



THE ALL PARTY PARLIAMENTARY GROUP ON

# KINSHIP CARE

## APPG Legal Aid Inquiry

### Minutes of Oral Evidence Session 1

Wednesday 23<sup>rd</sup> February – 1.30pm to 2.30pm, Zoom

#### Attended:

Parliamentarians:

Andrew Gwynne MP (Chair **AG**); Lord Hannay; Baroness Drake; Afzal Khan MP (Shadow Minister for Legal Aid); Caraden Davies (Office of Afzal Khan MP); Denise Rooney (Office of Andy McDonald MP); Jennifer Teare (Office of Ian Byrne MP)

External:

Cathy Ashley (Chief Executive, FRG); Jordan Hall (Public Affairs Manager, FRG, Minutes); Angharad Davies (Social Work Adviser, FRG); Frances Edwards (Legal Adviser, FRG); Caroline Lynch (Principal Legal Adviser, FRG); Beverley Campbell (Family Participation Officer, FRG); Enza Smith (Chief Executive, Kinship Carers UK); Elaine Horsey (Kinship carer)

Apologies:

Catherine McKinnell MP (Vice Chair); Ian Byrne MP (Vice Chair); Tim Loughton MP (Vice Chair); Baroness Armstrong (Vice Chair); Miriam Cates MP (Vice Chair); Steven Bonnar MP (Vice Chair); Baroness Finlay; Lord Blunkett; Kerry McCarthy MP; Baroness Masham

#### Guests giving evidence:

- Clare Walsh, kinship carer, Chichester (CW)  
Clare and her partner are raising Clare's niece and nephew after her sister became unable to care for them. Clare is a member of Family Rights Group's kinship carers' panel, a member of the Adoption & Special Guardianship Leadership Board Special Guardians Reference Group and sits on the President of the Family Division's Family Transparency Implementation Group.
- Lorna King, kinship carer, Lambeth (LK)  
Lorna is an adoptive parent of two adult daughters. The youngest of her daughters has learning difficulties and mental health issues and so Lorna raises her two children. Lorna is a member of Family Rights Group's kinship carers' panel.
- Shanayd Warren, kinship carer, Brent (SW)  
Shanayd is raising her two-year-old niece. Her sister, the child's mother, had difficulties from an early age and was placed into care. Due to mental health difficulties she was later unable to look after her own children. Shanayd is a member of Family Rights Group's kinship carers' panel and a member of the Adoption & Special Guardianship Leadership Board Special Guardians Reference Group.
- Stuart Black, kinship carer, Surrey (SB)  
Stuart and his partner are raising three children whose mother, a family friend, was hospitalised and later died. Stuart is a trustee of Family Rights Group and a member of their kinship carers' panel.

- **Rosie Turner, Ridley & Hall Solicitors (RT)**

Rosie is a solicitor in the Child Care and Public Law Team at Ridley & Hall. She assists clients on a variety of issues in relation to kinship care, particularly claiming allowances and back dated payments for kinship carers from local authorities. Rosie also assists clients with Special Guardianship Order applications and advice in relation to the support that is available under Special Guardianship Orders.

## **1. Chair's Welcome**

The Chair was held up with parliamentary business and so Jordan Hall, as secretariat to the APPG, introduced the group's inquiry on legal aid:

- This is the first of two oral evidence sessions the group is holding as part of its inquiry into legal advice and representation for kinship carers and prospective kinship carers.
- We know this is a huge challenge for many relatives of friends who are stepping up to raise children who can't remain at home.
- Relatives and friends are being asked to step in to avoid a child from remaining in, or entering into, the care system. Yet they are often then left having to navigate a complex legal system and make huge decisions for their family without access to free, independent legal advice. Many end up in substantial debt as a result.
- We have a great panel of experts to share their experience and expertise.
- Noted that the session will be recorded.

## **2. Evidence from Clare Walsh, kinship carer**

In December 2015 social services contacted myself and other close family and invited us to a 'Team Around the Family' meeting in mid-January. My sister had suffered with severe mental illness for years, social services and NHS mental health services had had intermittent involvement in her life since she was a teenager.

The day before the Team Around the Family meeting, my sister made another attempt to end her life. At the meeting, whilst my sister was comatose in hospital, the social workers asked our family if we would look after the children, as they said, temporarily, until my sister and the children's needs could be assessed, and support put in place.

My partner and I agreed to this. My niece was 9 and my nephew 2.5. The next day, my sister was released from hospital, went home, burned her house down and was placed in custody. My partner and I had no idea how to navigate this situation. Having no legal status, no PR, no access to anyone with PR, and no support from social services put us, and more importantly, our children, in a very precarious situation.

I was lucky I had recently finished the GDL and was working in law. I carried out my own research that told me the social worker was wrong, they did have a duty to my children. I emailed to say that they either accepted their duty to the children or I would seek legal advice, and I was prepared to go as far as necessary.

Southampton did not accept their duty to the children, and I did engage a solicitor from Ridley and Hall, at my own expense. I felt I had to give up my job, a temporary role at the ICACU at

the Office of the Official Solicitor, because the children needed so much care, particularly my little one who was repeatedly admitted to hospital.

Trying to explain to hospital staff why you have this child without any documents or official support whilst that child is struggling to breathe is a horrible experience. They call the police, they come and interview you in the middle of the night, in a curtained room where everyone can hear, while your child gasps in a cot. The doctors and nurses tell you they can't treat him unless someone with PR consents. I remember almost shouting at a doctor 'Well, it's you who is choosing to let him die then!'. It makes me feel physically sick to think of all of this now. I was entirely reliant on my partner for financial support, and we had only been living together for a few months. What if he decided this was too much, why should he care and pay for these children he barely knew, if even the government didn't see them as deserving?

It was not until mid-May that Southampton accepted their legal responsibility and confirmed that the children were 'looked after'. They still didn't take any action and in late June I had to write again to Southampton as my sister was due to be released from HMP Bronzefield. Again, I threatened legal action, at my own expense. It took 18 months for social services to do their job properly, 18 months of me spending precious time doing legal research when I could have been caring for the children, researching other services they also needed. 18 months of stress and worry, strain on my relationship with my partner and more importantly with the children. Stress and anxiety for my sister, struggling with the trauma of losing her children and not knowing what would happen to them. I spent money that could have been better used providing for the children.

My sister had access to legal aid, meaning that everything was thoroughly explained to her, I had to do my own research because we couldn't afford to pay for complete explanations of options or choices, we could only afford the 'firefight' taking advice as to what we could do to protect the children and ourselves during crisis after crisis.

All this stress can only have compounded the trauma the children had already experienced. Had social services told me as soon as they asked me to take the children that I had the right to legal aid and ideally given me a list of solicitors with knowledge in kinship care, our lives would have been significantly easier and less stressful.

### **3. Evidence from Lorna King, kinship carer**

My name is Lorna King. I am the adoptive parent of two adult daughters. The youngest of my daughters had learning difficulties and mental health issues and therefore when she became pregnant with twins the Local Authority advised the family that they intended to apply for a care order which we had expected.

My daughter had planned to remain within the family home with myself and the girls, but this became impossible very soon after the twin's birth. She did however agree that if the court decided that she was unable to care for the girls she wished me to do so, which I agreed to do.

From an early stage the local authority agreed to assess me, but I had no knowledge of their criteria, what sort of finances might be made available and if I would have to leave my job to maintain the care of the babies.

My only source of advice and support was the Family Rights Group advice line which I contacted frequently. It appears that as the local authority were supporting my application to become a kinship carer no one believed that I required legal advice or representation before or during the court proceedings. This worried me greatly.

With the advice I had been given I wanted to ensure I had legal representation to let me know how the case was progressing, how to negotiate a support package for the girls and for myself to facilitate their continued care but I had to go to court originally as a litigant in person. This was so scary. I was so grateful that the Judge agreed with me and thought it was unfair that I should not be represented because I had cared for the girls, including their mother from their birth.

Without me knowing what to ask for, the Judge granted me an interim child arrangement order so that I would have parental responsibility and advised the local authority that this would mean that I could approach a solicitor and be entitled to legal aid. She felt that just being told by the local authority that I should continue to care for my granddaughters was insufficient support to me as a kinship carer and that I should not only be made party to the proceedings but also have full legal representation, especially as the girls had never been removed from our family and placed into foster care, the local authority could argue that this was a private arrangement between myself and their mother and that in those circumstances I did not require financial support.

As a result of the court making that order I received legal representation and was able to secure an appropriate support package for our family which makes the difference between us being able to manage instead of suffering financial difficulties.

#### **4. Shanayd Warren, kinship carer**

My name is Shanayd Warren. I am a kinship carer to my two-year-old niece.

My sister, the mother of my niece, had difficulties from an early age and was placed into care. This led to her encountering many problems in life, including mental health difficulties. Consequently, each time she became pregnant the local authority would remove the child.

The family were later advised that my niece was four months old, having been in foster care for three of those months and that the court had ordered the local authority to approach the family to ascertain whether we would be willing to be assessed to care for the child. We immediately agreed.

We understood that my sister wanted to keep her child and felt that with support she could manage to do this. I think she felt that by letting us in, it would increase the chances of her baby being given to a family member as the previous ones had been.

Being assessed was a frightening experience, having never been involved with children's services. I was a working mother but did not have enough money to approach a solicitor privately. There was also a level of mistrust within our family as we knew the local authority had our details on file and had not sought to approach us, even though the reason they were involved with my niece was my sister's vulnerabilities.

I tried to get legal advice from different websites but unfortunately was unsuccessful and I was too frightened to challenge the local authority because I thought that they might give me a negative assessment and that my niece could be lost to adoption.

When I first attended court, I was so worried as I did not know what to do and how to do it. However, I met a duty solicitor at court that day. She advised me that I needed legal representation as the local authority had successfully assessed me and was concerned that I did not know anything about the proceedings or the order I was seeking to apply for. The solicitor agreed to represent me for that hearing. She wanted to apply for an interim child arrangements order so that I could be joined as a party, get legal aid and be represented throughout. I was so nervous and said that I needed to speak to the child's social worker before I agreed, being worried that I could jeopardise my position with the local authority. The social worker told me that if I took this advice the local authority would not agree, and it could go against me.

Given how the local authority had treated me, I accepted the advice of the duty solicitor, and the application was granted by the court. Once my status had been secured, the duty solicitor argued that keeping my niece in foster care when I had been positively assessed to care for her under a special guardianship order was disproportionate and as a result the child was transitioned into my care within two weeks where she has successfully remained after the granting of my special guardianship order.

I constantly consider what would have happened to my niece had I not, by chance, met the family law solicitor who was able to provide me with the legal advice and representation I so desperately needed.

**AG** – Another powerful testimony and many carers will share that experience. I certainly can. I described it as a legal labyrinth yesterday in parliamentary debate and that is exactly what it is. We were lost in a maze we never expected to be in with terms we didn't really understand and consequences that were extremely far reaching for our family and the loved one we now have a special guardianship order for. I can draw a lot of parallels with you Shanayd.

## **5. Evidence from Stuart Black, kinship carer**

In 2017 a friend was taken to hospital unconscious, and we agreed to look after her three children who were then 5, 6 and 14. Two weeks later she deteriorated and died, and we fell into the legal labyrinth of kinship care.

We wanted the children to be kept safe and put ourselves forward as potential carers but stressed that we needed to receive financial support to be able to do so.

The local authority initially refused to accept that we should receive any financial support on the basis, as they put it, this was a private arrangement and not a placement.

Initially, due to not knowing any better and taking some legal advice we know recognise was incomplete, we represented ourselves at an emergency Court hearing where we asked for a Child Arrangements Order; this gave us the parental responsibility to be allowed to apply for school places and kept the children safe.

When after 3 hearings the case got referred to the High Court, we realised we needed proper legal representation, and I contacted Nigel Priestley at Ridley and Hall. Nigel agreed to take

our case on and find a barrister who would represent us. I borrowed £2,500 and sent it to Nigel.

At that hearing our barrister made the case that the case should be put into public law and the Local Authority should initiate care proceedings; this was the correct thing to do; it would allow us to receive legal aid; and it would also allow us to become connected foster carers and receive financial support. The Local Authority refused, but at 3.50pm the judge called us all back into Court and made an Interim Care Order. This meant we did become connected Foster Carers, but still meant no legal aid. Legal aid was dependent on the Local Authority agreeing to initiate care proceedings.

After several more weeks we had still heard nothing from the Local Authority and the next Court hearing was looming, so we had to send Nigel another £2,000 to continue to represent us. We were now £4,500 in debt.

The LA finally agreed to initiate care proceedings more than 4 months after their mother died.

This was the first phase of our fight to be recognised as kinship carers and for proper financial support, whilst caring for three grieving children. We spent almost 18 months attending 11 court hearings, 8 in the High Court, until we were finally able to receive our Special Guardianship order. Time that should have been spent concentrating on our family.

My partner and I had our own financial responsibilities but found a way to borrow the money for legal representation until we got legal aid. I don't know what would have happened to our children if we hadn't been able to get that legal representation, or if the LA had held out for longer and we'd faced the choice of even more debt.

The current legal aid structure allows many children to slip through the cracks, either entering the care system or being adopted, despite there being caring friends and family that are willing to provide loving homes for them. This is because even those approached by local authorities to care, kinship carers are mostly not offered legal advice in the initial stages or legal representation if, as we had to, they must challenge the lack of financial support being offered by the local authority.

Friends and families who have never been involved in the childcare system do not know the policies and procedures and yet are left to try to find out information on the internet which can be misleading or even if correct; they may not feel able to represent themselves against professionals. This means that cases such as ours which may seem obvious from the outset, resulted in our family being put through an unnecessarily tortuous process which we and then the taxpayer, had to finance.

The assessment of long-term special guardian's allowance is discretionary. We were therefore forced to negotiate with a local authority who from the outset did not want to give us any support. How can that be fair?

It is essential that the legal aid regulations be reviewed and revised, especially in relation to kinship carers. Without this other kinship carers can be made to feel that they are under threat to either accept little or no support for fear of being told that they would "lose the children", as we were.

Whilst our set of circumstances might be unique, our experience is far from unique, as FRG know from their national advice line and on many kinship carers groups on social media.

## **6. Questions to Clare, Lorna, Shanayd and Stuart**

**AG** – It just beggars belief that the system that we have just fails to assist those people that are doing the right thing by the children. I think for myself, that was the most shocking part of going into this process, was finding out how little support there was for you. It is the legal labyrinth, it's the language, it's the procedures, completely alien to most people. It's utterly frightening and bewildering to have to go through what you've gone through Stuart and then to have the postcode lottery at the end of it as to whether there's even financial support for doing the right thing.

**AG Q1: How do each of you feel improved legal advice and support would have helped your family? At what stage do you think that legal support was most needed?**

**CW** - As soon as the social worker said to me can you take the children, because you're being asking to take on children who are already vulnerable and grieving and have been separated from their mum and dad. I didn't know how to get them to school etc, I had no idea. When I was at hospital getting healthcare for kinship children the police interviewed me telling me I had no right to get medical support for the children. I was lucky to have legal knowledge. It shouldn't be left to someone who is already in a really difficult situation to figure it out. So as soon as it happens.

**LK** – Totally agree. From the beginning. When things are going on behind the scenes, legal representation would have been helpful so things don't come as a surprise. Felt unprotected and frightened and needed someone to give me advice.

**SW** – I agree. It would have helped having that support early on. I had no idea about social work processes were. It was all new for me. And understanding what the implications of the order were for the future. So from the beginning but also throughout the process because things often come up.

**SB** - The beginning is when you know the least, so it's needed then. But also when you're looking at what order to get. You have got to think about another 18 years.

**AG – Q2: Do you feel the order you currently have is the right one?**

**SB** – Yes, SGO is the right one. Gives us financial support. Children want to keep their names and aren't blood relatives.

**SW** - After my order was granted, I was wondering about whether I should have gone for adoption. But looking back, SG is the right legal order for us. It gives us the support and security we need.

**LK** – Yes, SGO is the right order for me. I have no concerns about the children's mother taking them, for example.

**CW** - For me, it's more complicated. The SGO doesn't give enough permanence in some ways – birth mother or birth father have rights and could come get them – permanency is notional at best. But I wouldn't want to be a foster carer – at the same time, the support in education and the therapeutic support would be really useful. I mentioned that we were firefighting and could pay for the most crucial support, not the breadth of support, so I didn't know you could ask for long term support. Adoption Support Fund, even in the name doesn't mention special guardians. Not straightforward answer.

**AG** - Thank you Clare, Lorna, Shanayd and Stuart. It's only by hearing directly from carers like yourselves that MPs and Peers can really understand how the system isn't working to support you in the amazing role that you play in your children's lives. We have heard from four of you today but we know there are thousands of kinship carers out there experiencing similar and also different issues and we want to hear from as many carers as possible. So today Family Rights Group, our secretariat, will be launching a survey of kinship carers so many more can contribute evidence to the APPG's inquiry. We will share more details with parliamentarians after this session and it will also be posted on the APPG's social media pages. Please share the survey with your networks so that as many carers as possible have the chance to contribute.

## **7. Evidence from Rosie Turner, Ridley & Hall Solicitors**

My name is Rosie Turner. I'm a solicitor that specialises in kinship care. I would like to start off by thanking the APPG on Kinship Care and the Family Rights Group for inviting Ridley & Hall to take part in this evidence session today. We are a firm of solicitors based in Yorkshire. We specialise in public law proceedings. And so firstly, to say that this inquiry does highlight issues that are very important to us as a firm. We understand the challenges faced by kinship carers and the struggles that they have in obtaining legal aid, in access to legal representation and the difficulties that they encounter when it comes to having a voice in care proceedings. We work very closely with those family members to ensure that they are supported by their local authority in their role as carers.

I'm part of a larger team here at Ridley Hall, which is headed up by our senior partner Nigel Priestley. I'm sure most of you know, he has been involved in landmark decisions involving judicial reviews against local authorities for the unlawful treatment of their kinship carers. We assist carers on a variety of issues relating to kinship care, including; claiming allowances and backdated payments for kinship carers; and assisting with special guardianship orders, making sure that our clients are fully aware of what special guardianship entails, and what carers can expect to receive by way of support from local authorities and how that support tends to differ from local authority to local authority compared to if a child were to remain looked after under a care order.

One of the main challenges that we see kinship carers come across frequently is funding. Those who don't have parental responsibility for a child subject to care proceedings, do not qualify for automatic legal aid in the same way that parents do. Grandparents, aunts, uncles, etc, they may qualify for legal aid on a means and merits tested basis. The legal aid agency will calculate a carers eligibility based on their financial situation and will also take into account their prospects of success. We find that many carers tend to fall into that gap, where the legal aid agency will say that they have too much money for public funding but in reality, the money that our kinship carers do have, are actually quite often relying on that money in order to support the children that have been placed in their care. That money has to last until the children reach adulthood, and sometimes beyond. We also have kinship carers who, for example, are in a basic pension income. Yet have worked very hard all their lives, and perhaps have £200,000 to £300,000 equity in their house, which takes them over the threshold for legal aid. Unfortunately, our kinship carers can't pay solicitors fees with bricks.

Carers do often find themselves in a situation where they don't qualify for legal aid, but don't have the funds in order to obtain legal advice and secure legal representation within proceedings. Sometimes local authorities in cases where they support the child remaining in a particular family member's care, will offer to cover some legal costs. That offer usually



entails two hours legal advice at legal aid rates, which is equivalent to approximately £109. I think for an hour's advice, that legal aid rate is something like £54.90, so the funding is extremely limited. And what local authorities don't seem to appreciate is that these decisions that they are asking grandparents and other relatives to make are absolutely life changing. The type of order granted will have a major impact upon the type of support that's available for the child and the carers in the future. £100 legal advice is just simply not appropriate.

It is very true to say that grandparents and other family members do struggle to have their voices heard in care proceedings for this reason. It's clearly having a detrimental impact upon kinship carers understanding their rights and options. Unfortunately, we find that the family member providing care for the child in the future is usually the only family member without legal aid and without legal representation within the proceedings.

One of the problems that we are seeing as a result of family members being without access to legal aid is that carers are often left on the side-lines and can potentially end up having an order imposed on the child that they're caring for, which may not necessarily be the most appropriate order to meet that child's individual needs. So special guardianship orders for example, although they do continue to be an important permanent option for the right child and the right family, we're finding that these types of orders are becoming more and more contentious.

Firstly, there is a huge gulf between the support that foster carers and special guardians can expect to receive. Looked after children and foster carers are protected by statutory obligations, which rarely extend to special guardian placements. We've seen and heard of local authorities railroading kinship carers into making an application for special guardianship without encouraging any legal advice or having any discussions around support. Sometimes even funding and paying for the application itself. Ultimately, carers that take on a special guardianship order are doing local authorities a massive favour because they are taking away social services' statutory duties, which cost the local authority money.

We have to remember, as we've heard from some kinship carers today, that the nature of being a kinship carer is that often it's grandparents' first experience with social services. They're so frightened of offending the local authority and quite understandably panic that their grandchild is going to be removed into foster care that they simply just do what they are told by their social worker. They apply very quickly to the court for special guardianship order, at which point, they're often left with very little support.

Studies show that there are over 200,000 vulnerable children in this country that are being raised by grandparents and other relatives. Even though these children have experienced tragedy and trauma, Andrew described it very well, it is still a postcode lottery as to whether they and their carers receive any practical or financial support, despite many of these carers being in financial poverty themselves.

The concern, of course, is that special guardianship orders are being made to carers who aren't present in court, having had no involvement within the proceedings, no funding for legal advice and no support package. We must all bear in mind that kinship carers are often caring for children who require a high level of support from their local authority.

Unfortunately, when this isn't provided, kinship care breakdown is common. Our team here at Ridley & Hall specialises in adoption breakdown. We are now very sadly beginning to see a steady increase in the number of special guardianship placement breakdowns, resulting in care proceedings being issued all over again for that child concerned.

Another very troubling issue that kinship carers come across are special guardianship orders being made without the child having had a sufficient settling in period. There's a concern

about making orders of permanence where the relationship between the child and the special guardian has not yet been established, and special guardianship orders being introduced far earlier than they should be usually before a full assessment of the child's needs have been carried out. This is despite the fact that like I say, the special guardians are often caring for children with very complex, emotional and behavioural difficulties that they've manifested as a result of their early life experiences. And when a special guardianship order is made in such circumstances, again, there is a higher risk that a child's placement will breakdown. It appears that local authorities are still not learning lessons in terms of ensuring that special guardianship orders are used appropriately.

The final issue that I'd like to briefly mention just before I go on to telling you all a little bit about what we're doing as a firm to try and tackle these issues, is that we're seeing local authorities failing to prioritise family and friend placements. Even though the Children Act clearly states that councils must give preference to placements with family and friends who are approved as local authority foster carers over other types of placements, the failure to prioritise these placements is clearly having a monumental impact upon the likelihood of children even being raised within their families.

Some of the reasons for children not being placed with relatives could be because they fail viability assessments or simply give up on the process along the way. But we find it's also because the concept of placement with a family member or friend isn't promoted as actively in some regions as it is in others. It appears that a contributing factor to this is a change in social worker, which occurs far too often. We tend to find that this directly influences the likelihood of family members being promoted as carers. It's clear from a legal perspective that more needs to be done to ensure that children who could be safely looked after by someone that they know are given every opportunity to do just that. Local authorities must embrace the concept of placing children with family and friends instead of foster care and there needs to be consistency in families allocated social workers.

How are Ridley & Hall addressing these challenges and trying to enhance the chances of children remaining safely in their family network and being adequately supported? We have had success in suing a local authority which paid less to special guardians than it did to foster carers. But many local authorities across the country are still illegally underpaying carers, and we are sure that there are many more local authorities whose illegal policies are yet to come to light. As recently as last week, I spoke to a couple of grandparents who advised me that their local authority recently ceased their SGO allowance that they were in receipt of for their grandchild because the local authority has decided to take into account of fostering allowance that they're receiving for another child in their care as part of their household income in calculating their eligibility for an allowance. This, of course, should be disregarded as income because that fostering allowance is there to support that child that's in the care of the local authority.

We've recently come across a situation where a local authority promised to provide grandparents, if they went down the SGO route, a lump sum to buy a bigger house in order to accommodate the children that were being placed in their care. Right at the last minute they reneged on that promise, and these were grandparents who were sleeping on their settees in order to provide a safe home for their grandchildren.

Another issue is how long the SGO allowance is paid for. Support packages under an SGO will often have a financial element, but only for a very limited period of time. Some local authorities will means test carers as soon as the SGO is granted. Some agree to pay the equivalent of foster carers rates for say two years. It's often a real challenge to get local authorities to agree to pay an allowance until the child reaches the age of 18.

The SGO calculation guidance issued by the Department of Education is completely outdated and basically obsolete at this point. So there needs to be a complete overhaul.

It's not just the amount of allowance that tends to be the problem. It's also in what circumstances an allowance will be paid. Some local authorities are saying that they will only pay carers where the child has specific additional needs.

As well as a lack of financial support, there is also a complete lack of support for children that require specialist therapeutic services. Looked-after children under a care order are classed as a priority for support services. But you could have the same child with the same needs under an SGO, and they would not have the benefit of priority services. The adoption support fund is available for previously looked after children, but there's just no guarantee as to how long that will be available for.

It is an ongoing nationwide problem and it's having a major impact upon the child and the kinship carers getting the support that they so desperately need.

Ridley and Hall are currently issuing a series of judicial reviews to change the law for kinship carers in Wales. Some Welsh Local Authorities appear to be ignoring a judgement from the Court of Appeal in 2013, which ruled that family and friends carers must receive the same payments as unrelated foster carers. As an example, we're acting on behalf of grandparents. There is a sibling group of four children. Two children are with grandparents and two are with unrelated local authority foster carers. The unrelated carers are in receipt of £5000 per child per year and this has meant grandparents having a deficit of £50,000 over the last five years. This is a story of discrimination. Local authorities cannot discriminate against families who are doing exactly the same job simply because they are related to the children that they are caring for. We say that local authorities need to change their policies and pay backdated pay to all of those carers who have lost out.

Final points to conclude.

Kinship carers must be fully aware of how placements of children are going to be supported before any orders are granted. We have too many kinship carers without adequate support and who are contacting us after the orders being made. The reality is that they need specialist advice long before a final order is made. Local authorities need to be paying the legal costs of advice and representation and the court fees of kinship carers in all cases where the local authority supports the placement.

Full disclosure on the child's history should be given to prospective carers before an order is made. This should be achieved through kinship carers being made a party to the proceedings so that they can have access to the court bundle and be legally represented.

Appropriate support packages need to be formulated that are tailored to that child's specific needs before any orders are made.

Finally, local authorities need to be emotionally and financially committing to supporting children until they reach the age of 18, regardless of whether there is a care order or a special guardianship order in place. Ultimately, the cost of caring for a child doesn't change just because of the type of order that's in place.

## **8. Questions to Rosie Turner**

**AG Q1: Thinking about the current backlog of cases in the family courts, do the present limits on legal aid have any impact on the ability of the family justice system to properly deal with and adjudicate on kinship matters?**

RT - For care proceedings, legal aid is available for kinship carers but it's on a means and merits tested basis. You have to jump through hoops for it. Any advice prior to proceedings has been issued, it would have to either be privately paying or simply relying on the local authority's offer in terms of funding for legal advice. It's just it's simply just not appropriate.

**AG Q2: What changes do you think should be made to address the challenges that you've outlined and how we enhance the chances of children remaining safely and being adequately support within the family network when the system very clearly isn't working as it should work in the interests of the children?**

RT - I think local authorities need to be telling their kinship carers that they must seek independent legal advice so that they know what kind of order is available, what kind of support they can expect under that order, in what circumstances they can make an application to be party to proceedings, and having representation in those proceedings. I think local authorities need to be very open and need to be encouraging legal advice. They need to be giving full disclosure regarding the child's history so that full assessments can be carried out. They know exactly what the children's needs are. Support needs to be put in place before any orders upon permanence are made, such as specialist therapeutic support. All of that needs to be done by the local authority, they need to take responsibility before any final orders are made. They need to be committing to supporting children until they reach the age of 18 and that's regardless of the type of order. So, changes do need to be made in terms of local authority policies, and there needs to be consistency. Quite often we get kinship carers from one local authority saying 'I know someone from a different local authority that got this' and it's just so inconsistent. There needs to be a consistency across the board so that everybody knows what they can expect.

**AG Q3: Children are being placed with families by social services without settling in support. That is a huge ask for a lot of people. I'm sure some social services are providing adequate things for a family to start looking after a baby, but others aren't.**

RT - Children who are looked after children, where the local authority has parental responsibility for that child, usually should be providing some sort of settling grant which would be a lump sum to pay for a bed or a cot and things like that. Where it's a private law order, the local authority will say, well, we don't have parental responsibility, and we're going to wash our hands of this, it's not our problem. That child could still have been placed with the family member and it could have the exact same needs as a child that's considered looked after. But that support is just not there for them or the carer.

CW - had to buy everything. Shoes, clothes, beds. It came as a huge, unexpected expense. When they finally acknowledged their duty it was too late as we 'hadn't kept receipts'.

**Baroness Drake Q4: Is it possible to get anymore written details on the judicial review in Wales?**

RT – BBC Wales covered the case. See here: <https://www.bbc.co.uk/news/uk-wales-60287349>

## **9. Closing remarks from the Chair**

Thank all our guests today for giving the time to share your experiences with us and to help inform our inquiry. You've given us all to think about.

The family rights group will be launching their survey of kinship carers today so I encourage colleagues and everyone present to share that with your networks.

We have another oral evidence session coming up on Wednesday 9<sup>th</sup> March at the same time. We will be hearing from organisations working within the family justice sector including the Law Society, Resolution and Lawyers in Local Government.

The APPG is also now inviting written evidence submission to and there's more information about that on the APPG website.

I think this has been an insightful and thought-provoking meeting and thank you again to everybody for participating and for sharing your experiences. Keep up the good work. Thank you.

MEETING ENDED 14:45