

# Written evidence submitted by the Family Rights Group to The Children's Wellbeing and Schools Bill Committee (CWSB18).

## About Family Rights Group

1. We are the leading specialist charity working to ensure children can live safely in their family, and children in the care system have loving relationships they can turn to throughout life. For 50 years, we have worked to shape the child welfare system to make that a reality. We are unique in combining legal and social work expertise with advice giving, policy and campaigning, and direct work with families.
2. Most relevant to the Bill, our work includes:
  - a. A national advice service providing specialist advice to parents, relatives and friends including kinship carers who are involved with children's services. It provides a real time insight into families' experiences and the challenges in the system.
  - b. Legal and policy expertise on kinship care. We proposed a statutory definition of kinship care and a new duty to provide a kinship care local offer, which are now being introduced as part of this legislation.
  - c. Championing family group conferences - an approach we introduced to the UK from New Zealand in 1990s. We have long campaigned for families whose children are involved with children's services to have a right to take the lead in finding safe solutions. This is now the centrepiece of the Bill's children's social care provisions.
  - d. Lifelong Links, an approach we created with children in the care system to support them to build loving relationships with those who care for them.

## Overall reflections

3. **The Bill is a landmark opportunity for reforming the child welfare system.** With record numbers of children in care the need for reform is urgent. Families in crisis are not being helped early enough. The child welfare system has become reactive and focused on investigation rather than prevention. Children in care often experience separation from their family, friends and community, leaving them isolated. Kinship care families are commonly overlooked and under-supported.
4. **We strongly welcome the new mandate on local authorities to offer families the opportunity to come up with solutions for their children's welfare, to safely avert children entering the care system.** Currently, the support that family and friends can offer is not consistently explored prior to a child entering the care system. It means there are children in the care system who did not need to be. They could be safely at home with their parents or raised by relatives and friends in kinship care, instead of with strangers. This Bill could deliver a step change in how the state works with, rather than does to, children and their families.
5. **However, we are concerned that the family group decision making offer in the Bill is too ambiguous and state-led in the way it is framed, with the state determining how, who attends and even if it happens.** Without strengthening the provisions, we fear in practice it will not deliver the Bill's ambition, to ensure fair and effective opportunity across England for children and families to get the support they need to stay safely together.
6. **Defining kinship care in primary legislation for the first time, and requiring councils to publish a local kinship care offer, is a historic step toward recognising and supporting the over 153,000 children in England living in kinship care.** However, the expectations for councils to involve families in shaping and promoting their local offer are minimal and could be strengthened. We welcome the extension of the Virtual School Head oversight role to all children in kinship care. However, we believe the advice and information responsibilities of the

role should be similarly extended to all children in kinship care, and not only children who are the subject of a special guardianship or child arrangements order.

7. **Building not breaking children in care's relationships, including with their brothers and sisters.** We are very encouraged by the Bill's inclusion of relationships in the provisions on staying close support for young people in care. But the measures in the Bill could go further by providing all children in the care system with the same right to reasonable contact with their brothers and sisters, as they currently have in law as they have with their parents.

### Clause 1: Family Group Decision Making

8. No family is without its problems and if something goes wrong, most of us would want to be in driving seat in finding a solution. Currently, the support that family and friends can offer is not consistently explored prior to a child entering the care system. To that end, we strongly welcome the inclusion of family group decision making in the Bill.
9. Family group conferences are a family group decision making approach which is family-led and has strong evidence of diverting children from care and supporting children to remain safely in their family. The approach originated in New Zealand and is a mandatory offer to families where there are care or protection concerns. It now has one of the lowest rates of children in care (41 per 10,000) and more children living in kinship care (39% of children in care). In England, 71 per 10,000 children are in care. Of whom only 16% are raised in kinship care. Family group conferences are now used in over 30 countries worldwide. They are the most prevalent family group decision making approach used in the UK. 82% of local authorities in England have an FGC service, however often at small scale. A randomised control trial led by Foundations found that over 2000 children per year could avoid going into care and instead safely remain with their families if family group conferences are rolled out across England. With an estimated cost saving of £150 million over two years. [More detail](#)
10. Family group decision making has to be done right, so the process is truly child-centred, family-led, and safe. This matters because the quality of the process impacts the strength of the outcome, for the child, the family and society. There's a very real implementation risk – one we are already seeing play out in overwhelmed children's services departments – that the features which make family group conferences a success are watered down and the benefits lost.
11. Firstly, what is meant by the offer to families of a family group decision making meeting in the Bill is open to wide interpretation. Why is this a problem?
  - a. We are already seeing evidence of local authorities claiming to use such approaches, including reference to 'family-led decision making' to describe meetings which are led by professionals and where family involvement is minimal. Without clear definition of terms, and a set of principles and standards for practice, it likely that in many authorities, such meetings will be professionally-led, with the child and family engagement peripheral.
  - b. If the legislation does not specify what is expected, we are also concerned approaches unsupported by evidence will proliferate. The terminology is already causing confusion for families and practitioners.
  - c. The evidence underpinning this provision is based on the internationally recognised, well established, family group conference model. For this to be implemented effectively, the key principles and standards of family group conferences must therefore be incorporated.
12. Secondly, the timing of the offer, at the point the pre-proceedings letter is issued, is potentially too late for some families to benefit.
  - a. When a local authority is issuing parents with a pre-proceedings letter, the concerns in relation to a child's welfare will already be serious. The local authority should be working with the family to try to avoid care proceedings, but will also be undertaking assessments to consider who the child may live with if those concerns cannot be

allayed. By waiting until this stage, opportunities to bring families together earlier, addressing difficulties before they have escalated and while there is still the possibility of the family supporting the parents as primary carers, could be missed. This includes early in pregnancy, when there's still sufficient time to address identified concerns, through a plan drawn up at a family group conference.

- b. It would also exclude, for example, teenagers who are at risk of entering the care system, due to exploitation, through a voluntary arrangement. There is no letter before proceedings in such situations.

Proposed changes on Clause 1 (See appendix for proposed amendments as numbered)

### **13. Child participation**

- a. The Bill makes provision for the offer to be made to the child's parents or anyone with parental responsibility but currently makes no reference to the offer being made to an older child. Yet when a child reaches the age of 16, they can agree to their own care plan. It is therefore important that the provisions for family group decision-making meetings reflect that the offer of a meeting should, for those children aged 16 and over, also be made to the child. (Amendment 1a)
- b. The Bill gives the local authority the discretion to decide if the child is invited to the meeting or not. This is unsatisfactory and does not make for a child-centred process. This approach differs to elsewhere in the child welfare system, for example looked-after children reviews, where there is a presumption in favour of the child taking part. The Bill should ensure children are invited to take part in their family-group decision-making meeting, if safe and consistent with their welfare to do so. (Amendment 1b)

### **14. Discretion not to offer**

The Bill gives local authorities the discretion to decide when offering or holding a family group decision-making meeting would not be in the best interests of the child. While it is necessary to have safeguards, such as in emergencies, where offering or holding a family group decision-making meeting would not be appropriate, this discretion should be tightened up to ensure it is only used in exceptional circumstances rather than becoming the norm or an easy excuse for time and resource pressured authorities. There should be a presumption in favour of offering a family group decision making meeting, unless there is evidence that to do so is not consistent with the child's welfare. (Amendment 2)

### **15. A process, not a one off meeting**

- a. The Bill makes provision for the offer of a family group decision making meeting. However, family group decision making should be a process with rigorous preparation, not a one-off meeting. This includes allowing the time to identify all who are important to the child and their family, and ensuring safety planning given the concerns being addressed. We are concerned that the offer of a single meeting could become a box ticking exercise that does not effectively explore and engage the child's family and friends. Amendment 3ai would clarify on the face of the Bill that a more substantial process is expected.
- b. Moreover, as drafted, there is no expectation set out that the local authority must support families to implement any proposals they make, so long as they are safe and reasonable in the context. Again, there is a risk that families are asked for their views but are not truly partners in a family-led process. Amendment 3aii would require the local authority to work with the child and family to implement the proposal, subject to it being safe and reasonable.

### **16. Family taking the lead**

The Bill does not make provision for a family-led process. As drafted, the Bill defines the child's family network as those the local authority considers appropriate to attend. Yet key to the principles of family group conference meetings, is that those attending include those most important to the child and their parents as determined by them. Currently in social work practice, relatives, and particularly paternal family often describe feeling excluded from

discussions about their children. Similarly, non-familial relationships such as friends and other sources of support may not be well known to the local authority, but be important to the child and their parents. For example, Azariah Hope, a care experienced young parent on our parents' panel, describes her frustration that how she was not offered a family group conference because the local authority presumed she did not have a family or friends network to draw on. Our proposed amendments (3bi and 3bii) seek to ensure that a child's family network is not limited to those who the social worker happens to be aware of and deems to be important. The local authority can still determine if it's in line with the child's welfare.

#### **17. Defining key principles of effective family group decision making**

As explained above, the Bill leaves family group decision making open to wide interpretation. It is a generic terminology, without clear principles and standards about what families can expect.

18. Yet the Government's rationale for introducing the policy is based on the strong evidence base around family group conferences. Our concern is that if the legislation does not specify what is expected, then what we will see is some authorities taking short cuts, renaming what they are already doing or pursuing practices unsupported by evidence.
19. We propose that key principles from the family group conference approach are defined in the legislation to ensure all family group decision making meetings are child centred, and family led. In particular, the independence of the coordinator and the provision of private family time. (Amendment 3c)
  - a. A skilled coordinator facilitates the process, and because they are independent from decision making they can be a trusted mediator between family and state;
  - b. Private time allows the family to have open, tough conversations to come up with a plan in their own way.

#### **20. Timing of the offer**

The offer is to be made at the point the pre-proceedings letter is issued. This refers to the period of time and formal process where children's services are considering starting care proceedings in the Family Court. At this point the situation has often reached a sufficient level of seriousness that removal of the child from their home is being contemplated. This is potentially too late for many families to benefit, and opportunities to address difficulties before they have escalated could be missed. It would also exclude, for example, teenagers who are at risk of entering the care system, due to exploitation, through a voluntary arrangement.

21. Research show that family group conferences can be effective whenever the time is right for the family, and the sooner the better. Some local authorities are already successfully offering family group conferences earlier on the continuum of child welfare system involvement. Our proposed amendment would require the local authority to also offer a family group decision making where the authority's Director of Children's Services is satisfied that it would assist in formulating a plan to help meet the needs of the child. This would encourage use in situations not currently covered by the Bill as drafted. (amendment 4)

### **Clause 5: Information: children in kinship care and their carers**

22. There is no single definition of kinship care in primary legislation which covers the full range of kinship care arrangements. As a result, kinship carers can face many challenges including not being understood or recognised in their role by hospitals, schools, or employers. It also means kinship care is interpreted in different ways by government, state agencies, services, and the public including kinship carers themselves. Families then face a postcode lottery in the support available to them locally. Our research has found that over a third of local authorities do not have a local family and friends care (aka kinship care) policy – something they are required by statutory guidance to have - setting out their local approach to kinship care and how they will support families.
23. To address this, the Government has decided to create a new duty for local authorities to publish a kinship local offer, with kinship care defined in primary legislation for the first time.

We are delighted to see our proposals for a local kinship care offer adopted. Nevertheless, we think it could be strengthened, particularly in regard to the services it should cover and the expectations for councils to involve families in shaping and promoting their local offer.

24. The local offer and definition are foundational measures which could help establish an effective kinship care support system. Alongside this, the Government must invest in the practical, emotional, and financial support families need.

Proposed changes on Clause 5 (See appendix for proposed amendments as numbered)

**25. Information on legal support and family group decision making**

The Bill includes a list of categories of services available in the authority's area that the kinship local offer should include. We are very concerned by the omission of legal support and family group decision making from this list. These categories already appear in statutory guidance but not on the face of the Bill. Our proposed amendment 5 corrects this.

26. The child welfare and family justice system is complex. Early specialist advice, including legal advice has a crucial role to play in helping families navigate that system, understand their rights and responsibilities, and avert children from care. Kinship families often face expensive legal fees in the process of taking on the care of their children. This leaves some in significant debt. In other cases they decide they can't afford to get the legal advice they need, despite this potentially having long term consequences for the child and their family.

27. The APPG on Kinship Care legal aid inquiry<sup>1</sup> found many families do not have access to the legal advice they need to make informed decisions about their kinship arrangements – something which has lasting consequences for their entitlement to support, and who can make key decisions about the child. For example:

- a. *82% of kinship carers surveyed did not feel they knew enough about their legal options to make an informed decision about the best options for their kinship child.*
- b. *Fewer than half of respondents (48%) were satisfied with their current legal arrangement for the child. 35% said they were not satisfied and this mostly related to the support they were able to access under the current arrangements.*
- c. *Nearly 4 in 10 (38%) of the kinship carers surveyed had NOT received any legal advice about their rights and options for their kinship child."*

28. Further, analysis of Family and Friends Care Policies conducted by Family Rights Group in 2023/4, found that only a fifth of the policies reviewed address support with the legal expenses that kinship carers may incur, such as the legal costs of applying for a special guardianship or child arrangements order. Unless the Bill is explicit as to what is required, it is highly unlikely that local authorities in England will consistently and clearly address the question of legal support in their local kinship offer.

29. Similarly, given the Clause 1 provisions around family group decision making, information on this should be included in the kinship local offer. In addition to being used before care proceedings, family group decision making meetings can also be offered to address issues including contact arrangements and planning for return home.

**30. Developing the kinship local offer with children and families.**

We are concerned that the Bill sets low expectations regarding the involvement of children, kinship carers and others in the development of kinship local offers, as well as in respect of publication and transparency. This is in contrast to the SEN and disability local offer, for example, established in section 30 of the 2014 Children and Families Act. That legislation gives the Secretary of State the power to set out in regulations how the offer should be published, when it should be reviewed, and how children and families are involved in developing it.

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<sup>1</sup> APPG on Kinship Care (2022), 'Lost in the legal labyrinth: How a lack of legal aid and advice is undermining kinship care', published by Family Rights Group

31. The commitment to legislating for a kinship local offer has been made and as such children and families should be able to expect, and indeed deserve, an appropriate and clear commitment to a regulatory framework that will support this. This will be to the benefit of local authorities and practitioners too. The generic regulatory making provisions in Clause 56 of the Bill do not offset our concerns. There is no indication the Government intends to use these to support the local kinship offer. Given the long and troubling history of poor compliance with kinship statutory guidance it is imperative that government does not simply take the approach that these matters can be attended to in guidance alone.
32. Consistent with the SEN and disability local offer, our proposed amendment (6) would give the Secretary of State explicit power to set out in regulations how that offer should be published, when it should be reviewed, and how children and families are to be involved in developing it. It also includes provisions on publishing and responding to feedback.
33. The comparison to the SEN and disability offer is particularly important given that over half (54%) of kinship children have additional educational needs or disabilities, yet the support available to kinship children often depends on whether the child has been looked-after in the care system.<sup>2</sup>
- 34. Definition of other person connected**  
It would be advantageous during the passage of the Bill if the Minister clarified on the parliamentary record the intended definition of 'other person connected'.
35. The Bill defines kinship care as when a child 'lives with a relative, friend or other person connected with the child for all or part of the time'. The term 'relative' in the Bill has the meaning given in section 105 of the Children Act 1989, namely a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or a stepparent. This it omits extended family members such as cousins. The Department has confirmed that such wider family members are intended to be captured by the phrase 'other person connected' to the child. Nowhere however, in the Bill is the term 'other person connected' defined. Nor has there been any indication that regulations or statutory guidance will make plain who falls within scope of that phrase.
36. It is important for the understanding of families and practitioners that there is clarity on the definition of the term 'other person connected'. This is particularly important given that kin children and kinship children would view and likely describe their relationship with a cousin or great aunt in terms of that person being a relative, rather than simply a person connected with them. We are keen that kin children and kinship carers do not continue to be placed in a position of having to explain their relationships and which category they fit in.

#### **Clause 6: Promoting educational achievement**

37. We welcome the extension of the Virtual School Head oversight role to all children in kinship care. However, we believe the advice and information responsibilities of the role should be similarly extended to all children in kinship care, and not only children subject to a special guardianship or child arrangements order.
38. There are higher levels of special education needs among kinship children compared to the wider population. Research shows over half (54%) of kinship children have additional educational needs or disabilities, yet the support available often depends on whether or not the child has been looked-after in the care system.<sup>3</sup> Many struggle to secure the support their children need and those with older children are concerned about the cliff edge in support when the children turns 16 and 18.

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<sup>2</sup> First Thought Not Afterthought: Report of the Parliamentary Taskforce on Kinship Care (2020). Published by Family Rights Group [here](#).

<sup>3</sup> Parliamentary Taskforce on Kinship Care, as above

39. We also encourage the Government to go further to extend support in schools for children in kinship care including priority school admissions and Pupil Premium Plus.

### **Clause 8 local offer for care leavers & proposed new Clause 9 on sibling contact**

40. We are very encouraged by the Bill's inclusion of relationships in the provisions on staying close support for young people in care. However, the measures in the Bill could go further by providing all children in the care system with the same right to reasonable contact with their brothers and sisters, as they currently have in law as they have with their parents.
41. Research by the Children's Commissioner for England found that an estimated 37% of children with a sibling – that is 20,000 children - are separated from a sibling when placed in care. For some children, the chance of being separated is far greater: 93% of older children placed in semi-independent accommodation are separated from siblings. The report highlighted how siblings are not always supported to stay in touch. This is reinforced by our experience from the findings of Lifelong Links, in which children often speak of their desperate wish to see their brother or sister. The new clause would ensure the importance of facilitating positive sibling relationships is enshrined in legislation.
42. Given the substantial evidence about the impact of the Lifelong Links approach on increasing children in care's positive connections, mental health, sense of identity and stability in where they are living, we propose it should be set out in regulations and guidance as an offer to all children in care and care leavers.

## **Appendix**

### Family Group Decision Making

#### **1a. Children aged 16 and over can accept the offer**

*Clause 1, page 1, line 9, leave out after "child's parents" to the end of the subsection, and insert*

*"and any other person with parental responsibility for the child, or the child, if they have reached the age of sixteen."*

#### **1b. A presumption in favour of inviting the child**

*Clause 1, page 2, line 21, leave out from "Where" to end of subsection 8 and insert-*

*"The child should be invited to their family-group decision-making meeting, where consistent with their welfare"*

#### **2. Tightening up the discretion for when a family group decision making is not offered**

*Clause 1, page 1, line 14, leave out from "The duty" to the end of subsection 3 and insert –*

*"A local authority shall offer, or as the case may be shall hold, a family group decision-making meeting unless there is evidence that to do so is not consistent with the child's welfare."*

#### **3a. More than a one-off meeting**

- i) *Clause 1, page 2, line 3, insert after "is a meeting" –  
"following preparation"*
- ii) *Clause 1, page 2, line 7, after "welfare" insert-*

*“and (4)(c) the local authority shall work with the child and their family network to implement the proposal, where it addresses the local authority’s concerns about the child’s welfare.*

### **3b. Family taking the lead**

- i) Clause 1, page 2, line 9, leave out “as the authority considers appropriate to attend the meeting having regard to the child’s best interests”*
- ii) Clause 1, page 2, line 14, after “the child” insert new subsection (6)*

*(6) A family group decision-making meeting may only be attended by such members of the “family network” as are agreed by those persons listed at section (1) and subject to (3).*

### **3c. Defining key principles of effective family group decision making**

*Clause 1, page 2, line 7, after “welfare” insert new subsection:*

*“The family group decision making meeting shall:*

- a) be facilitated by a trained coordinator, who has no decision-making responsibility for the child, and*
- b) include private time for the family network members attending the meeting and the child, if in attendance, to draw up their proposal to address concerns about the child’s welfare.”*

### **4. Timing of the offer**

*Clause 1, page 2, line 20, after “child” insert new subsection:*

*“(8) Where a local authority is not intending to make an application under section 31 of the Children Act 1989, or issue a letter before proceedings in relation to a child, but where a Director of Children’s Services is satisfied that holding a family group decision-making meeting would assist in formulating a plan to help meet the needs of the child the Director must arrange for an offer of a family group decision making meeting to be made to:*

- (a) the child’s parents*
- (b) any other person with parental responsibility for the child, and*
- (c) the child, if they have reached the age of sixteen”*

### **Kinship care**

### **5. Information on legal support and family group decision making**

*Clause 5, page 9, line 20, change full stop to semicolon, and insert*

- e) legal support;*
- f) family group decision making.*

### **6. Parity of expectations with other local offers**

*Clause 5, page 9, line 38, insert*

*8) A local authority must from time to time publish—*

*(a) comments about its kinship local offer it has received from or on behalf of children, kinship carers and others with lived experience of aspects of kinship care;*

*(b) the authority's response to those comments (including details of any action the authority intends to take).*

*(9) Comments published under subsection (8)(a) must be published in a form that does not enable the person making them to be identified.*

*(10) Regulations may make further provision about—*

*(a) information to be included in an authority's kinship local offer;*

*(b) how an authority's kinship local offer is to be published;*

*(c) is to be involved and consulted by an authority in developing, preparing and reviewing its kinship local offer;*

*(d) how an authority is to involve children, kinship carers and others with lived experience of aspects of kinship care in the development, preparation and review of its local kinship offer.*

*(e) the publication of comments on the kinship local offer, and the local authority's response, under subsection (8)(b) (including circumstances in which comments are not required to be published).*

### Sibling contact

#### **7. New Clause 9 on sibling contact for looked after children**

*(1) In section 34 (1) of the Children Act 1989 after paragraph (d) insert— “(e) his siblings (whether of the whole or half blood).”*

*(2) In paragraph 15 (1) of Schedule 2 to the Children Act 1989, after paragraph (c) insert— “(d) his siblings (whether of the whole or half blood).”*

Consequential amendments will also be required to update wider paragraph references. We have drafted these and can provide on request.

**January 2025.**