



south ayrshire  
health & social care  
partnership

# Kinship Care Practice Guidance July 2023



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## 1. Introduction

- 1.1 South Ayrshire Health & Social Care Partnership (SAHSCP) aims to support children in the care of their parents where it is safe and appropriate to do so. It is recognised, however, that some children are not able to be cared for by their parents and that alternative care arrangements will be required
- 1.2 This Guidance document sets out the processes for assessment, approval, review, and support to Kinship Carers within South Ayrshire's Health & Social Care Partnership (HSCP) within the context of legislation and national policy. The Guidance takes into account the Children & Young People (Scotland) Act 2014 and meets the requirements outlined by the Scottish Government and COSLA (Convention of Scottish Local Authorities).
- 1.3 The Guidance also pays cognizance to The Promise and notes the vision and blueprint for transformational change outlined within The Independent Care Review, The Promise aligns with the Kinship strategy which reflects on the five key foundations in [The Promise](#) namely that of:
- **Voice:** *children must be heard and listened to in all the decisions about their care.*
  - **Family:** *whenever possible, families should be supported to stay together with their children. (The priority of the SAHSCP should be to do all we can to keep children out of local authority care and with their own families).*
  - **Care:** *where living with their own family isn't possible, children must stay with their brothers and sisters where safe to do so, and they must belong to a stable and loving home.*
  - **People:** *those in the workforce and wider community who look after children must be well supported so that they in turn can provide compassionate care and decision making.*
  - **Scaffolding:** *the system that surrounds all of this – the system of help, decision-making, support, and accountability – must be more supportive and responsive.*
- 1.4 When a child or young person cannot live with or remain with or return to the care of their parents, the preferred option is for them to live within their wider family and community. In its broadest sense this is known as Kinship Care.
- 1.5 Kinship is an integral part of the SAHSCP strategy to support children to remain within their family and community. The outcomes for children placed within Kinship arrangements are widely known to be better than for children in other care settings. Children placed with Kinship Carers generally:
- Experience less disruption in their lives
  - Do better in education

- Have a stronger sense of identity and a clearer understanding of who they are
- Have more meaningful family time with their parents

**1.6** This Guidance sets out the process for assessment and approval where a child is placed with relatives or close friends on an emergency basis, on a compulsory supervision order, or on similar legislation which makes the child looked after away from home (see 'Definitions and Eligibility'). This guidance should also be used when a relative or person with an existing relationship is being considered to care for a child who is already accommodated out with the care of their parents.

**1.7** Getting it right for every child in Kinship Care and Foster Care (Scottish Government 2007) states:

*"The starting point in considering Kinship care arrangements should be: It is the right of every child to have their family and friends explored as potential carers if they need to leave the care of their parents.*

*Any arrangement for care by family or friend must be in the best interests of the child.*

*The safety and needs of the child in any assessment of family or friends as carers must be paramount.*

*A child's needs for good family and friends' carers should take precedence over the wishes of a parent to exclude the family from care.*

*Support to a family or friend placement should be available when needed."*

**1.8** The Guidance includes the following areas:

- Criteria and eligibility for assessment, approval, and payment of Kinship Carers
- Supports for Kinship Carers, including those carers seeking Residence/Kinship Care Orders
- Payment and Allowances
- Review

## 2. Kinship Care – The Legal Framework

- 2.1 All local authorities are required under [The Kinship Care Assistance \(Scotland\) Order 2016](#) to prepare and publish a policy in relation to the provision of Kinship Care assistance. This document is South Ayrshire Health and Social Care Partnership's Kinship Care Policy and has been prepared to meet the requirement and provide clarity on how the Partnership will discharge its responsibilities on supporting Kinship Carers.
- 2.2 The Kinship Care Guidance has been developed to meet the requirements detailed in the following relevant legislation, regulations and Guidance:
- [Children \(Scotland\) Act 1995](#)
  - [Adoption and Children \(Scotland\) Act 2007](#)
  - [The Looked After Children \(Scotland\) Regulations 2009](#)
  - [Guidance on Looked After Children \(Scotland\) Regulations 2009 \(Part V, Kinship Care\)](#)
  - [Getting it right for every child in Kinship and Foster Care \(Scottish Government 2007\)](#)
  - [Children's Hearings \(Scotland\) Act 2011](#)
  - [Children and Young People \(Scotland\) Act 2014](#)
  - [The Kinship Care Assistance \(Scotland\) Order 2016](#)
  - [National Guidance on Part 13 of the Children and Young People \(Scotland\) Act 2014: Support for Kinship Care](#)
  - [Children \(Scotland\) Act 2020](#)

## 3. Definitions, Eligibility and Exclusions

### 3.1 Definitions:

**Kinship Care** - Kinship care is when a child is placed with extended family members or a close family friend by the local authority, the children's hearing system or the courts because they can no longer be cared for by their parent(s) and that child is defined as looked after under section 17(6) of the Children (Scotland) Act, 1995.

Kinship Care may also include children who are no longer looked after by the local authority but live in a Kinship Care arrangement. These children are likely to be subject to an order under Section 11 of the Children (Scotland) Act 1995.

In certain circumstances, children living in kinship care may never have been looked after. Section 7 of the Children (Scotland) Act 1995 allows a parent to appoint someone to become the legal guardian of their child in the event of their death, through a will or signed agreement. The guardian gains any parental rights and responsibilities held by the deceased parent.

Those living in a private arrangement with extended family with no involvement from South Ayrshire Council are not considered to be in a formal Kinship Care arrangement.

**Kinship Care Allowance** - Financial support provided by South Ayrshire Council to Kinship Carers approved by South Ayrshire Council.

**Kinship Care Order / Residence Order** - An order under section 11 of the Children (Scotland) Act 1995 which secures the residence of the child under a legal order. This order removes the child from the children's hearing system (if subject to supervision requirement) and reduces the need for statutory social work intervention as the child no longer has looked after and accommodated status. In England and Wales this may be referred to as a Special Guardianship Order (SGO).

**Kinship Carer** - Under Regulation 10 of the Looked After Children (Scotland) Regulations 2009 a Kinship Carer is defined as “a person who is related to the child (through blood, marriage or civil partnership)” or “a person with whom the child has a pre-existing relationship”. A Kinship Carer for South Ayrshire Council has been assessed and approved to provide care for a specific child(ren).

**Kinship Care Support** - Overall term to describe financial and emotional support provided to a Kinship Carer to parent the child they care for.

**Looked after child** - a child who is subject to a Compulsory Supervision Order under Section 83 of the Children's Hearings (Scotland) Act 2011 or an interim Compulsory Supervision Order under Section 86 of the same Act; or a child placed with a Kinship Carer under Section 25 of the Children (Scotland) Act 1995 or a child subject to a Permanence Order under the Adoption and Children (Scotland) Act 2007. These duties also extend to children subject to a child protection order under section 38 or 39 of the Children's Hearings (Scotland) Act 2011.

**Eligible child** - is a child who was “previously looked after” (and is no longer) or is/was “at risk of becoming looked after”. The child must be under the age of sixteen.

**Private Fostering/ Informal Care Arrangements** - arrangements made by a family for a child to live with relatives or friends and neither social work, the children's hearing system or the courts have been involved.

**Kinship Care Assistance** - advice and support given to carers who look after a child who was “previously looked after” or is/was “at risk of becoming looked after”.

### 3.2 Eligibility:

In some circumstances a parent can pass away suddenly, and a family member steps in to care for the child. If the HSCP are alerted to the child's circumstances

they need to consider whether the child's wellbeing has been, or is at risk of being, adversely affected by any matter, such that the child is/was at risk of becoming looked after.

Enquiries should be made with regards to any other parent who has parental rights and responsibilities and their suitability to care for their child determined, prior to any decision about eligibility for Kinship Care.

In the absence of any parent who can care for the child, the HSCP would seek to place the child with a relative and undertake a Kinship assessment. Which is in accordance with [Schedule 10 of The Looked After Children \(Scotland\) Regulations 2009](#).

Although the placing of a child would generally be undertaken by local authority, there may be some emergency situations where social work services are notified after the child is placed. In these cases, the HSCP must determine whether they would reasonably have placed the child with the family member if they had knowledge of the family circumstances at that time.

### 3.3 Exclusions

Although South Ayrshire HSPC will endeavour to support all Kinship Care arrangements, there are several exclusions that will apply to the eligibility for Kinship Care Allowance:

- Where the child's parent or parents are a member of the household where the child resides with their Kinship Carer. This will not be deemed as a Kinship Care arrangement, regardless of the child's looked after status
- Prospective Kinship Carers unwilling to co-operate with the Kinship Care Assessment process
- Where there is a shared care arrangement and a high level of parental involvement and overnight contact, unless part of a rehabilitation plan
- Where the child's placement goes against a direction from the Court or Children's Hearing.
- Approved Kinship Carers who are unwilling to cooperate with the review process.
- Approved Kinship Carers who are in breach of the Kinship Carer Agreement.

## 4. Private Fostering

**4.1** Some families make their own arrangements for a child to live with relatives or friends and neither social work, the children's hearing system or the courts have been involved. This is known as a private fostering or a private care arrangement. Carers in such circumstances have not been assessed by the local authority as Kinship Carers and do not care for looked after children. Such carers may receive

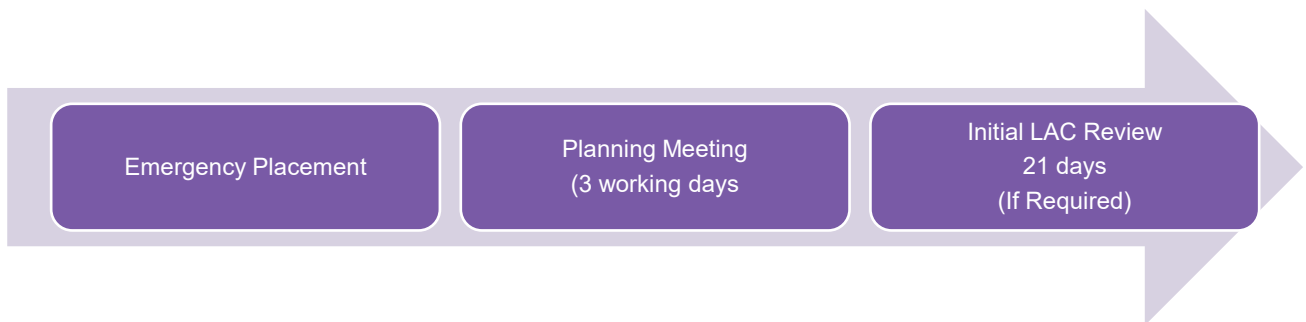


advice and support if they are caring for a previously looked after child or a child who is at risk of being looked after.

## 5. Emergency Placements

- 5.1** To safeguard, support and promote the wellbeing of a child it may be necessary to place them on an emergency basis with a person who is known to them and who has a pre-existing relationship with them. Such placements are covered in [Regulation 36 of The Looked After Children \(Scotland\) Regulations 2009](#).
- 5.2** When an unplanned placement is required, the child will be accommodated under Section 25 of the Children (Scotland) Act 1995. When this arrangement is made the child becomes a looked after child.
- 5.3** Should the local authority place a child in an emergency, an initial assessment of the suitability of the carer will include the following:
- Local Authority checks on everyone in the household
  - Police check on every adult in the household over 16 years old
  - Suitability of the accommodation should be ascertained and living and sleeping accommodation for the child seen
  - Initial health check
  - Carers should have a copy of the signed placement agreement (Regulation 36 (2)(b))
  - Carers details must be entered onto CareFirst and linked with the child in networks
  - Accommodation alert should be completed
  - Financial support can be provided to the carer via Community Payments
- 5.4** A planning meeting should be convened within three working days of the child's placement to review the day-to-day arrangements, consider if any additional supports are required, and whether the placement continues. (Regulation 38).
- 5.5** Should the three-day planning meeting consider the placement to be in the child's best interests and is likely to last more than 12 weeks, the meeting should conclude that a Kinship Assessment on the Carers is undertaken.
- 5.6** Prior to the initial Looked After and Accommodated Children's review, the child's social worker should have determined if the child can return to the care of their parents, or if the alternate care continues to be required. If alternate care continues to be required, the child's social worker should undertake a Kinship Assessment and complete all statutory checks and a financial assessment.

- 5.7** The initial Looked After and Accommodated Children’s review should take place within 21 days of the placement to ensure the placement continues to meet the child’s need, that the Kinship assessment is progressing and identify if the prospective Kinship Carers require any additional supports (Regulation 45). A date should be set for the Kinship Assessment to be presented at the Kinship Screening Group.
- 5.8** A second Looked After and Accommodated Children’s review should be held three months after the date of the first review. This review should ascertain that the Kinship Carers assessment has been completed and has been/ will be presented at the Kinship Screening Group.
- 5.9** It should be noted that the local authority cannot allow an emergency placement to continue for a period exceeding 12 weeks unless the carer has been formally assessed and approved as a Kinship Carer.



## 6. Kinship Assessment

- 6.1** South Ayrshire requires that all prospective Kinship Carers undergo an assessment as to their suitability to provide safe care for the child or children they are being asked to care for. When a child is placed with a carer on an emergency basis the assessment as detailed in paragraph 5.3 must be carried out to provide assurance of the appropriateness of the carer(s) in the short term.
- 6.2** Following the initial placement it is essential that a robust assessment of the prospective carer is undertaken. The purpose of the assessment is to establish the suitability of the carer to meet the needs of the child and provide ongoing care to them. The assessment should also identify any support required by the carer to allow them to care safely for the child.
- 6.3** A Kinship Assessment has been developed ([KC1 KINSHIP ASSESSMENT](#)) which covers the statutory requirements as outlined in [Schedule 3 of The Looked After Children \(Scotland\) Regulations 2009](#). This helps ensure a high standard of consistent practice in relation the Kinship assessment.
- 6.4** The Kinship Assessment addresses a range of matters and will include the following:
- Child and parents' views
  - Prospective carer's ability to meet the immediate and longer-term needs of the child
  - Proposals for safeguarding and promoting the child's welfare
  - Local Authority checks on everyone in the household
  - PVG check on the main carer(s)
  - Police check on all other adults in the household over the age of 16 and regular visitors to the house
  - Suitability of the accommodation
  - GP health assessment for the carers
  - Personal reference
  - Pet assessment
  - For prospective carers who reside out with South Ayrshire a Local Authority check for them and any other adults or children in the house, will be undertaken with the authority in which they reside.
  - The views of other children residing within the prospective carers home should also be collated and taken into consideration.
- 6.5** South Ayrshire council does not apply a means test when assessing prospective Kinship Carers. Kinship Care Allowance is given as an allowance for the child, this is regardless of the carers single or joint income.

- 6.6 If the prospective Kinship Carer is in a relationship with a spouse/partner and they live within the carer's household they must be included on the Kinship Assessment application, whether or not they have caring responsibilities for the child.
- 6.7 If the child is already placed with the carer, the assessment must be completed within **12 weeks** from the date it was agreed the Kinship Assessment would commence. The assessment should be completed within 12 weeks regardless of whether this is to be a permanent placement for a child. If the child has not been placed, the assessment should still be completed within 12 weeks of the agreement to undertake an assessment.
- 6.8 If the child is a Looked After Child a Kinship Assessment requires to be undertaken on the carer regardless of whether the prospective Kinship Carer requires financial assistance or not. The focus is on the suitability of the placement not on the entitlement to finances.
- 6.9 Kinship Carers are only approved for a specific child or children. Where Kinship Carers are already approved for a child or children and wish to be assessed for another child, a fresh assessment must be completed.

## 7. Approval of Kinship Carers

- 7.1 The Scottish Government guidance highlights the need for local authorities to identify a process for approving Kinship Carers. While comparisons could be drawn with the approval process for foster carers, it is important to acknowledge there are distinct differences between Foster Carers and Kinship Carers and Kinship is not a regulated service. Unlike foster carers there is no legal requirement for a Kinship Assessment to be considered by a panel.
- 7.2 South Ayrshire HSCP have developed a Kinship Screening Group that is separate from the Fostering and Permanence Panels. Its primary function is to consider the viability of Kinship Carers and reach a decision with regard to their approval, non-approval or need for further or supplementary assessment. The Screening Group can also make determinations about the payment of legal fees to Kinship Carers seeking Residence Orders/Kinship Care Orders. The Kinship Screening Group provides a degree of independent scrutiny and quality assurance over presented kinship assessments and other kinship related business.
- 7.3 Completed Kinship Assessments should be signed by the assessing worker, and their Team Leader and dated. They are submitted to the Family Placement Admin Team along with medical checks, PVG and financial assessment at least a week in advance of the Kinship Screening Group. Family Placement Admin will arrange for papers to be passed to the Kinship Screening Group members for consideration.

- 7.4 If the Kinship Screening Group recommends the approval (or not) of a Kinship Carer the Kinship Carer will be notified in writing of the outcome by the Chair of the Screening Group. [KC8 LET KSG Approval and Award](#)
- 7.5 Where a person has been approved as a Kinship Carer, under Regulation 10 of the Looked After Children (Scotland) Regulations 2009, the Kinship Carer must sign a written agreement (Kinship Carer Agreement), which covers the Kinship Carer and local authority's obligations ([KC9 KS AGREEMENT](#)).
- 7.6 Approved Kinship Carers will be asked to sign the agreement and retain a copy. South Ayrshire HSPC will also retain a copy of the signed agreement. A Kinship Carer Agreement should be signed in relation to each child in the care of the Kinship Carers. The signed agreement should be retained in the Kinship Carers electronic file.
- 7.7 Approved Kinship Carers will be sent a letter annually detailing the amount of Kinship Allowance they will be paid in respect of the child or children they look after, and they will be issued with a new Kinship Carer Agreement which they are expected to sign and return.
- 7.8 If a Kinship arrangement comes to an end on a planned or unplanned basis, the Kinship Carers approval requires to be reviewed at the Kinship Screening Group. A short report should be completed to reflect the circumstances ([KC14 REPORT End of Kinship Arrangement](#)) . If the carers approval is ended a letter from the Chair will be sent confirming this.

## 8. Kinship Arrangements not Approved

- 8.1 If the Kinship Screening Group decides that an assessment of the Kinship Carers should not be approved, the Chair will write to the carer outlining the reasons for this decision.

## 9. Kinship Carer Case File

- 9.1 All approved Kinship Carers must have a case file opened. As South Ayrshire HSPC is a 'paper lite' authority, an electronic file is required to be opened. The electronic file must include copies of:
- The Kinship Assessment (Supplementary Assessment, if requested)
  - Financial Assessment
  - Copies of any medical checks
  - Copy of the Kinship Carer Agreement
  - Copy of any paperwork issued by Kinship Screening Group or if appropriate the Permanence Panel

- Copy of any review reports and minutes
- Any other relevant paperwork

- 9.2** All approved Kinship Carers must be recorded on CareFirst as 'Approved Kinship Carer' under; person details; role.
- 9.3** All relevant observations in relation to the Kinship Carer should be recorded on their Carefirst record.
- 9.4** All Kinship Carer reviews must be recorded on CareFirst.
- 9.5** If a Kinship Carers approval is terminated by the Kinship Screening Group, or naturally comes to an end when the young person they care for reaches the age of 18 years, the Kinship Carers role on Carefirst should be ended, and the financial activity completed.
- 9.6** The Looked After Children (Scotland) Regulations 2009 state that a Kinship Carer's file must be retained for 25 years from the date the placement terminated, or on the death of the child or young person if earlier.

## 10. Kinship Carer Reviews

- 10.1** A Kinship Review must take place within no more than six months of the Kinship Carer's approval date.
- 10.2** Thereafter Kinship Reviews will take place no less frequently than every year. However, reviews can take place more regularly if required or where appropriate.
- 10.3** The nature of the review will be determined by the child or young persons looked after status and application of principle of minimum necessary intervention:
- All Kinship Carers will have an annual financial review
  - All Kinship Carers will be asked to complete an annual confirmation of circumstances return
  - Where children are subject to Residence, Kinship Care Order under Section 11 or a or Guardianship under Section 7, a financial review only is required
  - Where children are subject to Compulsory Supervision Orders under Section 83 of the Children's Hearings (Scotland) Act 2011, Section 22 and 25 of the Children (Scotland) Act 1995 or Section 80 of the Adoption and Children (Scotland) Act 2007 an annual review requires to take place and a minute produced.

- 10.4** Where Kinship Carers are looking after children and young people subject to S83, S25 and S80, the annual Kinship Review should take place as a specific additional part to one of the child's Looked After and Accommodated Reviews.
- 10.5** Kinship Carers should notify social work immediately of any change in their circumstances.
- 10.6** The following additional checks require to be completed every 3 years for Kinship Carers who do not possess a Residence, Kinship Care or Guardianship Order in respect of the child or children in their care. These checks are:
- PVG checks on the Kinship Carers
  - Enhanced Disclosures on anyone over the age of 16 years residing in the house and those who are frequent visitors to the house; and
  - Health checks on the Kinship Carers.
- 10.7** When a Kinship Review has taken place it is essential that this is recorded on the Kinship Carer's CareFirst observations and any actions or outcomes noted. Any paperwork in relation to the review, i.e., the financial assessment, completed review report and minute ([KC10 MIN Review Report](#)) should be saved in the Kinship Carers electronic pathway. An activity should also be raised on CareFirst detailing the date of the next review.

## 11. Financial Support

- 11.1** All potential Kinship Carers undergoing a Kinship Assessment who have a child placed in their care by the local authority are entitled to financial assistance until the assessment is completed.
- 11.2** Where a child is placed in a Kinship Care arrangement in an emergency, financial support will be provided to assist with the cost of caring for the child. The financial support could include payment to purchase essentials items to meet the child's immediate care needs. A weekly support payment can be paid for each child during the assessment period.
- 11.3** The payment of Kinship Care Allowance is dependent on the Kinship Assessment having been completed, approved, and continually reviewed. The carers will be paid Kinship Care Allowance from the date the assessment is approved.
- 11.4** The payment of the Kinship Care Allowance will continue in respect of those children who continue to reside with Kinship Carers and are subject to Residence Orders, Kinship Care Orders or Guardianship Orders.

- 11.5** The payment of Kinship Allowance does not preclude carers from receiving further assistance in exceptional circumstances under Section 22 of the Children (Scotland) Act 1995 where there is an assessed need.
- 11.6** If the child is looked after, financial assistance should also be considered to promote the child's family time with their brothers, sisters, and parents.
- 11.7** In terms of Regulation 33 of the Looked After Children (Scotland) Regulations 2009, where a child is required by virtue of a Compulsory Supervision Order to reside with a person other than their parent, the local authority must provide financial support.
- 11.8** For the avoidance of doubt, carers of children in private fostering or informal care arrangements, where the local authority was not involved in placing the child, and the child is not or was not a "looked after child", are not eligible for the Kinship Care Allowance, unless the child is deemed an eligible child and it has been assessed that this is the support they require.
- 11.9** If a person has been assessed and not approved as a Kinship Carer, they are not entitled to receive the Kinship Allowance.
- 11.10** South Ayrshire HSCP will pay the Kinship Allowance on a fortnightly basis in advance and directly into the approved Kinship Carer's bank account.
- 11.11** Kinship Care payments are made under Section 22 of the Children (Scotland) Act 1995. This is a discretionary payment for social and leisure purposes and not for accommodation and maintenance. As such payment on this basis should not interfere with the Kinship Carer's entitlement to child benefits.

## **12. Kinship Care Assistance**

- 12.1** From August 2016 duties were placed upon the local authorities under Part 13 of the Children and Young People (Scotland) Act to further support carers who have, or are applying for a Kinship Care Order, and children and young people who are subject to Kinship Care Orders. The Guidance outlines the support for Kinship Carers, which may include:
- The provision of advice and information for eligible children
  - The provision of advice and information for Kinship Carers
  - The provision of a financial allowance
  - Assistance with the financial cost of an Order
- 12.2** In order to establish if adults or children meet the eligibility criteria, a local authority has a responsibility to determine whether a child is/was at risk of becoming looked after, was previously looked after, or was placed with the involvement of the local



authority. An assessment should be undertaken to establish if financial assistance, or advice and guidance should be made available.

### 13. Overpayments

- 13.1** On a very small number of occasions a Kinship Carer may receive a payment to which they were not entitled, for example if the child left placement during the advance payment period. In these circumstances the HSPC will seek to recover the overpayment from the Kinship Carer.
- 13.2** Where an overpayment has occurred the Kinship Carer will be advised and the reason for the overpayment shared with them. The carer can arrange for a payment plan to repay any over payment at a manageable rate.
- 13.3** If there are exceptional circumstances which suggests that recovery would be inappropriate, this should be reported as soon as possible. In exceptional circumstances a debt can be waived at the discretion of the Senior Manager.

### 14. Termination of the Kinship Allowance

- 14.1** The Kinship Allowance will terminate in the following circumstances:
- If the child is no longer living with the Kinship Carer
  - If the child's parent moves into the Kinship household
  - The child reaches their 18<sup>th</sup> birthday
  - If the child leaves school and enters full time employment
- 14.2** Under [Section 67 of the Children and Young People \(Scotland\) Act 2014](#) the local authority has a duty to provide Continuing Care to a young person who was looked after beyond their 16th birthday. Kinship Carers have a responsibility to provide a young person with this continuing support until they reach the age of 21, or until the young person is prepared to move on. However, this might not always be suitable for the carers, so Kinship Carers also have a right under legislation to decide not to provide this.
- 14.3** If a young person is eligible for Continuing Care, they must request it before their 18th birthday. Kinship payment will thereafter stop, and Continuing Care payments commence. Further information and guidance in relation to Continuing Care is contained within the Continuing Care in South Ayrshire Guidance and Practice and in section 17 of this document.
- 14.4** In accordance with the Kinship Agreement, if the Kinship Carers are in breach of this agreement, South Ayrshire HSPC reserves the right to terminate the Kinship

Allowance. If this is a Kinship placement with a looked after child, the suitability of the placement should be fully considered.

- 14.5** For Guidance regarding the termination of allowances please refer to KC4b in the appendix.

## 15. Permanence in Kinship Care

- 15.1** Where a child is likely to remain in the Kinship Care placement for the long term, it may be in the child's best interests for the carer to pursue a Residence Order, also known as a Kinship Care Order. Section 11 of the Children (Scotland) Act 1995 provides an option for Kinship Carers to apply to the court for a Residence Order.
- 15.2** South Ayrshire HSCP may contribute towards reasonable legal fees incurred by Kinship Carers who pursue a Residence Order when:
- obtaining a Residence Order would be better for the child than the existing arrangements (for example, remaining on a Compulsory Supervision Order) and secures the child's long-term safety and stability; and
  - the Kinship Carer has been assessed as being able to meet the child's long-term needs; and
  - the Kinship Carer is not eligible for legal aid, and this is confirmed in writing either by their solicitor or the legal aid board; **and**
  - the Kinship Carer cannot afford the legal fees themselves; **and**
  - the Kinship Carer's solicitor can provide a letter giving a quote for reasonable legal fees for an uncontested application
- 15.3** If the above criteria are met, South Ayrshire HSCP will contribute up to £1,500 plus VAT. In exceptional circumstances Children's Services will consider contributing more than this towards a contested application for a Kinship Care Order.
- 15.4** The final decision regarding financial support towards legal fees will be made by the Kinship Screening Group.
- 15.5** The local authority may decide that it is in the best interests of a particular child to apply for a Permanence Order. In this circumstance the child would remain looked after and a Kinship Allowance would continue to be paid.

## 16. Child Protection Concerns in Kinship Care

- 16.1** If there are child protection concerns raised about a child who is looked after in a Kinship arrangement, South Ayrshire Council Child Protection Procedures will be followed.
- 16.2** If a child protection investigation is undertaken, then the following applies:
- a full Kinship reassessment of the carers should commence once the investigation is complete
  - if the child is still living with the Kinship Carers then the kinship allowance should remain in place

- if the child is removed from living with the Kinship Carer, either during the investigation or subsequently, the Kinship Allowance will be stopped; and
- if the child is subsequently returned to the Kinship Carer(s) the allowance will be reinstated if the Kinship Assessment is approved.

**16.3** Should allegations be made against any approved Kinship Carer the process of managing any such situation is detailed within the Scottish Governments [Managing allegations against Foster Carers and approved Kinship Carers](#) guidance, which details how agencies should respond.

## 17. Continuing Care

**17.1** The 2014 Act introduced the concept of 'Continuing Care' as a means of ensuring that young people who are looked after and accommodated by the Health and Social Care Partnership can, if they wish, remain in their placement, with the same support, after they cease to be formally looked after. This provision states that:

'Continuing Care' means the same accommodation and other assistance as was being provided for the person by the authority, immediately before the person ceased to be looked after. (Section 67 (1) (4), Children and Young People (Scotland) Act 2014.

**17.2** Young people who are considered looked after in Kinship Care will have the right to 'Continuing Care'. This will only be available to new care leavers (those who leave care in or after April 2015) who were born after 1 April 1999 and whose last placement was 'away from home'.

**17.3** Young people who turn 16 in Kinship Care and were Looked After, subject to a Compulsory/Interim Supervision Order, Permanence Order or under Section 25 will be entitled to remain in their Kinship placement until they reach the age of 21. If young people meet this criteria, financial support can be provided to the Kinship Carer until the young person is 21. Continuing Care only comes into effect when the young person's Statutory Order is terminated.

**17.4** The young person's allocated social worker should discuss Continuing Care with the Kinship Carers and young person and advise them of Continuing Care and ongoing supports.

**17.5** The social worker, along with the young person should consider Continuing Care among the alternative options available to them before their sixteenth birthday. This will be discussed at the closest Looked After and Accommodated Children's Review before their sixteenth birthday and should be reflected within their Pathways Plan.

## 18. Placement of Children in other Local Authority Areas

- 18.1** South Ayrshire HSCP will continue to pay the Kinship Allowance for any child they place with Kinship Carers who reside out with the local authority boundaries.
- 18.2** The payment arrangements in these circumstances continue as if the child resided in South Ayrshire.
- 18.3** Where a looked after child is placed with Kinship Carers out with South Ayrshire the HSCP must notify the placement to the local authority and health board for the area in which the Kinship Carer resides.
- 18.4** Where a child requires additional support for learning and is placed with Kinship Carers who reside out with South Ayrshire, the responsibility for meeting these costs lie with the local authority in which the child is resident.

## 19. Staying Together and Connected

- 19.1** The [Children \(Scotland\) Act 2020](#) became operational on 26 July 2021. This legislation reflects the growing understanding with regard the importance of the relationships between brothers and sisters. Section 13 of the Act places a duty on all local authorities to:
- promote on a regular basis, personal relations and direct interactions between brothers and sisters as appropriate; and
  - before making any decisions about a child they are looking after, or are proposing to look after, obtain the views of the child's brothers and sisters (where reasonably practicable) and have regard to those views (as far as practicable).
- 19.2** Furthermore, Section 14 of the Children (Scotland) Act 2020 indicates that the local authority has a duty to consider family time between the child and their brothers and sisters with whom they do not reside. Section 15 extends this provision to permit a child to seek a Contact Order with a brother or sister and Section 21 imposes a duty to ensure that a child and their brothers' and sister's views are heard when a Residence/Kinship Care Order is being considered.
- 19.3** In addition, [The Looked After Children \(Scotland\) Amendment Regulations 2021](#) inserts a new Regulation 5A in the 2009 Regulations. This provides that the local authority must, where appropriate, place the child and any brothers and sisters of the child who are also looked after with the same carer or in the same residential establishment, or in homes which are near to each other. In determining what is appropriate the local authority must be satisfied that the placement safeguards and promotes the welfare of the child, which is of paramount consideration. A local authority may only place a child in homes that are near together rather than in the same household if that better safeguards and promotes the welfare of the child.

- 19.4** The introduction of this legislation and guidance requires that local authorities ensure looked after children are afforded the same opportunities to grow up together when accommodated with alternate carers, as they would with their parents. Where children are unable to live together there is a duty to ensure these relations are maintained.
- 19.5** Hence, when Kinship Carers are being assessed, clear consideration needs to be given to how this would be managed by the Kinship Carer, particularly when the child they are caring for has multiple brothers and sisters.

## 20. Appendix

Links to the paperwork required for the completion of the Kinship Assessment and review and ending of approval.

### [KC1 KINSHIP ASSESSMENT](#)

[KC1a CHECKLIST PROCEDURE Emergency Placement](#)

[KC1b CHECKLIST Assess](#)

[KC1c Admin Process](#)

[KC2 FRM Consent](#)

[KC2a LET Potential KFA+consent](#)

[KC2b LET Current Carer consent](#)

[KC2c LIST Previous Addresses](#)

[KC3 LET GP Check](#)

[KC3a FRM MedFee1](#)

[KC4 FRM KFA](#)

[KC4a GUIDANCE Financial Assess](#)

[KC4b GUIDANCE Termination of Allowance](#)

[KC5 LET FRM Reference REFEREE CARERNAME](#)

[KC6 ASSESS Pet](#)

[KC7 SUPPLEMENTARY ASSESSMENT](#)

[KC8 LET KSG Approval and Award](#)

[KC8a LET KSG Not Approved](#)

[KC9 KS AGREEMENT](#)

[KC10 MIN Review Report](#)

[KC11 LET Review of Circumstances](#)

[KC11a FORM Review of Circumstances](#)

[KC12 LET Review Award](#)

[KC13 LET Cease Kinship](#)

[KC14 REPORT End of Kinship Arrangement](#)

[KC14a LET Kinship Arrangement Ended](#)