

CELCIS written evidence to inform the Scottish Parliament's Social Justice and Social Security Committee thematic session on kinship care

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CELCIS is Scotland's Centre for Excellence for Children's Care and Protection, based at the University of Strathclyde. CELCIS is a leading improvement and innovation centre. We improve children's lives by supporting people and organisations to drive long lasting change in the services they need, and the practices used by people responsible for their care. We welcome the opportunity to provide evidence for the Committee's thematic session on kinship care. Our submission is based on research evidence, practice and policy experience and expertise offered through our long-standing, cross-organisational networks, including communities of lived experience. Alongside kinship carers, and a range of multi-agency partners including Scottish Government, Social Work Scotland, The Promise Scotland, local authorities, COSLA, Children 1st, and Children's Health Scotland, CELCIS are members of the Kinship Collaborative, working toward improvement in the support for kinship families across Scotland.

Key messages

- Kinship care is any circumstance where a child is being raised by a friend or family member other than their parent(s). An estimated 12,630 children in Scotland live with kinship carers (this estimate is based on 2011 census data and therefore may not fully reflect the current picture).
- Kinship care is a significantly complicated area legally, practically, financially, and emotionally. The experience of this complexity and inconsistency in support over time has left many kinship carers feeling increasingly unrecognised and under-valued.
- In the midst of such complexity, it is crucial to hold the needs and rights of children centrally, recognising that a fundamental part of doing so is in ensuring the people who provide their day-to-day care have all that they need to do so. The provision of whole family support, in line with the needs and preferences of each unique family, is crucial to this.
- Both the adults and children in kinship families often have high levels of health needs, which has implications for the levels of support carers and children may require.
- Information, advice, and support are critically important for kinship carers, in a wide range of areas, from attachment, trauma and child development to therapeutic family support, to legal and financial advice. Caring for children who have experienced adversity in their early life can be challenging, and carers may require ongoing support to provide the care that children need to thrive.

- Children living with kinship carers are disproportionately living in the poorest households in Scotland, and the provision of financial support to kinship carers is crucial. The implementation of a national minimum allowance for kinship carers, of an equal amount to the allowance paid to foster carers, is required as a matter of urgency.

Kinship care in Scotland

All children need the same things from those who care for them to thrive. They need to feel loved, safe and secure, and have dependable, enduring relationships with the adults who care for them. The Promise of Scotland's Independent Care Review is built on a foundational understanding that where children are safe and feel loved in their families, this is where they must stay, and that families must be given the support they need to overcome difficulties they experience.¹

Across Scotland there are many children who, for a variety of reasons, may live with family and friends at some point during their childhoods. For some, this can be for a short period of time, and for others it may be a long-term if children cannot return to the care of their parent.² Kinship care does not always involve the intervention of the state as families may make their own private arrangements, but when the state formally intervenes in a child's care, this may involve the child becoming 'looked after', as defined in law. Some children who are 'looked after' continue to live with their parents. Others may live with foster carers, or in a residential children's house, and others live with kinship carers.

When children are not able to live with their birth parent(s), a strong policy emphasis promoting kinship care as the first option has existed in Scotland for at least the past fifteen years.³ Benefits of kinship care include children's sense of emotional permanence in maintaining family connections, having a stronger sense of identity, and often experiencing fewer transitions, such as continuing to be part of the same school and community. Research also suggests children in kinship care feel less stigma, and experience higher levels of wellbeing and lower levels of placement disruption than children living with non-relative carers.⁴

However, evidence also indicates that children in kinship care are less likely to receive mental health services than children in foster care⁵, and in some instances, there are also concerns that kinship care might be used too readily without rigorous assessment of the needs of children and the capacity of the kinship carers identified

¹ The Independent Care Review (2020) *The Promise*. Online at https://www.carereview.scot/wp-content/uploads/2020/03/The-Promise_v7.pdf

² CELCIS (2020) *Inform: Spotlight on kinship care*. Glasgow: CELCIS

³ Scottish Government (2007). [Getting It Right For Every Child in Foster Care and Kinship Care: A National Strategy](#), Edinburgh: The Scottish Government.

⁴ CELCIS (2020) *Inform: Spotlight on kinship care*. Glasgow: CELCIS

⁵ Winokaur, M., Holtan, A. & Batchelder, K. (2018) 'Systematic Review of Kinship Care Effects on Safety, Permanency, and Well-Being Outcomes', *Research on Social Work Practice*, Vol. 28(1) 19-32

to meet them.⁶ Whilst there is some strong evidence to draw on,⁷ it is recognised that there is limited recent research pertaining to experiences and outcomes for children living in kinship care in Scotland, particularly in terms of children's own views and perspectives, and so this is an area of ongoing work at CELCIS.⁸

Kinship carers

Each family circumstance is different, and kinship carers are not a homogenous group: each carer has their own background, views, and interests, and the circumstances and relationships will vary: some may be looking after their grandchild, sibling, cousin, others more distant relatives and friends. Invariably, kinship carers assume caring responsibilities for children out of love and commitment to family. This can be rewarding, but also deeply challenging, at times involving difficult and sensitive family dynamics and decisions, as well as considerable personal sacrifices.

Evidence from the 2011 Census indicates that kinship carers tend to be older than parents with dependent children, though are still generally below retirement age.⁹ Becoming a kinship carer often impacts on employment, with a recent survey indicating 44% of kinship carers in Scotland who were working before becoming a carer needed to give this up, and a further 19% reduced their hours when they began caring for a child.¹⁰ Evidence based on 2001 census data showed that children in kinship care families are disproportionately living in the poorest households across Scotland.¹¹ More recent research highlights a general upward trend between deprivation and higher rates of kinship care in Scotland.¹²

Over a third of children in kinship care live in a household headed by someone with ill-health or a disability, compared to 10% of children who live with their parent(s)¹³, and children in kinship care are nearly twice as likely as children living with a parent to have a health problem or disability that limits their day-to-day activities.¹⁴ Survey data seeking to understand the impact of the COVID-19 pandemic on kinship carers identified that their biggest concerns were around health, and what would happen to

⁶ CELCIS (2020) *Inform: Spotlight on kinship care*. Glasgow: CELCIS

⁷ For example: Cushworth, L., Biehal, N., Whincup, H., Grant, M., & Hennessy, A. (2019). *Permanently Progressing? Building Secure Futures for Children: Children Looked After Away from Home Aged Five and Under in Scotland: Experiences, Pathways & Outcomes*, Stirling: University of Stirling.

⁸ Details of current research 'Growing Up In Kinship Care', and due to report this year (2022) can be accessed here - <https://www.scadr.ac.uk/our-research/understanding-childrens-lives-and-outcomes/growing-kinship-care>

⁹ Kidner, C. (2016) *SPICe Briefing: Kinship Care*. Edinburgh: Scottish Parliament Information Centre

¹⁰ Young, E. & Hill, L. (2020) *The highs and lows of kinship care: supplementary analysis of a comprehensive survey of kinship carers in Scotland 2019*. Glasgow: CELCIS/Family Rights Group

¹¹ Nandy, S., Selwyn, J., Farmer, E., & Vaisey, P. (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*, Bristol: University of Bristol.

¹² McCartan, C., Bunting, L., Bywaters, P., Davidson, G., Elliot, M. & Hooper, J. (2018) 'A Four-Nation Comparison of Kinship Care in the UK: The Relationship between Formal Kinship Care and Deprivation' *Social Policy and Society*, 17(4), 619-635.

¹³ Kidner, C. (2016) *SPICe Briefing: Kinship Care*. Edinburgh: Scottish Parliament Information Centre

¹⁴ Wijedasa, D. (2017). *The prevalence and characteristics of children growing up with relatives in the UK: Characteristics of children living with relatives in Scotland*, Bristol: University of Bristol.

the child if they fell ill, or died, from COVID-19. Half of the carers surveyed were self-isolating due to health conditions. Not only is this a challenge to one's wellbeing, it is also likely to have had an impact on the activities the children they care for could participate in. Additionally, a quarter of kinship carers indicated that the financial hardship they faced had worsened during the pandemic, and that financial worries, access to food (vouchers, free school meals, assistance with shopping), and a lack of emotional support were all issues of concern to them.¹⁵

Kinship care arrangements

Kinship care is a significantly complicated subject, legally, practically, financially, and invariably emotionally. In the context of such complexity, it is crucial to hold the needs and rights of children centrally, recognising that a crucial part of doing so is in ensuring those who provide their day-to-day care have all that they need to do so. Unfortunately, the piecemeal evolution of the legal and policy landscape for kinship care in Scotland has led to a position which is complex and often confusing. These legal complexities are important to understand, because they have led to differential access to support for kinship carers, leaving many kinship carers feeling unrecognised, under-valued and disadvantaged.

Where there has been a decision involving local authority social work services, and often the Children's Hearing System, that a child should become 'looked after' in kinship care, this is termed 'formal' kinship care.¹⁶ 'Informal' kinship care has historically been used to describe situations either decided upon solely by families themselves with no legal underpinnings, *and* situations (again due to decisions made privately within families) where a court order has been made setting out conditions of residence for the child, and sometimes transferring some/all parental rights and responsibilities to the kinship carer.¹⁷ At different times in the child's life, the same family's kinship care arrangements may be informal or formal.

The use of the phrases 'formal' and 'informal' kinship care can be confusing at best, and at worst are arbitrary categories ascribed to different families whose needs and circumstances may be similar, yet, based on these categories, can mean vital support is much harder to access for some carers than others. 'Informal' arrangements can often be those where a court order is in place, thus referring to these as informal arrangements can seem counter intuitive. Likewise, some 'formal' arrangements do not involve the Children's Hearing System and are based on the consent of birth parent(s) under a voluntary agreement through section 25 of the

¹⁵ Deacon, K. (2020) *Kinship carers' experiences during the coronavirus crisis*. Glasgow: CELICS/Family Rights Group

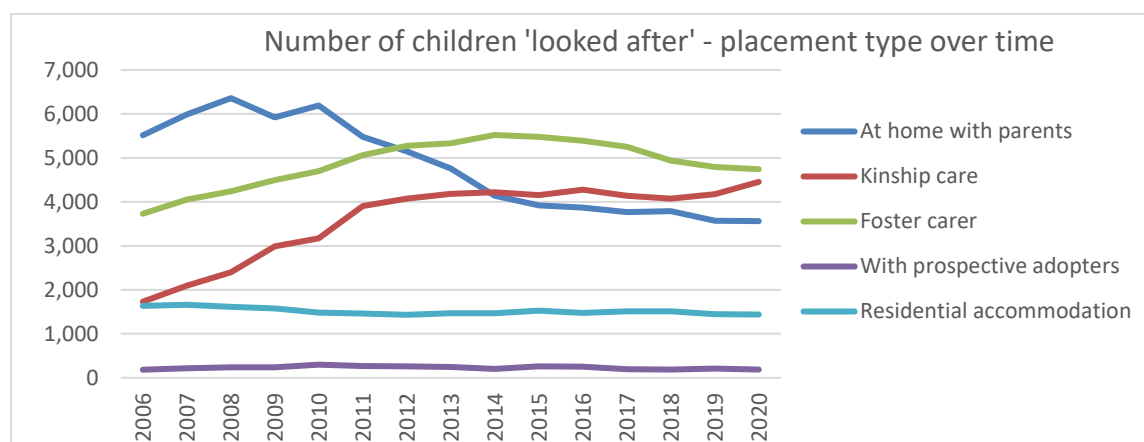
¹⁶ The legal orders through which children can be 'looked after' in kinship care are 'voluntarily' under section 25 of the Children (Scotland) Act 1995; under a Compulsory Supervision Order under section 83 of the Children's Hearings (Scotland) Act 2011; or under a Permanence Order under section 80 of the Adoption and Children (Scotland) Act 2007.

¹⁷ Such orders are made under section 11 of the Children (Scotland) Act 1995. These types of orders are classified as Kinship Care Orders (KCO) for the purpose of the Children and Young People (Scotland) Act 2014, as set out in section 72(1).

Children (Scotland) Act 1995. Children can become 'looked after' in residential, foster or kinship care under section 25, but analysis indicates a strong association between the use of section 25 and placements with kin.¹⁸

Prevalence

Because of these different legal arrangements, the overall picture in terms of prevalence of kinship care in Scotland is not precisely known. An estimated 12,630 children live in kinship care in Scotland, a great majority of them in 'informal' arrangements.¹⁹ These figures are based on 2011 census data which is now 11 years old, and more up to date figures are important to ascertain. 72% of children in kinship care in the 2011 census were cared for by their grandparents, 8% by siblings, and 20% by other relations. Information about the numbers of children in 'formal' kinship arrangements are included in the Scottish Government's annual children's social work statistics. As of 31st July 2020, 14,458 children were 'looked after' in Scotland, 4,456 (31%) of whom were cared for by kinship carers.²⁰ This has increased both numerically and as a proportion of children living in different types of care setting since the early 2000's, as illustrated below.



There is significant variation in the use of 'formal' kinship care across Scotland's local authorities, the reasons for which are not fully understood. Glasgow (45%), West Dunbartonshire (42%) and Stirling (40%) have the highest rates. Falkirk (17%), Edinburgh (18%) and Aberdeen (19%) have the lowest.²¹

There is also inconsistency across Scotland in the processes of care planning, assessment, and decision-making about where 'looked after' children's permanent homes should be when the plan for that child is to live with kinship carers. A child with a plan to live with kinship carers should have regular Looked After Child Reviews and a care plan detailing what they need, as stipulated in the Looked After

¹⁸ Anderson, M., Lough Dennell, B. & Porter, R. (2020) *Voluntary Accommodation of Infants, Children, and Young People in Scotland (Section 25) (Children (Scotland) Act 1995): An initial exploration*. Glasgow: CELCIS

¹⁹ Wijedasa, D. (2017). *The prevalence and characteristics of children growing up with relatives in the UK: Characteristics of children living with relatives in Scotland*, Bristol: University of Bristol.

²⁰ Scottish Government (2021). Children's Social Work Statistics 2019/20: Publication Tables, Table 1.1a.

²¹ Scottish Government (2021). Children's Social Work Statistics 2019/20: Additional Tables, Table 3.3.

Child (Scotland) Regulations 2009. Despite this being a legal requirement, not all local authorities have a clear review, assessment and decision-making process for children who have a plan to live with kinship carers. This is in direct contrast to the robust care and permanence planning procedures that are in place for 'looked after' children not being cared for by kinship carers (for example, children who are living with foster carers, with their parents under a supervision order, or with prospective adopters). This can lead to delay in decisions being made for children living with kinship carers, and these decisions often do not receive the same level of scrutiny as decisions about children living under different arrangements. These processes and scrutiny are important parts of ensuring that children are living with the most suitable carers, who will meet their needs for the rest of their childhood (and hopefully, beyond), and that those carers and children continue to receive appropriate and tailored support. Legal advice in relation to the plans for children in kinship care is sometimes absent, and a lack of advice given to families on the wide range of legal options through which a child can be permanently cared for by kinship carers is concerning.

Support to kinship carers

Information, advice, and support are critically important for kinship carers, in a wide range of areas, from attachment, trauma and child development to therapeutic family support, to legal and financial advice. Caring for children who have experienced adversity in their early life can be challenging, and carers may require ongoing support to provide the care that children need to thrive.

Emotional support to manage the ongoing demands of strained and conflicting family relationships can also be crucial, particularly where kinship carers may need to manage visits between the children and their parent(s). Some national and local support networks are available, for example through the [Kinship Care Advice Service for Scotland](#), where carers can access a range of advice and support online or through a helpline, as well as a directory of local support groups. However, grassroots kinship carer groups continue to highlight the level of unmet support needs for both children and carers in kinship families.

That the legal status of the child affects the support kinship families are entitled to from the local authority, and from other corporate parents, results in potential life-long implications for both the kinship carer and the child. Yet the majority of kinship carers feel they did not have enough information about the legal options available when taking on the care for a child.²² For example, a child on a Kinship Care Order is not eligible for Continuing Care and aftercare (that is, ongoing support from the local authority up to the age of 26), even if the young person would benefit from these services. It is right that kinship families have autonomy in looking after children, and that social work presence is not in their lives unnecessarily. But there is also a need to support families to access information about their options, to consider

²² Young, E. & Hill, L. (2020) *The highs and lows of kinship care: supplementary analysis of a comprehensive survey of kinship carers in Scotland 2019*. Glasgow: CELICS/Family Rights Group

their changing needs over time, and which legal route will ensure they can access supports if required.

Despite little difference in the advice and support needs of ‘formal’ and ‘informal’ kinship carers²³, access to support and assistance from the local authority can be dependent on these definitions. A recent survey found that one in four of the kinship carers surveyed in Scotland had received no help of any kind from children’s services.²⁴ In addition to the responsibilities local authorities have in relation to ‘looked after’ children in kinship care, the Children and Young People (Scotland) Act 2014 introduced a duty on local authorities to provide assistance to eligible kinship care families with a Kinship Care Order or seeking such an order.

To be eligible, the child must either have previously been ‘looked after’ by the local authority or be considered by the local authority to be at risk of becoming ‘looked after’.²⁵ Such assistance includes advice, information, assistance with the financial cost of obtaining a Kinship Care Order, and the provision of a financial allowance. There is not always consistency in determining whether a child is at risk of becoming ‘looked after.’ In some areas, to meet this threshold families may need to be viewed as being ‘in crisis’²⁶ rather than taking a preventative approach. Local authorities can also use powers to support ‘informal’ kinship carers at their discretion.

The Independent Care Review heard from many kinship families, and The Promise highlights the lack of support felt by them, and of the fear of asking for help in case they were viewed as not coping. Kinship carers shared feelings of frustration over the lack of information shared with them, and at being refused help. They also shared their experience of stigma and being treated differently to other carers.²⁷ The Promise is clear that support must be offered freely to kinship carers without their needing to fight for this.

Alongside therapeutic, whole family support, financial support is a critically important area for kinship carers. Children living in kinship care are disproportionately living in the poorest households in Scotland.²⁸ For many, their housing is not suitable and children do not have enough space to play.²⁹ Some kinship carers described to the

²³ Kidner, C. (2016) *SPICe Briefing: Kinship Care*. Edinburgh: Scottish Parliament Information Centre

²⁴ Young, E. & Hill, L. (2020) *The highs and lows of kinship care: supplementary analysis of a comprehensive survey of kinship carers in Scotland 2019*. Glasgow: CELICS/Family Rights Group

²⁵ Scottish Government (2016) *National Guidance on Part 13 of the Children and Young People (Scotland) Act 2014: Support for Kinship Care*. Edinburgh: Scottish Government

²⁶ Hill, L., Fowler, N. & Porter, R. (2019) *Supporting Families: A review of the implementation of Part 12: Children at risk of becoming looked after as set out in the Children and Young People (Scotland) Act 2014*. Glasgow: CELCIS

²⁷ The Independent Care Review (2020) *The Promise*. Online at https://www.carereview.scot/wp-content/uploads/2020/03/The-Promise_v7.pdf; Independent Care Review (2020) *Evidence Framework: Participation and engagement report*. Independent Care Review.

²⁸ Nandy, S., Selwyn, J., Farmer, E., & Vaisey, P. (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*, Bristol: University of Bristol.

²⁹ Young, E. & Hill, L. (2020) *The highs and lows of kinship care: supplementary analysis of a comprehensive survey of kinship carers in Scotland 2019*. Glasgow: CELICS/Family Rights Group

Independent Care Review living in ‘abject poverty’ in overcrowded housing;³⁰ and evidence from a recent survey found over 80% of the kinship carers surveyed reported that becoming a kinship carer had caused them financial hardship, and nearly half rated the process of obtaining financial support as *very difficult*.³¹

Allowances

Despite agreement reached in 2007 between the Scottish Government and Scottish local authorities that each would do “what is required” to provide “allowances for kinship carers of ‘looked after’ children to treat them on an equivalent basis to foster carers”³², there remain inequitable levels of support for kinship families across Scotland. In 2014, analysis of a Freedom of Information request made by the Equality and Human Rights Commission (EHRC) found considerable disparity between allowance rates paid by some local authorities to kinship carers and foster carers.³³ The EHRC raised concerns that this situation was incompatible with a number of articles of the European Convention on Human Rights, and they would consider challenging the arrangements of some local authorities via judicial review. Following the report of the EHRC, in 2015 the Scottish Government announced that additional funding would be provided to local authorities and ensured local parity with foster care allowance rates for eligible kinship carers.³⁴

Whilst there is now parity *within* local authority areas in the allowances paid to kinship and foster carers, there is no parity nationally, meaning a kinship carer for a child in one local authority area may receive less financial support than a kinship carer in a neighbouring area. A survey by the Fostering Network conducted in 2021, with responses from all 32 local authorities, found that differences in allowance rates are significant, amounting to thousands of pounds if calculated over the course of a year.³⁵ The ranges identified in the survey were:

- £77.96 to £200 per week for children aged 0-4
- £96.40 to £200 per week for children aged 5-10
- £120.00 to £240.40 per week for children aged 11 to 15
- £125.86 to £266.75 per week for children aged 16+

³⁰ Independent Care Review (2020) *Evidence Framework: Participation and engagement report*. Independent Care Review.

³¹ Young, E. & Hill, L. (2020) *The highs and lows of kinship care: supplementary analysis of a comprehensive survey of kinship carers in Scotland 2019*. Glasgow: CELICS/Family Rights Group.

³² Scottish Government and CoSLA (2007) *Concordat between the Scottish Government and local government*. Online at <https://www.webarchive.org.uk/wayback/archive/20150218194013/http://www.gov.scot/Publications/2007/11/13092240/concordat> p5.

³³ Farrugia, B., & Hill, L. (2014). *Equality and Human Rights Commission: Children in Kinship Care and Foster Care (Scotland) Study - Analysis of Responses to Freedom of Information Requests*, Glasgow: CELCIS.

³⁴ <https://www.gov.scot/policies/looked-after-children/kinship-care/>

³⁵ The Fostering Network (2022) *Scotland Foster Care Allowances Survey 2021-22*. Online at <https://www.thefosteringnetwork.org.uk/sites/default/files/2022-01/Scotland%20Foster%20Care%20Allowances%20Report%202021-2022%20%281%29.pdf>

It should be noted that currently only certain kinship carers are eligible to receive financial support from the local authority at the same level as the local authority's fostering allowance rate. Those entitled to this financial support are kinship carers of:

- 'Looked after' children
- Children subject to a Kinship Care Order who also are (or were):
 - previously 'looked after';
 - at risk of becoming 'looked after'; or
 - placed with their kinship carer with the involvement of the local authority.

At present there are differences in terms of the provision of payments by local authorities to other kinship carers not currently eligible to an allowance³⁶, further adding to the inconsistent and unpredictable landscape many kinship carers are navigating.

Scotland is the only nation in the United Kingdom without a national minimum foster care allowance rate. A 2016 manifesto pledge from the Scottish National Party committed to introducing a new national allowance for both kinship care and foster care. A national review of care allowances was led by the Scottish Government in 2017 which reported recommendations in September 2018, one of which was:

"To achieve consistency for children and young people in foster and kinship care, Scottish Government and COSLA should consider a Scottish Recommended Allowance"(p6)³⁷

Scottish Ministers have powers under section 110 of the Adoption and Children (Scotland) Act 2007 to set the level of payments to kinship carers, but have not yet utilised these powers. There are significant ongoing efforts to try to resolve this complex issue, with many people and organisations committed to reaching agreement on a national rate and working hard to find solutions. At present, it remains the case that there is no national statutory guidance on the allowance rate that is to be paid to carers, or thresholds indicating a minimum or maximum payment to meet the costs of caring for a child.

Scottish Government statutory guidance³⁸ makes clear that care provided to 'looked after' children should be of optimum quality, and include:

- "a healthy diet and good physical care;
- opportunities for stimulation and exercise;
- development of social skills and participation in activities in the community;
- building self-esteem, including good presentation and acceptability by peers;

³⁶ CELCIS (2020) *Inform: Spotlight on kinship care*. Glasgow: CELCIS

³⁷ Scottish Government (2018) *National Review of Care Allowances Recommendations*. Edinburgh: Scottish Government, p6

³⁸ Scottish Government (2010) [Guidance on the Looked After Children \(Scotland\) Regulations 2009 and the Adoption and Children \(Scotland\) Act 2007](#). Edinburgh: Scottish Government

- a safe and comfortable environment;
- full inclusion in special celebrations such as birthdays, Christmas or other cultural or religious events; and
- promoting and developing educational opportunities.” (2010: p113)

This lack of a national allowance rate is an issue in need of urgent resolution; crucially, establishing an allowance rate which is not a basic minimum, but rather wholly sufficient to meet the true financial costs for kinship carers caring for a child in respect to the above expectations. The rate must be kept under review considering and reflecting any cost of living rises.

Attention to implementation is also crucial, ensuring minimal bureaucracy and ease of access for kinship carers in receiving the allowance, including establishing an ethos and understanding that this allowance is ‘deserved’ and something a carer is entitled to in order to meet the needs of a child, rather than something to be fought for. Furthermore, careful attention will be required to avoid carers experiencing challenges in interactions with any existing social security payments and entitlements.

Local authorities are advised by the Scottish Government that they may deduct from the amount they pay to a carer in an allowance the equivalent amount of any child related benefits the kinship carer receives.³⁹ This is because foster carers are not eligible for child-related benefits (i.e. child benefit and child tax-credit), and the policy aim is to ensure parity between foster care and kinship care allowances. If the kinship carer does receive child related benefits, any additional payment made by the local authority should ensure the kinship care receives, in total, the equivalent of the local authority’s foster care allowance rate. This payment is considered a ‘wellbeing payment’, paid to ensure the child in kinship care can benefit from the opportunities all children should have but that they otherwise could not access.

If a kinship carer receives payments from the local authority, the legal basis which is used to make payments is important, because of the potential interaction with the social security system.

Social Security Payments

The Child Poverty Action Group (CPAG) describes the interactions between the UK social security systems and devolved sources of financial support for kinship carers paid by local authorities as “tortuous”.⁴⁰ The particular issues which can affect a kinship carer’s claim for welfare support are set out in detail by CPAG online : [Kinship care and benefits: the essentials](#). In summary, the key issues involved are⁴¹:

³⁹ <https://www.gov.scot/policies/looked-after-children/kinship-care/>

⁴⁰ Gillies, A (2015) *Coping with complexity: financial support for kinship carers in Scotland*. London: CPAG, p5

⁴¹ CPAG (2020) [Kinship care and benefits – the essentials](#). London: Child Poverty Action Group; CPAG (2021) [Kinship carers and universal credit](#). London: Child Poverty Action Group

For kinship carers of children who are *not* 'looked after' children:

- Complications resulting from situations where someone else is claiming social security support for the child. Often when a child comes to live with a kinship carer, someone else has been receiving Child Benefit (e.g., a birth parent). Depending on family circumstances, there may be conflict about who should care for the child, and a transition in who is claiming social security support can be difficult. Unless the person previously receiving the payment proactively gives up their entitlement, they retain it for 3 weeks from the point at which a kinship carer claims the Child Benefit, meaning a delay before the kinship carer becomes entitled and receives payment. Delays can cause serious hardship and impact on the carer's ability to care for the child in the interim.
- The 'two-child limit' for children born on or after 6 April 2017, which means that Universal Credit or Child Tax Credit is only be paid for two children, even if there are more children in the family. This rule does not apply to certain children in kinship care, for example:
 - a kinship care order is in place; or
 - a kinship care order was in place and the child has now turned 16 and continues to be cared for by the kinship carer; or
 - had the child not been cared for by the kinship carer they would have been likely to become 'looked after' by the local authority.

For kinship carers of 'looked after' children:

- Complications resulting from the legal basis under which the local authority makes 'kinship care allowance' payments.
 - Kinship carers of 'looked after' children can claim Child Benefit for the child they are caring for unless their kinship care allowance is being paid under regulation 33 of the Looked After Children (Scotland) Regulations 2009.
 - Child Tax Credit (and several other forms of social security payments) are being replaced by Universal Credit, but some kinship carers may still be receiving these 'legacy benefits'. Kinship carers should be able to receive Child Tax Credit if any payments they receive from the local authority are *not* in respect of accommodation or maintenance. This is only possible if the payments they receive from the local authority are made under section 22 of the Children (Scotland) Act 1995 and made for expenses other than accommodation and maintenance.
- Unless they have parental responsibilities for the child, kinship carers for looked after children are not eligible to the additional Pension Credits which some individuals in receipt of Pension Credits receive if they are responsible for a child.
- 'Looked after' children are not included in the size criteria for the housing costs element of Universal Credit for kinship carers, other than the allowance of one extra room. This is regardless of the number of 'looked after' children the kinship carer cares for.

- Aside from rare circumstances, kinship carers for ‘looked after’ children do not receive the child element of Universal Credit. Eligibility for other elements of Universal Credit (e.g. the childcare costs element and the work allowance) depend on receipt of the child element, so kinship carers of looked-after children are not able to claim them. This is a less complicated system than for those receiving ‘legacy benefits’ (as the legal basis of the local authority payments is no longer relevant). However, considerable issues in relation to Universal Credit for kinship carers remain (for example, mistakes about eligibility resulting in overpayments).

All kinship carers with entitlement to qualifying social security payments (Universal Credit, Income Support, income-based Jobseeker’s Allowance, income-related employment and support allowance, Child Tax Credit, Working Tax Credit or Pension Credit), who are responsible for any children under 6 are entitled to receive the Scottish Child Payment for each child.⁴²

Continuing Care and aftercare

The complexity continues for older children and young people living with kinship carers, in terms of uncertainty over continued provision of appropriate allowances. If young people (up to the age of 21) remain in their kinship care placement under Continuing Care arrangements, guidance notes they should be provided with the same accommodation and other assistance as was being provided by the local authority immediately before they ceased to be ‘looked after’. Local interpretation of this guidance varies however,⁴³ and specific clarity and commitment is required regarding the continued provision of appropriate allowances to families in this position.

Concluding remarks

Kinship carers undertake a hugely valuable and often challenging role in caring for children who cannot live with their parent(s). Many of the challenges and inconsistencies they experience are a result of an unnecessarily complex system. With continued concerted attention to inconsistencies and complexities of this system, significant improvements can be made to the experiences of kinship carers and the children they love and care for.

It is critical that the ongoing efforts to resolve the matter of equity in allowance rates reaches a successful conclusion as a matter of urgency. In addition to agreeing the allowance rate, there must be full and detailed consideration of how this is implemented to ensure that kinship carers access the allowance without delay or complication.

⁴² CPAG (2022) [Scottish child payment and kinship carers](#). London: Child Poverty Action Group

⁴³ McGhee, K. (2017) [Staying Put & Continuing Care: The Implementation Challenge](#), Scottish Journal of Residential Child Care, Vol 16, No.2

Alongside this urgent action required on allowances, there is an equally critical need to ensure all kinship families in Scotland have ready access to the full range of high-quality support and advice needed to care for their children. This will look different for every family, but there must be no barriers to accessing the right family support for each one.

Families must be supported to understand the care planning processes and legal options available to them so that they can make the right choices for them and their children. Listening to, and working together with, kinship carers and other partners in the Kinship Collaborative is key here. We are fully committed to contributing to driving forward lasting change.

Thank you for providing us with this opportunity to submit written evidence, we would be happy to provide further information in respect to any of the areas discussed here. We look forward to providing oral evidence to the Committee's thematic session on 24th February 2022.

CELCIS contacts:

Kirsty Doull
Permanence Lead

Lizzie Thomson
Policy Associate