

## **Kinship Care Arrangements:**

### **Introduction:**

Children may be brought up by members of their extended families, friends or other people who are connected with them for a variety of reasons and in a variety of different arrangements.

This document sets out the different types of arrangements through which a child may be being cared for by family members or friends.

[Nottingham City's Kinship Care Policy](#) can be found in our procedures.

## **The Different Types of Kinship Care Arrangements:**

### **1. Informal Family Arrangement:**

Where a child cannot be cared for within his or her immediate family, the family may make their own arrangements to care for the child within the family and friends network.

In these circumstances, the Local Authority does not have a duty to assess any such informal family and friends care arrangement, unless it appears to the authority that services may be necessary to safeguard or promote the welfare of a Child in Need. In such cases, the local authority has a responsibility under Section 17 of the Children Act 1989 to assess the child's needs and provide services to meet any assessed needs of the child. Following assessment, a Child in Need Plan will be drawn up and a package of support will be identified. This can comprise a variety of different types of services and support.

In these circumstances, the parents retain Parental Responsibility for the children and the exercise of this parental responsibility cannot be restricted by the family or Local Authority e.g. through supervised contact. If the Local Authority seeks to implement measures which may restrict exercise of PR, legal advice should be sought.

### **2. Private Fostering:**

A privately fostered child is a child under 16 (or 18 if disabled) who is cared for by an adult who is not a parent or close relative, where the child is to be cared for in that home for 28 days or more. Close relative is defined as 'a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent.' It does not include a child who is Looked After by a local authority. In a private fostering arrangement, the parent still holds parental responsibility and agrees the arrangement with the private foster carer.

The local authority has a duty to assess and monitor the welfare of all privately fostered children and the way in which they carry out these duties is set out in the Children (Private Arrangements for Fostering) Regulations 2005. However, the local authority may also become involved with a child in a private fostering arrangement where the child comes within the definition of a Child in Need. In such cases, the local authority has a responsibility to provide services to meet the assessed needs of the child under Section 17 of the Children Act 1989. Following assessment, a Child in Need Plan will be drawn up and a package of support will be identified.

### **3. Connected Persons Fostering Arrangement:**

Where a child is looked after by the local authority, we have a responsibility wherever possible to make arrangements for the child to live with a member of the family who is approved as a foster carer (Section 22 of the Children Act 1989). The child can be placed with the family members prior to such approval, subject to an assessment of the placement, for up to 16 weeks. This temporary approval can only be extended in exceptional circumstances.

In this context the carer is referred to as a Connected Person and the process of obtaining approval for the placement is set out in the [Placements with Connected Persons](#) Procedures.

Where temporary approval is given to such a placement under the procedure, the carers will receive financial support on a regular basis.

In addition the child will have a placement plan which sets out the specific arrangements surrounding the child and the carers including the expectations of the foster carers and the support they can expect to receive to enable to fulfil their responsibilities for the child.

The assessment and approval process for kinship carers who apply to be foster carers for a specific Looked After child will be the same as for any other foster carer except that the timescales for the assessment are different where a child is already in the placement as indicated above. An information pack will be available to potential foster carers about the process and they will be given the name and contact details of the social worker from the Fostering Service allocated to carry out the assessment.

Once approved as foster carers, they will be allocated a supervising social worker from the fostering service to provide them with support and supervision; and they will receive fostering allowances for as long as they care for the child as a foster carer.

While the child remains a looked after child, as a foster carer, they will be expected to cooperate with all the processes that are in place to ensure that the child receives appropriate care and support, for example, contributing to reviews of the child's Care Plan, cooperating with the child's social worker and promoting the child's education and health needs.

#### **4. Child Arrangement Order:**

A Child Arrangements Order is a Court Order which sets out the arrangements as to when and with whom a child is to live, spend time or otherwise have contact.

These orders replace the previous Contact Orders and Residence Orders.

A Child Arrangements Order may give parental responsibility to the person in whose favour it is made. Parental responsibility is shared with the parents.

Child Arrangements Orders may be made in private family proceedings in which the local authority is not a party nor involved in any way in the arrangements. However, a Child Arrangements Order in favour of a relative or foster carer (who was a 'Connected Person') with whom a child is placed may be an appropriate outcome as part of a permanence plan for a Child in Need or a 'Looked After' child.

The local authority may pay Child Arrangements Order Allowances to relatives or friends, unless they are a spouse or civil partner of a parent, with whom a child is living under a Child Arrangements Order. This is set out in paragraph 15 of Schedule 1 of the Children Act 1989, however this is discretionary.

#### **5. Special Guardianship Order**

Special Guardianship offers a further option for children needing permanent care outside their birth family. It can offer greater security without absolute severance from the birth family as in adoption.

Relatives may apply for a Special Guardianship Order after caring for the child for one year. As Special Guardians, they will have parental responsibility for the child which, while it is still shared with the parents, can be exercised with greater autonomy on day-to-day matters than where there is a Child Arrangements Order.

Special Guardianship Orders may be made in private family proceedings and the local authority may not be a party to any such arrangements. However, a Special Guardianship Order in favour of a relative or foster carer (who was a 'Connected Person') with whom a child is living may be an appropriate outcome as part of a permanence plan for a Child in Need or a 'Looked After' child.

Where the child was Looked After immediately prior to the making of the Special Guardianship Order, the local authority has a responsibility to assess the support needs of the child, parents and Special Guardians, including the need for financial support.

#### **6. Adoption Order**

Adoption is the process by which all parental rights and responsibilities for a child are permanently transferred to an adoptive parent by a court. As a result the child legally becomes part of the adoptive family.

An Adoption Order in favour of a relative or foster carer (who was a 'Connected Person') with whom a child is living may be an appropriate outcome as part of a permanence plan for a Child in Need or a 'Looked After' child.

Local authorities must make arrangements, as part of their adoption service, for the provision of a range of adoption support services. They then have to undertake assessments of the need for adoption support services at the request of the adopted child, adoptive parents and their families, as well as birth relatives. The support required is then set out in an Adoption Support Plan and this may include financial support.

### **Private Arrangement vs Kinship Care:**

The law says that:

1. If children's services play a major role in making the arrangements for the child, the most likely conclusion is that children's services is exercising its powers and duties to look after the child under section 20(1)(c) of the Children Act 1989
2. If children's services are instead simply assisting in arranging informal family care, then they must be explicit with those involved about that
3. This includes giving clear information about who will be financially responsible for the child. Only if on receipt of such information can a potential kinship foster carer give informed consent to accept the child on an informal family care arrangement instead.

**This law comes from important cases heard in the Court or Appeal. The cases are:**

- London Borough of Southwark v D [2007] EWCA Civ 182 and
- R (SA) v Kent County Council [2011] EWCA Civ 1303.