



FINANCIAL SUPPORT TO KINSHIP CARERS IN SCOTLAND

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The Child Poverty Action Group (CPAG) in Scotland works for the one in four children in Scotland growing up in poverty. We collect evidence from families living in poverty and campaign for solutions to bring about a society where children have a fair chance in life free from hardship. We provide training, advice and information on social security to frontline workers to make sure families get the financial support they need.

CPAG in Scotland provides expert advice on social security issues to frontline workers (e.g., advisers, social workers, support workers) via our advice line services, training, online resources and guides. Since 2008, our Children and Families Project has produced resources focusing on issues relating to kinship care, looked after children and their families and care-experienced young people. This period has seen significant change, both in terms of Scottish Government policy and wider social security issues. CPAG in Scotland has been able to advise on and highlight the complexities and some of the difficulties that have arisen, particularly in relation to the interaction between local authority support and the wider social security system.

Our relevant resources include the [Children's Handbook Scotland](#) and factsheets on [Scottish child payment and kinship carers](#), [Kinship carers and benefits](#), [Kinship carers and universal credit](#), [Children looked after by the local authority: impact on family benefits](#) and [Care-experienced young people and the benefits system](#). In 2015, we produced a policy report [Coping with complexity](#), examining financial support to kinship carers in Scotland and we are currently updating this report to consider the impact of the roll-out of universal credit as the main working age means-tested benefit.

Through our advice line services and our Early Warning System, we are able to identify various issues of concern in relation to the current system of financial support to kinship carers.

Background

In 2015, the Scottish Government and COSLA announced a commitment on the part of local authorities to pay certain kinship carers a kinship care allowance. The aim of this agreement is that there should be parity between the amount the local authority pays for kinship care allowances and fostering allowances (not including fees).¹ These arrangements cover:

- kinship carers of looked after children;
- kinship carers where the child is subject to a kinship care order (under section 11 of the Children (Scotland) Act 1995) or the carer is the child's guardian under section 7 of the Children (Scotland) Act 1995; *and*
 - the child was previously looked after by the local authority; *or*
 - the child is at risk of becoming looked after; *or*
 - the local authority was involved in placing the child with the kinship carer.

In July 2016, National Guidance was published (*Children and Young People (Scotland) Act 2013: National Guidance on Part 13: Support for Kinship Care*).² This guidance suggests that local authorities deduct from the allowance any 'child-related benefits' to which the kinship carer is entitled, and that a foster carer would not be entitled. The guidance states that child benefit and child tax credit (although not the disability or severe disability element) should be deducted if the kinship carer is eligible for these benefits. Since the agreement universal credit (UC) has become the central plank of the social security system for working age claimants and many kinship carers have had to look to the UC system for support. The guidance has not been updated to include guidance relating to UC.³

UC is replacing the following benefits and tax credits: income support; income-based jobseeker's allowance; income-related employment and support allowance; housing benefit (for most claimants under pension age); child tax credit and working tax credit. UC can include amounts for dependent children (child element), an amount to help with rent (housing costs element), an amount to help people in paid work with the cost of child-care (childcare costs element) as well as additional elements if the claimant is caring for a disabled person or they are unwell. There are special rules in the UC system relating to children who are looked after by the local authority and these rules impact on some kinship carers.

Issues of concern

Varying levels of payment across different local authorities and which kinship carers are eligible

Prior to the 2015 agreement, financial support to kinship carers was very variable across Scotland. For example, in 2009, 24 of the 32 local authorities were making payments to kinship

¹ www.gov.scot/policies/looked-after-children/kinship-care/

² www.gov.scot/publications/national-guidance-part-13-children-young-people-scotland-act-2014/pages/1/

³ www.gov.scot/publications/national-guidance-part-13-children-young-people-scotland-act-2014/pages/9/

carers of looked-after children, but only three were making payments at a rate equivalent to their own fostering allowances.⁴ By 2014, all Scottish local authorities were paying an allowance to kinship carers of looked after children, although only eight were paying equivalent to the fostering allowance rate.⁵

The 2015 agreement has led to an improved picture in terms of equivalence with fostering allowance rates and support to some kinship carers of non-looked after children. However, it is important to note that fostering allowance rates are variable across the 32 local authorities and, because kinship care allowances are pegged to these levels, these allowances vary. In addition, there are kinship carers who do not fall within the parameters of the 2015 agreement – for example, because the child is not looked after and there is no kinship care order in place – who would, nevertheless, benefit from additional support.

In relation to the level of payment, we note that the Scottish Government intends to introduce a national minimum level of kinship care allowance (and fostering allowance).⁶

Interaction with the social security system

There are various troublesome complexities arising from the interaction between the system of local authority kinship care allowances and the social security system. This creates difficulties for kinship carers trying to navigate the system; for local authorities attempting to implement their kinship care policies and for advisers and social workers supporting kinship carers. CPAG in Scotland's various resources, highlighted earlier in this briefing, are designed to support local authorities and those advising and supporting kinship carers to navigate these complexities.

These difficulties did not arrive with the roll-out of universal credit (UC) – there are many difficulties for kinship carers with the system of 'legacy benefits' – but UC has brought a new range of challenges and it is useful to set out some of these here.

UC child element wrongly paid

Kinship carers caring for a child who is 'looked after' by the local authority are not eligible for the child element of universal credit.⁷ The Department for Work and Pensions (DWP) does not always apply the rule correctly. In other words, in spite of having all the correct information about the kinship carer's situation, the DWP incorrectly includes the child element in the kinship carer's UC award often despite strenuous efforts by the kinship carer to try to stop the DWP making these incorrect UC payments.

This gives rise to two significant and inter-connected problems. Firstly, the kinship carer is overpaid UC. All overpayments of UC are legally recoverable, regardless of how they have arisen. The connected problem relates to the kinship carer allowance paid by the local

⁴ K Dryburgh, *Relative Value: the experiences of kinship carers using the Scottish CAB Service*, Citizens Advice Scotland, 2010

⁵ Citizen's Advice Scotland, Unpublished Report on Scottish Local Authorities' Financial Support to Kinship Carers, 2014

⁶ Scottish Government Programme for Government www.gov.scot/publications/fairer-greener-scotland-programme-government-2021-22/pages/5/

⁷ Regulation 4 and 4A Universal Credit Regulations 2013

authority. The local authority usually deducts the child element of UC if the kinship carer receives it. If the kinship carer is receiving the child element incorrectly, and the local authority deducts the equivalent amount on an ongoing basis from their kinship care allowance, what happens when the DWP realises its mistake and claws back the overpaid UC from the kinship carer? The result is likely to be a significant financial loss for the kinship carer.

UC child element – other issues

Where UC is correctly calculated and a kinship carer of a looked after child does not receive the child element, this can have wider effects, particularly if the kinship carer is in paid work or if the child has a disability. As well as not receiving the child element, a kinship carer of a looked after child who is working may not get the ‘work allowance’ (an amount you can earn before your UC is affected) and will not get any help with childcare costs for the child via UC. This can result in a considerable financial loss.

In UC, the child element is higher if the child you care for has a disability and is entitled to a disability benefit like child disability payment. If the kinship carer is not eligible for the child element, then they will not get the disabled child addition either.

We have seen no evidence of local authorities adjusting kinship care allowances to take account of these ‘losses’ in UC entitlement, although there may be examples of this that we are not aware of.

Two child limit and the benefit cap

This issue is of relevance to kinship carers of non-looked after children. The two-child limit means that, for most claimants, you cannot get the child element of UC for a child born on or after 6 April 2017 if you are already getting UC child element for two or more children. There are some exceptions, including one for some kinship carer arrangements, called ‘non-parental caring arrangements’ in this context. This exemption is, of course, welcome. However, it must be viewed in the wider context of its interaction with other social security restrictions: in particular, with the ‘benefit cap’.

The benefit cap operates to ‘cap’ the total amount that a claimant can receive from a range of social security benefits. Some people are exempt from the benefit cap: the exemptions mainly relate to being in receipt of a disability or carer benefit or having recently been in paid work. None of the exemptions relate directly to being a kinship carer: the only one that has potential relevance to the fact that a person is a kinship carer is if the claimant is getting guardian’s allowance. Some kinship carers will be getting guardian’s allowance but not many, as entitlement depends on the child being an orphan (or effectively being an orphan because one parent has died and the other, for example, is a long-term prisoner). As a result of the benefit cap, a kinship carer who is exempt from the two-child limit, may find that they are actually no better off than if they were not exempt.

How local authorities work out what to deduct from kinship care allowance

This issue is relevant to kinship carers of non-looked after children who are eligible for the child element in their UC. Scottish Government guidance advises local authorities to deduct from the amount of their fostering allowance any ‘child-related’ benefits (with certain exceptions) that the

kinship carer receives that a foster carer would not.⁸ The guidance refers specifically to child benefit and to child tax credit, which was the dominant means-tested, child-related benefit at the point the guidance was published.

Although UC is replacing child tax credit, it is difficult for local authorities to apply the principle of the guidance to UC, except in the most straightforward situations. The reason for this is that the 'child element' of UC, the part that replaces child tax credit, is only one element of UC. This, of course, is completely different from child tax credit, which only provides support that relates to a dependent child or children.

A particular difficulty arises where a kinship carer does not receive maximum UC because it is being reduced by other income they have, such as earnings. In short, the kinship carer will not be receiving the full amount of the child element, creating difficulties for local authorities in calculating the kinship care allowance. We are aware of local authorities where a fairly complex calculation is undertaken by the welfare rights team in order to ensure that kinship carers are not disadvantaged. We do not believe that this is a universal approach.

Devolved social security provision

The last few years has seen the introduction of some Scottish benefits and we welcome the attention that has been paid to the position of kinship carers in relation to these. For example, kinship carers who are on a low income can receive best start grants and the Scottish child payment in respect of the child they care for, whether or not the child is looked after by the local authority.

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⁸ <https://www.gov.scot/publications/national-guidance-part-13-children-young-people-scotland-act-2014/pages/9/>