

Acting Minister for Children and Young People

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The Scottish  
Government  
Riaghaltas na h-Alba

Stewart Maxwell MSP  
Convener  
Education and Culture Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

In 2014 Scotland Welcomes the  
World



22 January 2015

*Dear Stewart*

I am writing to you to update you on Part 13 (Support for Kinship Care) of the Children and Young People (Scotland) Act 2014 ("the Act").

Part 13 of the Act enhances the support for eligible kinship carers of non-looked after children who obtain an order under section 11(1) of the Children (Scotland) Act 1995 (for parental responsibilities and rights, residence or guardianship). From implementation of the legislation these will be deemed a Kinship Care Order. For the first time there will be specific legal entitlements to support for kinship carers of an eligible child, subject to a Kinship Care Order, and also for the eligible child themselves.

Part 13 of the Act gives Scottish Ministers powers to specify in secondary legislation the type of kinship care assistance and when and how it is to be provided. We carried out an informal consultation on our secondary legislation proposals for support to kinship carers and children in their care, subject to a Kinship Care Order, between July and October 2014. The consultation was widely distributed to local authorities, third sector organisations, kinship carers and children and young people in kinship care.

The overwhelming message from the consultation was the need to link kinship care support to GIRFEC principles, embedded in the Act, such as the Child's Plan (Part 5 of the Act). In particular, the responses from the full range of stakeholders pointed to aligning as far as possible the approach to assessing needs with that proposed under the GIRFEC provisions. The key findings from the consultation are summarised in the Annex for your information.

I have considered carefully the views of all those who responded to our consultation and agree with the weight of opinion. This now means aligning the assessment criteria within the Kinship Care Order with the relevant GIRFEC criteria. The consequence of this single change is to link the implementation of the Kinship Care Order to the implementation schedule of the GIRFEC provisions. This means delaying the implementation of Part 13 until April 2016, rather than April 2015 as currently planned.

While the delay is regrettable, I am determined not to waste the extra time we now have and I will continue to work in partnership with COSLA, Social Work Scotland, key third sector organisations and kinship carers to further refine our legislative proposals. Further, I have decided to leave the £2.6 million of additional revenue resources intended to support Part 13 in the Local Government settlement in 2015/16 to support this development phase.

I have not taken this decision lightly but I am clear that this decision is a necessary consequence of accepting the strong message from the consultation by stakeholders across the range of sectors. The end result will be a better Kinship Care Order and improved outcomes for children in kinship care.

**FIONA MCLEOD**

## **SUMMARY OF CONSULTATION RESPONSES TO SECONDARY LEGISLATION PROPOSALS FOR SUPPORT FOR KINSHIP CARE**

### **Background**

The informal consultation on Part 13 (Support for Kinship Care) of the Children and Young People (Scotland) Act ("the Act") lasted 12 weeks between July and October 2014. A total of 17 responses were received, with 6 from local authorities and 11 from third sector organisations, including kinship care groups. In addition, Children 1<sup>st</sup> received 230 responses and engaged with just under 100 attendees at their three consultation days. Children 1<sup>st</sup> also consulted with children and young people in kinship care and received 177 responses.

This summary highlights the key messages from the overall consultation exercise. A detailed report on consultation with kinship carers and children and young people living in kinship care is available from Children 1<sup>st</sup>.

### **Key messages**

#### **Assessments and reviews**

The overwhelming message from the consultation highlighted the need to link kinship care support to GIRFEC principles, with the child at the centre and the child's needs always paramount.

A high number of respondents suggested that the Child's Plan (Part 5 of the Act) was the key process to assess the needs and then provide relevant support to children and kinship carers.

Nearly all respondents agreed that there should be an assessment for kinship carers to ensure that the carer was capable of meeting the child's needs. Most disliked the use of parenting capacity assessments and felt that this was not the right type of assessment to use.

Most respondents agreed that reviews should be proportionate and take place annually, with the possibility that they could be requested at any time for a significant change of circumstance. There was an agreement that kinship carers should be informed of the outcomes of an assessment in writing.

#### **Types of assistance**

There was overwhelming agreement from respondents to provide kinship carers and the children in their care with relevant information, advice and counselling support, with the right support being given at the right time and being flexible to meet individual families' needs.



There were different views on who should receive the different types of support (information, advice and counselling support; legal costs; start-up support; essential transport; and transitional support) and whether means testing should be used.

A key issue for many respondents was the need for fair and consistent national financial allowances for all kinship carers across Scotland. This was demonstrated by the almost universal support for transitional support to last longer than 3 years, with nearly all kinship carers believing that this support should continue until the child was 16.

### **Eligibility**

There were many different views on the eligibility criteria for a child at risk of becoming looked after, with some suggesting additional criteria and others taking criteria away. As above, there was an agreement to link the eligibility criteria to GIRFEC principles, with the child being at the centre and the child's needs always being paramount. However, there were also concerns expressed about the discretion to deem a child 'eligible'.

### **Other comments**

A number of respondents felt that financial support should be set within the domain of the welfare system and seen as part of mainstream financial support to those in need. This would free up social work services to focus on supporting the needs of the child, first and foremost.

Some respondents suggested that best practice should be disseminated across all local authorities, encouraging local authorities to engage positively with local kinship groups. This could also provide an opportunity to promote the responsibilities of the kinship carers to the children in their care, to achieve some balance with their rights.

### **Children and young people**

The responses from children and young people make clear that there is a need for wide-ranging support, but that should be based on individual circumstances and needs of kinship care families in order to be most effective.

Most children and young people in kinship care wanted to have similar opportunities to others their age, with many asking for help to deal with their feelings about living away from their parents. This was followed closely by a strong demand for a befriending service.