Equalise access to training and support between kinship carers and foster carers:** Kinship carers should have access to information, advice, practical and emotional support from the point they take on a child, including free legal advice, preparation and training, therapeutic and peer support.
- 3. Equalise leave between adoptive and kinship families:** Kinship carers should receive kinship care leave on a par with adoption leave when the child first moves into their care to allow the child to settle in.
- 4. Equalise support between children in kinship care and those in care:** Children in kinship care should have extra support in school and access to health and therapeutic support to help them deal with the impact of abuse, trauma and loss.

To date, the campaign has received the support of **over 6,500 signatories** including a number of parliamentarians across both Houses. You too can lend your support, learn more about the campaign, and **find out more about kinship families in every parliamentary constituency in England and Wales** by visiting:

**[ValueOurLove.Kinship.org.uk](http://ValueOurLove.Kinship.org.uk)**

## Our recommendations:

1. Kinship carers should have access to independent information and advice that is clear, accessible, and relevant to the needs of each kinship family and the specific challenges they face. Kinship's advice service is an example of a specialist, independent advice service for kinship carers that provides free expert advice on a national basis. In 2023 we will launch Kinship Compass, a one-stop shop for advice and signposting in order to deliver clear and easy-to-access pathways to advice and information and peer support across local kinship communities.
2. All kinship carers, regardless of legal order or lack thereof, should have a right to legal aid, including for legal advice when they are considering becoming a kinship carer. The Government should commit to the reforms on legal aid recommended by the Independent Review of Children's Social Care in their forthcoming response and ensure this is delivered non means tested and urgently to all kinship carers, regardless of legal order or lack thereof.

## Suggested questions

Peers should use the debate to highlight Kinship's #ValueOurLove campaign and push the Government on its commitments to kinship families ahead of its forthcoming response by the end of the year to the recommendations made by the Independent Review of Children's Social Care.

1. Will the Government listen to the calls made by kinship carers and over 6,500 supporters as part of Kinship's #ValueOurLove campaign and commit to equalising advice and support between kinship and foster families?
2. In its forthcoming response to the Independent Review of Children's Social Care, will the Government commit to valuing the love of kinship carers and invest in delivering the financial, practical and emotional support they need and deserve?
3. What plans does the government have to ensure that all kinship families have access to impartial and independent advice?
4. What is the justification behind excluding some kinship families from accessing legal aid through the application of means and merit testing when applying to take on the care of children in private law court proceedings for special guardianship?

## About Kinship

Kinship is the leading kinship care charity in England and Wales. We offer kinship carers financial, legal, practical and emotional support and understanding from the moment they need it, for as long as they need it. We want every kinship family to be recognised, valued, and supported. For more information, please visit [kinship.org.uk](http://kinship.org.uk) or contact Sam Turner, Head of Policy and Public Affairs, at [sam.turner@kinship.org.uk](mailto:sam.turner@kinship.org.uk), or Natalie Grubb-Latouche, Senior Policy and Public Affairs Officer, at [natalie.grubb-latouche@kinship.org.uk](mailto:natalie.grubb-latouche@kinship.org.uk).

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<sup>i</sup> Kinship (2022) [The Cost of Loving: Annual survey of kinship carers 2022](#)

<sup>ii</sup> Local Government and Social Care Ombudsman (2018) [Firm foundations: complaints about council support and advice for special guardians](#)

<sup>iii</sup> Grandparents Plus (2019) [Kinship Care State of the Nation Survey 2019](#)

<sup>iv</sup> Ashley & Braun (2019) [The highs and lows of kinship care: analysis of a comprehensive survey of kinship carers 2019](#)

<sup>v</sup> Kinship (2022) [Out of the Shadows: a vision for kinship care in England](#)

<sup>vi</sup> For more information on Kinship's response to the recommendations made by the Independent Review of Children's Social Care, please view our kinship care policy tracker: <https://kinship.org.uk/care-review/kinship-care-policy-tracker/>