



National Guidance on Part 13 of
the Children and Young People
(Scotland) Act 2014 (Support
for Kinship Care) & The Kinship
Care Assistance (Scotland)
Order 2016- updated
guidance 2024

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Introduction

1. The Scottish Government along with partners in the Kinship Care Collaborative have produced this updated guidance for Part 13 of the Children and Young People (Scotland) 2014 Act (“the 2014 Act). It is designed for practitioners who are providing kinship care assistance.¹
2. This updated guidance reflects growing knowledge about the particular needs of children in kinship care and of their carers, and the supports which best enable carers to meet the needs of the children in their care. The format and content has been informed by carers and practitioners, including the need for the guidance to explain the legislation more clearly. Particular attention has been paid to consistency of definition, and good practice.
3. Kinship care is where a child is unable to live with their birth parent(s) and resides instead with a relative, a friend or acquaintance of someone related to a child, a guardian or other individual with whom they have a pre-existing relationship e.g. a godparent, or close family friend. The carer is referred to as a kinship carer and will provide for the child’s needs.
4. The experiences and needs of children in kinship care vary, and they may be subject to a range of legal orders, or none. Some children will live with relatives as a result of a private family arrangement with no statutory involvement from external agencies or as part of a child’s plan² agreed with the family. Others may be looked after children placed with kinship carers by the local authority. In that situation the kinship carer looks after the child on behalf of the local authority who remains the corporate parent. The final category of children in kinship care are those who live with carers and the carer has a kinship care order³ or where a child has a guardian by virtue of an appointment under section 7 of the Children (Scotland) Act 1995 (the “1995 Act”).⁴
5. This guidance relates to the final category. It is issued in respect of [Part 13 of the 2014 Act](#) and the [Kinship Care Assistance \(Scotland\) Order 2016](#) (“the 2016 order”), which is made under the 2014 Act. This guidance covers kinship care assistance that is available in respect of certain children. This includes support for people who are considering seeking a kinship care order

¹ The relevant provisions of [Part 13 of the 2014 Act](#) and the related [Kinship Care Assistance \(Scotland\) Order 2016](#) (the 2016 Order) came into force on 1st April 2016. The 2016 Order (see annex C) supplements and supports the implementation of Part 13: Support for Kinship Care of the 2014 Act (see annex B).

² [Getting it right for every child – Practice statement](#)

³ [Section 72 of the 2014 Act](#) sets out what a kinship care order is, namely it is a label for existing court orders which give the carer parental rights to regulate where the child lives

⁴ [Section 7 of the 1995 Act](#)

in respect of a child under 16 who was previously looked after or is considered to be at risk of becoming looked after and certain children over the age of 16 who have previously been the subject of a kinship care order.

6. Support for kinship carers with children in the first two categories in paragraph 4 above is covered variously by the wider underpinning of [Getting it right for every child](#) guidance, the United Nations Convention on the Rights of the Child (“UNCRC”), the [United Nations Convention on the rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#) and the [Looked After Children \(Scotland\) Regulations 2009](#) and associated guidance. It is intended that further guidance will be developed explaining and linking all relevant frameworks for children in kinship care at a future point.
7. The boxes at [paragraph 15](#) of this guidance outlines those people for whom the local authority must provide kinship care assistance and the duties of local authorities to make arrangements to ensure that kinship care assistance is made available to those people.

Policy Context

8. All children and young people should have the opportunity to grow up in a loving family environment, where they are safe and secure, and where they have dependable, enduring relationships with their caregivers. This is reflected in the ambition of the Scottish Government that Scotland is the best place for children to grow up.
9. The best interests of children have been at the heart of childcare practice in Scotland for many years. The Scottish policy context reflects this through the Scottish Government’s commitment to the UNCRC, which provides that in all actions concerning children the best interests of the child should be the primary consideration.⁵ The UNCRC also underlines the right of the child to preserve his or her identity, including family relations without unlawful interference.⁶ Part 13 of the 2014 Act and the 2016 Order provide a framework, in line with the UNCRC principles, to meet the needs of those who are in receipt of kinship care assistance.
10. Underpinning this vision is Getting it right for every child,⁷ Scotland’s national policy context for all children and young people which provides the foundation for care and support in Scotland. Getting it right for every child makes it everyone’s duty to ensure that children are supported to grow up safe, healthy, active, nurtured, achieving, respected, responsible and included. [The Getting it](#)

⁵ Article 3 of the [Convention on the Rights of the Child | OHCHR](#)

⁶ See also [Article 8 of the European Convention on Human Rights](#)

⁷ [Getting it right for every child](#)

[right for every child National Practice Model](#) describes how children's needs for support are assessed, including those of children in kinship care.

11. The Promise,⁸ the output from a three-year review of Scotland's care system, built on [Getting it right for every child](#) and underlined the importance of children being supported to remain with their families where it is safe to do so, and with extended family being the first consideration where this is not possible. The Scottish Government has committed to [Keeping the Promise](#).⁹ Research and good practice tells us that what allows this to be achieved is providing good quality support to the kinship family.¹⁰
12. Woven through the above policies is the importance of listening to children and involving them in a meaningful and appropriate manner when decisions are being made about their care.¹¹
13. Practice knowledge and research underpin the policy context outlined above, and underline that high quality, safe, loving kinship arrangements often best meet the needs of children who require alternative family care. Such kinship arrangements allow children to develop healthy attachments where they can become confident, resilient, healthy and happy individuals.

⁸ [The Promise](#)

⁹ [Keeping the Promise implementation plan](#)

¹⁰ [CELCIS research report - "Overseen and often overlooked"](#)

¹¹ See also for example, Article 12 of the [Convention on the Rights of the Child](#); [Getting it right for every child](#); [section 33\(7\) of the 2014 Act](#); [section 6\(1\) of the 1995 Act](#); [section 32\(1\) of the Adoption and Children \(Scotland\) Act 2007](#); and [section 27\(3\) of the Children's Hearings \(Scotland\) Act 2011](#)

Who can Receive Kinship Care Assistance Under Part 13 of the 2014 Act

14. The ethos behind kinship care is to ensure that a child who can no longer remain with their birth parents is able to be supported within their extended family, wherever possible. This ethos should be at the forefront of practitioners' minds during the process of assessing whether a child or carer may be entitled to kinship care assistance.
15. 'Kinship care assistance' is of such description as the Scottish Ministers specify by order.¹² [The Kinship Care Assistance \(Scotland\) Order 2016](#) sets out current details of this assistance, and to whom it is available. This is outlined in the boxes below.

Who

A person who is **considering applying for a kinship care order** in relation to a child who is under the age of 16 and who was previously looked after or who is at risk of becoming looked after¹³

What kinship care assistance is available

The provision of **information and advice** as that person may reasonably require for the purpose of making a decision about whether to apply for a kinship care order

Who

A person who **is applying** for a **kinship care order** in relation to a child who is under the age of 16 and who was previously looked after or who is at risk of becoming looked after.¹⁴

What kinship care assistance is available

The provision of such **information and advice** as that person may reasonably require for the purpose of the application **and financial support** towards the **cost of the application**.

¹² [Section 71\(2\) of the 2014 Act](#)

¹³ [Section 71\(3\)\(a\) of the 2014 Act](#)

¹⁴ [Section 71\(3\)\(a\) of the 2014 Act](#)

Who

A **child** who is under the age of 16, who is **subject to a kinship care order**, and who was previously looked after or who is at risk of becoming looked after.¹⁵

What kinship care assistance is available

The provision of such **information and advice** as that child may reasonably require for the purpose of facilitating the placement under a kinship care order

Who

A person who **holds a kinship care order** in relation to a child under the age of 16 who was previously looked after or who is at risk of becoming looked after.¹⁶

What kinship care assistance is available

The provision of such **information and advice** as that person may reasonably require in relation to the kinship care order **and** the provision of **an allowance**.

Who

A **child** who is at least 16 years of age, **who was subject to a kinship care order immediately before their 16th birthday**, and who was previously looked after or who is at risk of becoming looked after.¹⁷

What kinship care assistance is available

The provision of such **information and advice** as that child may reasonably require for the purpose of facilitating a transition following a placement under a kinship care order **and** when the local authority considers it appropriate, the provision of **an allowance**.

¹⁵ [Section 71\(3\)\(b\) of the 2014 Act](#)

¹⁶ [Section 71\(3\)\(c\) of the 2014 Act](#)

¹⁷ [Section 71\(3\)\(d\) of the 2014 Act](#)

Who

A person who is a **guardian** by virtue of an appointment made under section 7 of the 1995 Act of a child who is under the age of 16 and who was previously looked after or who is at risk of becoming looked after, unless they are also a parent of the child.¹⁸

What kinship care assistance is available

The provision of such **information and advice** as that person may reasonably require in relation to a kinship care order **and** the provision of **an allowance**.

Who

A **child who has a guardian** by virtue of an appointment made under section 7 of the 1995 Act, and who was previously looked after or who is at risk of becoming looked after.¹⁹

What kinship care assistance is available

The provision of such **information and advice** as that child may reasonably require for the purpose of facilitating that child's placement with a guardian **and** when the local authority considers it appropriate, the provision of **an allowance**.

16. The definitions below should be used as a tool to assist those considering kinship care assistance. The terminology used in the legislation and regulations is followed by examples of what this means in application.

Helpful definitions

Children and kinship carers

17. Part 13 of the 2014 Act and the 2016 Order provide that kinship care assistance is available to children, and to those who may care for them, in the circumstances stated below.

- Where a person is applying for, or considering applying for, a kinship care order in relation to a child under the age of 16 who was previously looked after or is at risk of becoming looked after;²⁰ or

¹⁸ [Section 71\(3\)\(e\) of the 2014 Act](#)

¹⁹ [Section 71\(3\)\(f\) of the 2014 Act](#)

²⁰ [Section 71\(3\)\(a\) of the 2014 Act as extended by section 71\(5\)\(b\)](#) and [Article 5 of the 2016 Order](#)

- Where a person holds a kinship care order in relation to a child under the age of 16 who was previously looked after or is at risk of becoming looked after;²¹
- Where a person is a guardian by virtue of an appointment made under section 7²² of the 1995 Act of a child under the age of 16 who was previously looked after or is at risk of becoming looked after,²³ unless they are also a parent of the child;²⁴
- Where a child is under the age of 16, and subject to a kinship care order, and they were previously looked after or are at risk of becoming looked after;²⁵
- Where a child is at least 16 years of age, and they were subject to a kinship care order immediately before their 16th birthday, and they were previously looked after or are at risk of becoming looked after;²⁶ or
- Where a child has a guardian by virtue of an appointment made under section 7 of the 1995 Act, and they were previously looked after or are at risk of becoming looked after.²⁷

18. A child who is living with friends or relatives by means of a kinship care order or a guardian appointed under section 7 of the 1995 Act, is not 'looked after' by a local authority. The guardian or person who holds the kinship care order is legally responsible for that child.

19. If someone does not fall within these categories, other support may be available under other frameworks. This is discussed further at paragraphs 75 – 80.

20. A parent of the child is not able to access kinship care assistance.²⁸

Who provides kinship care assistance

21. The 2014 Act provides that the local authority for the area where a person who may be entitled to kinship care assistance resides is responsible for

²¹ [Section 71\(3\)\(c\) of the 2014 Act as extended by section 71\(5\)\(b\)](#) and [Article 5 of the 2016 Order](#)

²² Under [section 7 of the 1995 Act](#) a child's parent may appoint a person to be a guardian for a child in the event of a parent's death.

²³ [Section 7 of the 1995 Act](#) as extended by [section 71\(5\)\(b\) of the 2014 Act](#) and [Article 5 of the 2016 Order](#)

²⁴ [Section 71\(3\)\(e\) of the 2014 Act as extended by 71\(5\)\(b\)](#) and [Article 5 of the 2016 Order](#)

²⁵ [Section 71\(3\)\(b\) of the 2014 Act as extended by section 71\(5\)\(b\)](#) and [Article 5 of the 2016 Order](#)

²⁶ [Section 71\(3\)\(d\) of the 2014 Act as extended by section 71\(5\)\(b\)](#) and [Article 5 of the 2016 Order](#)

²⁷ [Section 71\(3\)\(f\) of the 2014 Act as extended by section 71\(5\)\(b\)](#) and [Article 5 of the 2016 Order](#)

²⁸ This is the effect under [section 71\(4\)](#) and [section 72\(3\) of the 2014 Act](#)

making that kinship care assistance available. This may not be the same as the local authority who placed the child with the carer if they were previously looked after.

22. A protocol has been developed which clarifies responsibilities around transfer and where responsibility lies for support. Please refer to the [Cross Authority Protocol](#). This seeks to clarify cross authority responsibilities governing the support provided where a kinship care order is in place, but also extends to situations where a child is looked after.
23. It is recognised that there may be situations where good permanence planning practice and the spirit of corporate parenting duties means that if a child or carer moves to a different local authority area, a local authority may wish to extend their responsibilities to cover kinship care assistance where the child was previously their responsibility as a looked after child.

What is a kinship care order

24. A kinship care order is the term used in the 2014 Act to describe an order granted under section 11 of the 1995 Act which gives those carers, outlined below, the right to have the child living with them or to otherwise regulate the child's residence. These types of orders are sometimes known as a 'residence order' or a 'section 11 order'.²⁹
25. Section 11 orders granted in certain circumstances prior to the 2014 Act automatically became kinship care orders.³⁰
26. A kinship care order may confer all or part of parental responsibilities and parental rights on the applicant. If a kinship carer holds parental responsibilities they must promote and safeguard the child's health, development and welfare, provide direction and guidance to the child in a manner appropriate to the age and stage of development of the child, together with the parental rights to control, direct or guide the child's upbringing, and to act as the child's legal representative as set out under section 1³¹ and 2³² of the 1995 Act.

²⁹ See [section 72 of the 2014 Act](#) for more detail. A kinship care order also includes a residence order which has the effect of the child living with or predominately living with a qualifying person; or an order under [section 11\(1\) of the 1995 Act](#) appointing a qualifying person as a guardian of a child.

³⁰ This is dependent on whether the kinship care order had been granted in respect of a qualifying person in accordance with [section 72 of the 2014 Act](#)

³¹ [Section 1 of the 1995 Act](#)

³² [Section 2 of the 1995 Act](#)

27. When considering an application for a section 11 order by a carer (also known as a kinship care order), the court must have as its paramount concern the welfare of the child.³³ The court will not make an order unless it would be better for the child than not making an order. This is well-established in Scots law and is known as the 'no order' principle.³⁴ So far as practicable the court will have regard to the child's views, taking account of the child's age and maturity.
28. A kinship care order continues until a child reaches the age of sixteen. A child is usually deemed to have sufficient capacity to decide residence by the age of sixteen.³⁵
29. As part of a kinship care order, a court may, in addition to conferring parental responsibilities and parental rights on the kinship carer, either remove those parental responsibilities and parental rights from the parent or decide that all or some of those responsibilities and rights may be shared. For example, a parent may retain the parental responsibility to maintain contact with their child or consent to medical treatment, but a kinship carer may hold the right to apply for a passport and be responsible for the child's property/financial assets/inheritance.
30. One of the main advantages of obtaining a kinship care order is achieving legal certainty ensuring a more stable home environment for a child. This allows a kinship carer to make a range of decisions that any reasonable parent can take in relation to a child's day-to-day life.

Example: Kinship Care Order

Jonathan is 14 and lives with his Aunt Margaret and Uncle James. He has lived there since he was 9, after his mother unexpectedly passed away. Like many relatives in this situation in Scotland, they have a kinship care order – which recognises that Jonathan always has a safe and secure place to call home.

Jonathan, when living with his mother was subject to a compulsory supervision order, which was amended to require him to live with his aunt and uncle. Jonathan's parents were separated, and his mum had always taken care of him. His father recognised that Margaret and James could best provide the care Jonathan needed and supported the decision that Jonathan live permanently with them secured via a kinship care order. His role as a father was incredibly important to him, and this consent was based on him retaining parental responsibilities and parental rights.

³³ [Part 2 of the 1995 Act](#)

³⁴ [Section 11\(7\)\(a\) of the 1995 Act](#)

³⁵ This is the effect of [section 2](#) and [11\(2\)\(c\) of the 1995 Act](#)

The local authority provided financial support towards the costs of applying for the kinship care order in line with their legal duties.

The Sheriff on hearing the application granted the kinship care order giving Margaret and James all parental responsibilities and rights, but sharing those related to advice, guidance and assistance, and consent to medical treatment and to travel abroad with James's father. Upon granting of the kinship care order the compulsory supervision order was terminated by the Sheriff.

Who can apply for a kinship care order

31. A kinship care order may be applied for by someone who, at the time the order is made:

- is related to the child, including a person who is married to or in a civil partnership with a person who is related to the child or a person who is related to the child by the half blood. For example, an aunt or uncle, stepparent or a half brother or sister;
- is a friend or acquaintance of a person related to the child; or
- has some other relationship to, or connection with, the child as the Scottish Ministers may by order specify. The Scottish Ministers have not as yet made any such orders.
- A parent of a child cannot apply for a kinship care order.

32. The legislation provides two criteria of particular importance in relation to qualifying for kinship care assistance. These are that a child was previously looked after, or the local authority deems that a child, at this moment in time, is at risk of becoming looked after.

Previously looked after

33. In order to determine if a child was 'previously looked after', it is important to understand the definition of 'looked after'.³⁶ A child is 'looked after' by a local authority when he or she is:

- provided with accommodation by a local authority under section 25 of the 1995 Act;³⁷ or

³⁶ The definition of a 'looked after' child is set out in [section 17\(6\) of the 1995 Act](#), as amended by the [Adoption and Children \(Scotland\) Act 2007](#) and the [Children's Hearings \(Scotland\) Act 2011](#)

³⁷ [Section 25 of the 1995 Act](#)

- subject to a compulsory supervision order³⁸ or an interim compulsory supervision order³⁹ made by a children’s hearing in respect of whom the local authority are the implementation authority (within the meaning of the Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”); or
- living in Scotland and subject to an order in respect of whom a Scottish local authority has responsibilities, as a result of a transfer of an order made out with Scotland under regulations made under section 33 of the 1995 Act⁴⁰ or section 190 of the 2011 Act⁴¹ or
- subject to a permanence order made after an application by the local authority under section 80 of the Adoption and Children (Scotland) Act 2007 (“the 2007 Act”).⁴²

34. A child may be looked after at home i.e. have a compulsory supervision order in place but living with their parents or looked after away from home i.e. subject to a compulsory supervision order but with a condition that they live elsewhere. This could be in kinship or foster care, with prospective adopters, or in residential care, residential school or secure care, and may be referred to as ‘looked after and accommodated’.

35. For the purposes of kinship care assistance under Part 13 of the 2014 Act, the carers of children who were previously looked after for any length of time may apply for kinship care assistance, provided that they otherwise meet the criteria set out in section 71(3).⁴³ In most circumstances this will be relevant to children who were subject to compulsory supervision orders or provided with accommodation under section 25 of the 1995 Act,⁴⁴ and on rare occasions those subject to permanence orders

Examples: Previously Looked After

Previously Looked After: At Home

Louise is 10 and has lived full time with her gran, Martha, since she was 3, and before then was often with her gran for weeks at a time. Her mother misuses alcohol and has a difficult relationship with her ex-partner, Louise’s father. Every child needs

³⁸ [Compulsory Supervision Order](#)

³⁹ [Interim Compulsory Supervision Order](#)

⁴⁰ [Section 33 of the 1995 Act](#)

⁴¹ [Section 190 of the Children’s Hearings \(Scotland\) Act 2011](#)

⁴² [Section 80 of the Adoption and Children \(Scotland\) Act 2007](#)

⁴³ [Section 71\(3\) of the 2014 Act](#)

⁴⁴ [Section 25 of the 1995 Act](#)

stability from their caregivers. Inconsistent parenting while living with her mother, meant that Louise initially was on the child protection register and made subject to a compulsory supervision order. When her mother entered a more stable period, risks reduced, and the compulsory supervision order was terminated. Like many family situations where substance misuse is an issue, consistency in parenting can be variable and when Louise was 3, Martha suggested that Louise live with her on a permanent basis. Her mother agreed this was best for Louise. With support from the local authority, Martha applied for a kinship care order which was granted. She shares parental responsibilities and parental rights with her daughter. Martha has recently been told that she is entitled to assistance including a regular allowance to cover the costs of caring for Louise.

Louise and Martha are entitled to kinship care assistance as Louise was previously looked after. This includes Martha receiving an allowance, currently the Scottish Recommended Allowance. Martha is entitled to receive the allowance until Louise reaches the age of 16 years*, when children can determine their own residence, and this is Martha's only source of income other than her state pension. In addition, the support available as part of kinship care assistance under Part 13 of the 2014 Act and the 2016 Order is determined by the local authority assessment of wellbeing. The local authority must provide such information and advice as Martha and Louise may reasonably require in relation to the arrangements under the kinship care order, for example life story work.

The local authority where Martha resides has a kinship support group which Martha accesses. The local authority also decide to provide an annual 'additional' payment, children's kinship activities via their local carers centre, and access to a dedicated kinship care team for advice, information and assistance, including advice on income maximisation.

* Note: Many local authorities decide to make payments beyond this until school leaving age or to the age of 18, as long as the child remains in the care of the kinship carer.

Previously Looked After: Away from home: Compulsory Supervision Order
Matthew has lived in foster care since he was 8 years old. His mother's new partner has a conviction against children, with historical offences against boys. When his mother refused to believe this and ask her partner to leave, social workers recognised that Matthew and his half -sister were not safe and removed them from the home on a child protection order. A compulsory supervision order was put in place with a measure of residence, requiring Matthew to live with foster carers. Though relatives were approached none were, at that point, able to offer Matthew a home.

Matthew's mum and partner moved away from the area two years later and ceased maintaining contact with Matthew. Every child needs safety and stability in their lives. The assessment concluded that Matthew was in need of permanent alternative care and the care plan then included further contact with his extended family to ascertain whether any of them were now able to look after him. Matthew's paternal uncle, with whom he had a little contact, offered to be assessed as his long-term kinship carer. Following approval Matthew moved to live with his uncle on a compulsory supervision order. He was then supported by the local authority to apply for a kinship care order, which provided Matthew with security.

As Matthew was previously looked after he and his uncle are entitled to kinship care assistance. This includes Matthew's uncle receiving an allowance, currently the Scottish Recommended Allowance. The Scottish Recommended Allowance was also payable to Matthew's uncle when Matthew was a looked after child in the care of the local authority and placed with his uncle on a compulsory supervision order. The local authority must provide such information and advice as Matthew and his uncle may reasonably require in relation to the arrangements under the kinship care order. i.e. advice and support on parenting a teenager. The local authority may also decide to provide counselling to help Matthew and his uncle.

Previously Looked After: Away from home: Section 25 – Example 1

Dougie's mum regularly misused substances which meant she struggled to provide the best care for her son. A pre-birth assessment highlighted significant risks such that Dougie could not remain safely in his mother's care. A child protection order at birth was discussed with his mother and despite her distress she agreed to him becoming looked after under section 25 of the 1995 Act. Dougie stayed initially with foster carers in his local authority, before moving to his maternal grandmother who was approved to care for him on a looked after kinship care basis.

A parent capacity assessment was undertaken to assess the viability of Dougie returning to the care of his mother. A looked after children's statutory review when Dougie was 18 months old concluded that Dougie should remain with his grandmother on a permanent basis, with the agreement of his mother. Support was provided by the local authority to assist his grandmother to apply for a kinship care order, which will ensure Dougie's security.

As Dougie was previously looked after by his local authority, Dougie and his grandmother are entitled to kinship care assistance. This includes Dougie's grandmother receiving an allowance, currently the Scottish Recommended Allowance. The local authority must provide such information and advice as Dougie and his grandmother may reasonably require in relation to the arrangements under the kinship care order, which for Dougie and his grandmother took the form of

supporting them in spending time with Dougie's mum. The local authority may also decide to provide counselling, advice or information about any matter to help Dougie and his grandmother.

Previously Looked After: Away from home: Example – 2

Lorraine and her mother were supported by the local authority on a voluntary basis under section 22 of the 1995 Act.⁴⁵ Lorraine moved to live with her maternal granny, Caroline and step grandfather Alan under section 25 of the 1995 Act,⁴⁶ after her mother died as there was no one with parental responsibilities and parental rights. Lorraine's father is unknown. Caroline and Alan live in a different local authority to the one that Lorraine lived in with her mother (the placing authority). Caroline and Alan were assessed and approved as kinship carers, as required under regulation 10 of the Looked After Children (Scotland) Regulations 2009.⁴⁷ As a looked after child, responsibility for Lorraine remained with the local authority where Lorraine lived with her mother (the placing authority). They notified Caroline and Alan's local authority (the receiving authority) that Lorraine was now living there as per regulation 13 of the Looked After Children (Scotland) Regulations 2009.⁴⁸

All children need someone with parental responsibilities and parental rights and legal certainty. The placing local authority then supported Caroline to obtain a kinship care order. Once the kinship care order was granted Lorraine is no longer a looked after child, but Caroline and Lorraine are entitled to receive kinship care assistance (as Lorraine is a child who was previously looked after). The placing local authority continue to pay Caroline the Scottish Recommended Allowance, as part of kinship care assistance. Once the kinship care order was granted, in line with good practice, both local authorities discussed how Lorraine and Caroline's support needs could best be met as outlined in the Cross Authority Protocol.⁴⁹

At risk of becoming looked after

36. It is for the local authority to determine whether or not a child is at risk of becoming looked after.⁵⁰ In practice, this determination will be undertaken by social work professionals, in consultation with other professionals who know, or who may be working alongside, the child and their family. This determination should commence when the child, kinship carer, prospective

⁴⁵ [Section 22 of the 1995 Act](#)

⁴⁶ [Section 25 of the 1995 Act](#)

⁴⁷ [Regulation 10 of the Looked After Children \(Scotland\) Regulations 2009](#)

⁴⁸ [Regulation 13 of the Looked After Children \(Scotland\) Regulations 2009](#)

⁴⁹ [Cross Authority Protocol](#)

⁵⁰ [Section 71\(5\)\(a\) of the 2014 Act](#)

kinship carer or guardian presents to, or otherwise comes to the attention of, the local authority social work service.

37. In line with Article 6 of the 2016 Order, this determination must consider whether the child's wellbeing is being, or is at risk of being, adversely affected by any matter, such that the child is at risk of becoming looked after. To be eligible for kinship care assistance this determination should deem that the child is at risk of becoming looked after at this moment in time.
38. The framework for assessing wellbeing in any setting and for all children is the [Getting it right for every child national practice model](#). This should be utilised by the local authority to determine if a child who is, or may be, subject to a kinship care order or who has a guardian by virtue of section 7 of the 1995 Act,⁵¹ is at risk of becoming looked after.⁵²
39. Where this wellbeing assessment concludes that i) a return to the care of their birth parents would be unsuitable; or ii) the current arrangement where the child living with the kinship carer or guardian or prospective kinship carer is at risk of breaking down and that a return to the care of their birth parents would be unsuitable, the child would be deemed to be at risk of becoming looked after and kinship care assistance must be made available.⁵³
40. Using the Getting it right for every child model the assessment should consider, at this moment in time, whether the child's needs are being met and what support they and their family may need to ensure that the child's needs can be met.
41. This assessment should involve all relevant partners, the family and child in order to fully consider the needs of the kinship family. The assessing worker should work alongside education and health colleagues and consider wider policy directions such as those relating to early years,⁵⁴ additional educational needs⁵⁵ and sibling relationships and keeping connected with wider family members and those important to the child.⁵⁶ Issues related to accommodation and benefits may also be relevant as part of a holistic child centred assessment.
42. The assessment may result in the development of a child's plan in line with [Getting it right for every child](#).

⁵¹ [Section 7 of the 1995 Act](#)

⁵² [See also section 96 of the 2014 Act](#)

⁵³ [Article 6 of the 2016 Order](#)

⁵⁴ [Early learning and childcare expansion](#)

⁵⁵ [Additional support needs](#)

⁵⁶ [Promotion of contact between looked after children and siblings](#)

43. Specific issues which often feature in kinship situations should be addressed as part of the wellbeing assessment, such as the introduction of additional, sometimes complex, familial relationships with birth family and securing of legal powers. Practitioners assessing a child's wellbeing needs should also retain at the forefront of their considerations the principles underpinning assessment for wellbeing; the principle of minimum intervention⁵⁷ and the right of the child to family life - with their extended family as first choice where this cannot be with their birth parents.
44. Additional context for assessment of 'at risk of becoming looked after' may be found in [Part 12 of the Children and Young People \(Scotland\) Act 2014](#) (services in relation to children at risk of becoming looked after) and the related [Children and Young People \(Scotland\) Act 2014 \(Relevant Services in relation to Children at Risk of becoming looked after etc.\) Order 2016](#), which outlines the duty of the local authority to assess whether a child's wellbeing is being, or is at risk of being, adversely affected by any matter, such that the child is at risk of becoming looked after.

Examples: At risk of becoming looked after

Not previously looked after and not at risk – Example 1

Noah is 14 and lives with his paternal grandparents Jo and Melanie. His mother Leanne only cared for him for a few years, during which time they moved several times, living in a range of unsuitable situations. His father, Jonathan, was 17 and a student when Noah was born and was unaware of his existence for the first year of life. He was not in a position to care for his son and had no ongoing involvement with Leanne. Though Jo and Melanie lived in a different part of the country, they consistently supported Leanne by caring for Noah. When Noah was 5, they cared for him while Leanne was unwell, and this short-term support gradually became a permanent agreement and legally secured through a kinship care order when Noah was 8. Leanne's parental rights were removed.

Noah is settled, thriving at school and involved in a range of sporting activities where he excels. There are no particular concerns regarding his wellbeing.

Jo and Melanie have been advised by a charity that they are entitled to kinship care assistance in the form of The Scottish Recommended Allowance from their local authority as 'Noah would have been in care if they had not taken him in'. They have written to the local authority requesting kinship care assistance.

⁵⁷ [Section 11\(7\)\(a\) of the 1995 Act](#)

Noah has neither been a looked after child nor is he at risk of becoming looked after as he is safe and secure with his grandparents. Kinship care assistance is therefore not applicable.

A wellbeing assessment using the Getting it right for every child national practice model may be undertaken to consider if there are any other supports and assistance from the local authority which would help Noah and his grandparents.

Not previously looked after and not at risk – Example 2

Sophia, 12 lives with her half-sister Nadia, 23. Nadia assumed care of Sophia when Sophia was 8 as their mother Caroline, was unable to provide her with the stability she needed. Caroline now lives in England, with a new partner with whom she has a child.

When Sophia wanted to go on a school trip the issue of who could sign the consent form arose as there was no-one available with parental responsibilities and parental rights. Nadia was advised by her local authority to seek a kinship care order which would vest those rights with her ensuring she had the legal authority to make decisions for Sophia, thus also securing a more normal childhood experience for Sophia. The local authority advised Nadia to seek legal aid to fund this.

A friend told Nadia that she had heard that carers in similar circumstances to Nadia are entitled to an allowance and Nadia has applied to her local authority for this.

Sophia was not previously looked after. Using the Getting it right for every child national practice model an assessment of wellbeing is undertaken to decide whether Sophia is at risk of becoming looked after. This shows that Sophia is well cared for and settled with her sister, who is providing a caring home and doing everything she can to best meet Sophia's needs. The sisters have a close and caring relationship. There are no concerns at school though the guidance teacher notes that Sophia is very shy and to help her strengthen her social skills and friendships she is encouraged to become involved in additional activities.

It is concluded that Sophia is not at risk of becoming looked after and therefore Sophia and Nadia do not meet the criteria for kinship care assistance under Part 13 of the 2014 Act.

General assistance however is available to Sophia and her sister, as part of the Getting it right for every child approach. School provides extra help to enable Sophia to access extracurricular activities and Nadia is invited to the local kinship care support group to meet other people in her situation. Funding is provided under section 22 of 1995 Act to assist with sports clothing, and Sophia is linked to a local art activities group for children. Funding is provided to Nadia under section 4 of the

Social Care (Self- directed support) (Scotland) Act 2013 Option 1⁵⁸ to ensure she can have an occasional break to maintain her own life out with her caring responsibilities.

Not previously looked after but at risk

Jemima is 6 and has lived with her Great Aunt Mary since birth. Her mother struggled with substance misuse and was not able to care for Jemima and disappeared soon after giving birth. Mary applied for and was granted a kinship care order when Jemima was 2. Jemima's school have recognised that Jemima struggles with a range of tasks in class and can become disruptive to avoid tackling activities. The school have also become aware that Mary's ongoing health issues have become more prevalent and are beginning to impact on her care of Jemima. Mary has experienced intermittent mental health issues during her life. Jemima is often late for school, poorly dressed, and hungry. As part of an early intervention strategy the school have provided a range of supports via their family support staff, a place at breakfast club and in social skills groups.

To help Jemima thrive now and in the future the school request a multi-agency assessment is undertaken using the Getting it right for every child National Practice Model. This indicates that Jemima's wellbeing is at risk of being adversely affected by a number of matters. Jemima is considered to be on the cusp of coming into the care of the local authority. A multi-agency plan is agreed and put in place and support measures include regular Team Around the Child meetings, ongoing family support, practical assistance with clothing and finance, and counselling for her aunt alongside liaison with the range of professionals involved with both Jemima and Mary.

Referral to the Reporter for compulsory measures of care is not made as the family are keen to work with the plan for Jemima

As Jemima is at this point in time a child who is at risk of becoming looked after, she and her aunt are entitled to kinship care assistance. This includes the payment of an allowance, currently the Scottish Recommended Allowance, payable to her aunt. This is reviewed annually.

As part of the child's plan, other supports beyond kinship care assistance are also provided. Jessica is referred to the Educational Psychologist for assessment to determine if additional education support is required; her social worker undertakes life story work with Jemima to help her understand her past and share information about her mother; family support services become involved to assist with daily tasks,

⁵⁸ [Section 4 of the Social Care \(Self- directed support\) \(Scotland\) Act 2013](#)

link Jemima in to local activities and group support and provide Jemima with a befriender; Mary joins the local kinship care support group for peer support.

Not previously looked after – but at risk of becoming looked after (pre-birth)

Sharon has two grandchildren by her daughter Flora, who has struggled to provide the best care for her children. After a short period of living in the care of the local authority two of Sharon's grandchildren now live with her after she applied for and was granted kinship care orders for them.

Flora is now pregnant with her third child and concerns remain about her ability to provide safe care. As part of the local authority assessment a family decision making meeting took place prior to their birth where Flora recognised that Sharon could provide the best care for all of her children.

The family plan is for the baby to live with Sharon and for her to apply for a kinship care order and kinship care assistance once they are born.

In this case the baby is at risk of becoming looked after at birth due to the concerns around Flora's ability to provide the best care for her baby. The family decision making process allowed for minimum intervention by the local authority. Sharon is supported to apply for kinship care assistance, which includes the payment of an allowance, currently the Scottish Recommended Allowance. This also supports the baby to live with their brother and sister who are also in receipt of kinship care assistance as they were previously looked after.

What Kinship Care Assistance may be Provided by a Local Authority

45. The Promise states that children should get the support they need for as long as they need it, in a way that reduces risk and further trauma, which is reflected in the principles underpinning kinship care assistance. The Scottish Government is committed to Keeping the Promise.
46. The boxes at [paragraph 15](#) set out what kinship care assistance must be provided by a local authority. A local authority must make arrangements to ensure that kinship care assistance is made available to a person residing in its area who is entitled to such assistance.
47. Practitioners should also consider how the principles of Getting it right for every child assist in formulating a care plan to meet the needs of the child and support to the kinship carer, prospective kinship carer or guardian. The care plan should be informed by the needs of the child and the kinship carer, prospective kinship carer or guardian. It should actively consider how good quality family support in kinship situations ensures a child's wellbeing and maintains them in a secure family setting.
48. Supports should take account of the universal provision within education, health, and third sector organisations operating within the local area.
49. Practical support around prioritisation for Housing, Education and Welfare Benefits advice should also reflect kinship arrangements and be given priority. For example, children living in a kinship care family, including those covered by this guidance, are also included within the definition of two-year-olds able to access early years provision.

Information and Advice

50. The boxes at [paragraph 15](#) describe information and advice which must be given in particular circumstances.
51. This includes information and advice given to people when they are considering whether to apply for a kinship care order. In this situation, such information and advice should include: the importance of legal certainty for the child; who is best placed to provide this; the legal options for achieving legal certainty, and the implications of each of these options.
52. The above must be placed in the context of Getting it right for every child and the 'minimum intervention' principle, and as part of care planning for children.

Practitioners must have the necessary knowledge and skill to undertake these important discussions with kinship carers and prospective kinship carers and guardians.

Wider supports that may be provided

53. This guidance also details the emotional and practical support which a local authority may additionally choose to provide. Examples of what this may look like in practice are offered below. In all of these examples the carer and or child are entitled to access kinship care assistance.
54. Practical support is of particular value to kinship carers, prospective kinship carers and guardians, regardless of the legal context within which they care for the child. This can take many forms, and local authorities should consider how to respond to the identified needs of individual kinship families. For example, the local authority may consider providing furniture, supporting the provision of short breaks, or providing equipment for the child's hobby or interest. Examples are provided at [paragraph 80](#) of this guidance.
55. The provision of such practical support aligns to the Promise and Getting it right for every child foundation of providing the right support at the right time in order to support a child to live securely within their family. This is assessed using the Getting it right for every child practice model and the wellbeing indicators paying particular attention to the unique aspects within many kinship care situations, such as the complexity of family dynamics.

Examples: Information and Advice

Information and Advice under kinship care assistance and wider supports – Example 1

Janice is kinship carer to her granddaughter Karla, who is 6, and was previously looked after in foster care.

Like many kinship carers Janice has struggled with feelings of failure and guilt about her own parenting of her daughter, Karla's mum, and adjusting to now parenting Karla. This sometimes manifests itself in spoiling Karla as a grandmother would, yet also trying to be her parent. These confusing messages are beginning to impact on Karla's behaviour, and are distressing Janice.

To ensure Janice can provide the best care for Karla she has received as part of kinship care assistance extensive information and advice on what it means to have a kinship care order, as Janice is considering applying for a kinship care order. The local authority also provides Janice with information, advice and financial support so

that she can apply for the kinship care order. Janice was advised to seek independent legal advice and given funding towards the cost of legal proceedings. Janice was also supported to attend appointments.

In addition to this her local authority has decided to provide her with emotional support to allow her to fully consider the implication of holding a kinship care order in respect of Karla.

The local authority also signposted Janice to a local charity who offer counselling to kinship carers. The family support service began life story work with Karla, to help her understand her journey and strengthen her relationship with Janice.

Information and Advice under kinship care assistance and wider supports – Example 2

Michael has a guardianship order under section 7 of the 1995 Act for his godson Stephen, who is 10. Stephens's parents died in tragic circumstances when he was 4 and had named Michael as his guardian. Stephen was subject to a compulsory supervision order when he was a baby, though that ended a year later.

Michael successfully applied for kinship care assistance and was awarded an allowance as Stephen was previously looked after. A wellbeing assessment was undertaken using the Getting it right for every child national practice model, which indicated that for Stephen to thrive now and in the future information and advice in the form of parenting guidance would help Michael.

Additionally, to strengthen their relationship both Michael and Stephen would benefit from some time away from each other: Michael to maintain his hobbies, which are important to him, and Stephen to develop his social and communication skills.

With no extended family who could be supported to provide this, enquiries from the school and social workers show that Stephen has a close friend whose parents would be happy to assist, and include Stephen in weekends away in their caravan, activities and occasional overnight sleepovers. After discussion, rather than this being a formal arrangement which would require them to be assessed as short break foster carers, and Stephen becoming looked after by dint of a series of short breaks, Michael is provided, separately from kinship care assistance, with funding to facilitate regular short breaks using Self-directed Support Option 1 as outlined in the Social Care (Self-direct Support) (Scotland) Act 2013.⁵⁹

⁵⁹ [Options for self-directed support](#)

Financial support

56. The boxes at [paragraph 15](#) describe financial support which must be given in particular circumstances.

Financial costs associated with applying for a kinship care order

57. A local authority must support those entitled to kinship care assistance with financial support towards the cost of applying to court for a kinship care order. Local authorities may provide support to kinship carers or prospective kinship carers who do not meet this criteria on a discretionary basis, if this would be in the best interests of the child.

58. Those entitled to kinship care assistance may be eligible for Legal Aid for support with the costs of the court application and may be asked to apply for this before the local authority can confirm the extent of their financial support, in line with local policies.

Financial support to a child

59. Local authorities may also provide financial support to a child who has attained the age of 16 and is entitled to kinship care assistance, where this is assessed as being appropriate. Financial support on a one-off or a regular basis may also be provided where this is deemed appropriate for kinship carers or guardians who are not included in the boxes at [paragraph 15](#).

Care Experienced Bursaries

60. Young people who live with a person entitled to kinship care assistance and have been previously 'looked after' may be entitled to a Care Experienced Bursary, if they are continuing their education and studying for any eligible full-time course. Further information can be viewed on the Student Awards Agency Scotland website at [Support for Care Experienced students](#).

Scottish Recommended Allowance

61. In September 2023, the Scottish Government announced that, for the first time in Scotland, there would be a recommended national allowance payable to cover the costs of caring for a looked after child in kinship or foster carer and carers who meet the criteria as laid out in Part 13 of the 2014 Act. This is known as the 'Scottish Recommended Allowance'⁶⁰. Current policy is that those carers will receive a weekly rate no matter where in Scotland they live. For kinship carers and guardians seeking an allowance as part of kinship care

⁶⁰ [Scottish recommended allowance: information for carers and professionals - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultation-papers/care-experienced-students/)

assistance, they must meet the criteria outlined in the boxes at [paragraph 15](#) of this guidance.

62. The allowance is to ensure that children in those situations are able to have the same experiences and opportunities as other children. It provides financial support for clothing, pocket money, school trips, household expenses and other costs. [Scottish Recommended Allowance: information for carers and professionals - gov.scot \(www.gov.scot\)](#)
63. The allowance, currently paid in the form of the Scottish Recommended Allowance, is payable to those with a kinship care order or those who have been appointed guardians under section 7 of the 1995 Act⁶¹ and are otherwise eligible for kinship care assistance as long as the child remains the responsibility of the carer and the kinship care order remains in place ie until the child reaches the age of 16. Many local authorities will, however, continue payment until the child leaves school or reaches the age of 18 years.
64. Current policy is that the payment of the Scottish Recommended Allowance must be the equivalent of the local authority's foster care allowance minus any means tested child related state benefits. This is because those caring for 'looked after' children are not entitled to claim standard state benefits such as child benefit, but if the child is not 'looked after' the carer may claim those benefits.
65. Current policy is that all local authorities must pay at least the Scottish Recommended Allowance to those who qualify for the provision of an allowance under kinship care assistance.⁶²
66. It is recommended that any entitlement to a financial allowance provided as kinship care assistance is reviewed annually by a local authority in line with their local policies. Where there is a change of circumstances, it is recommended that a person in receipt of kinship care assistance notifies the local authority as soon as reasonably practicable. Good practice would indicate that this is also utilised as an opportunity to update any wider needs.

⁶¹ [Section 7 of the 1995 Act](#)

⁶² [Scottish recommended allowance: information for carers and professionals - gov.scot \(www.gov.scot\)](#)

Example: Allowance

Allowance payable under kinship care assistance

Isabella and Gemma are twins aged 17. They were previously looked after and now live with their grandparents who are pensioners and on a low income. Their grandparents held a kinship care order. Isabella and Gemma's grandparents continue to receive an allowance, currently the Scottish Recommended Allowance, as the girls remain in full time education and their local authority has opted, in line with good practice, to continue payment of the Scottish Recommended Allowance in situation where children remain in full time education beyond the age of 16 years. This allowance is utilised fully on clothing and caring for the girls.

Like all children, Isabella and Gemma require support as they move into independence. It is agreed at the annual review of the allowance and needs that both girls would benefit from some direct assistance. Given the financial circumstances of the kinship family the local authority considers it appropriate to provide Isabella and Gemma with a small financial allowance to each of the girls direct.⁶³

⁶³ [Article 4 of the 2016 Order](#)

How to Apply for Kinship Care Assistance

67. If a person is seeking financial kinship care assistance they must apply to the local authority where they reside for that assistance. This includes applying for the allowance that may be provided, currently the Scottish Recommended Allowance, or for financial support towards the cost of an application for a kinship care order, where a person is applying for, or considering applying for, a kinship care order in relation to a child who is under the age of 16 and who was previously looked after or who is at risk of becoming looked after.
68. It is recommended that any regular allowance should be reviewed by the local authority in line with their local policies to take account of any changes to carers' circumstances or means tested child related state benefits.
69. Local authorities must publish their processes for applying for this assistance. This is further discussed below.

Notifying a person who has applied for kinship care assistance of a local authority's decision

70. A local authority must notify a person who has applied to them for financial kinship care assistance (as described at [paragraph 15](#)) of the local authority's decision, and the reasons for the local authority's decision, as soon as reasonably practicable.⁶⁴
71. Such a decision must include, where applicable, the following information:
- The method of determination of the amount;
 - Where kinship care assistance is to be paid by instalments
 - The amount of each instalment;
 - The frequency of the payment;
 - The period for which the kinship care assistance is to be paid and
 - The date of the first payment;
 - Where kinship care assistance is to be paid as a single payment, the amount and the date the payment is to be made.

Publication of information about kinship care assistance

72. A local authority has a duty to publish information about the provision of kinship care assistance in their local authority area.⁶⁵ This information must include the following:

⁶⁴ [Article 8 of the 2016 Order](#)

⁶⁵ [Article 9 of the 2016 Order](#)

- The local authority's policy in relation to the provision of kinship care assistance;
- The local authority's assessment criteria for a kinship care placement;
- The local authority's application process for providing financial kinship care assistance;
- The rate at which allowances are payable; and
- Any other information that the local authority considers relevant.

73. The local authority must also keep this information under review and, where appropriate, publish revised information.

74. It is also recommended that local authorities publish information on how to request information and advice.

Support available to kinship carers, prospective kinship carers, guardians and children not able to receive kinship care assistance under Part 13 of the Children and Young People (Scotland) Act 2014 and the Kinship Care Assistance (Scotland) Order 2016

75. The ambition of the Scottish Government is that Scotland is the best place in the world to grow up. This is embedded in national policy and legislation.
76. Getting it Right For Every Child is the foundation for the wellbeing of all children in Scotland and [Part 13 of the Children and Young People \(Scotland\) Act 2014](#) sits within that overarching framework.
77. This means that even where a child and their kinship carer, prospective kinship carer or guardian may not be able to access support under Part 13, where there is a concern about a child there is still a duty on the local authority and partners to assess their wellbeing needs and provide appropriate support to facilitate and secure a child's wellbeing in their family.
78. To access such support, a child, their family or other professionals may ask the child's named person/key worker to assist, or make a direct referral to a particular service. This may result in an assessment of wellbeing and a child's plan within the Getting it right for every child framework being put in place to provide the support needed.
79. A child's plan may be the result of a single agency working with the child and their carers e.g. education or health, or a multi-agency group. That plan will outline the support that is needed to help the child and their carer, and should be reviewed regularly with the carer and wider Team Around the Child.
80. That support may take the form of information and advice and financial support as is required by the assessed needs of the child.⁶⁶

⁶⁶ [Getting it right for every child](#)

Examples: Support for those not able to receive kinship care assistance under Part 13

Support for those not able to receive kinship care assistance under Part 13 – Example 1

Jacqui and James are 12 and 9 and have lived with their Auntie Jo and Uncle Peter since they were 4 and 7, when their mother was no longer able to provide them with the care they needed. Jacqui and James have had no contact with their mother and her whereabouts remain unknown. To ensure the children have a safe and stable home Jo and Peter gained a kinship care order two years ago.

Though academically able, Jaqui is becoming withdrawn at school and argumentative at home. Jo and Peter recognise Jaqui is now struggling with the absence and loss of her mother and ask the school for assistance.

A Getting it right for every child wellbeing assessment is undertaken by the pastoral head alongside Jacqui, her aunt and uncle. This results in a plan for the school counsellor to undertake some specific direct work with Jacqui on her family and feelings, and the pastoral head agrees to meet regularly with Jo and Peter to discuss how they can help Jacqui feel safe and secure in order to thrive now and in the future, and if further assistance is needed. They also agree that some life story work might be useful for James at the appropriate point in the future. Kinship care assistance under Part 13 is not applicable in this circumstance as Jacqui and James were not previously looked after, and are not at risk of becoming looked after.

Support for those not able to receive kinship care assistance under Part 13 – Example 2

Abigail and Simon are 6 and 8 years old and live with their grandfather, Bill, after losing their mother due to cancer and having had no contact with their father. Like many grandparents in this situation Bill obtained a kinship care order to ensure both children have a safe and stable home. Though there was some social work involvement at the point where their mother died, no formal statutory intervention was in place.

Bill and the children live in a small village where community celebrations are particularly significant and important. The annual fair/gala day is coming up and Abigail has been chosen to be a maid of honour. Bill is on a pension, and also receives child benefit and child tax credit. He is struggling to meet the costs of the outfit and approaches the local authority for assistance to cover the costs of Abigail's outfit. Social workers are aware of the particular importance within the community of this event and the related financial pressures this can cause for some families. After

a brief assessment Bill is provided with funding under section 22 of the 1995 Act to cover the costs of the outfit and related expenses.⁶⁷ Kinship care assistance under Part 13 is not applicable in this circumstance as Abigail and Simon were not previously looked after, and are not at risk of becoming looked after.

Support for those not able to receive kinship care assistance under Part 13 –
Example 3

Alexa is 12 and lives with her half-brother Findlay aged 24. Alexa's mother died when she was a baby and her father recently died after an unexpected illness. Findlay was always clear that he would care for Alexa.

Alexa is currently sleeping on the floor of Findlay's small spare room in his privately rented flat. He approaches Citizens' Advice Bureau who suggests he seek a kinship care order to provide Alexa with stability and security and to speak to the local authority for support. Findlay does this and is provided with information and advice on seeking a kinship care order in relation to Alexa and on how to access legal aid to cover the costs. The local authority link him into the local kinship care support group where there are some other male kinship carers, and the local authority provide him with 'set up' costs of a bed, bedding and storage for Alexa's room. Findlay is offered the choice of these being provided directly to him, or being given the money to purchase the items himself. Kinship care assistance under Part 13 is not applicable in this circumstance as Alexa was not previously looked after, and is not at risk of becoming looked after.

Support for those not able to receive kinship care assistance under Part 13 –
Example 4

Ailsa is 13 and her brother Riley is 11. They have lived with their aunt Rose and uncle Robert since Ailsa was a toddler. Their mother, Andrea struggled with her mental health and extended family assisted by caring for Ailsa and Riley. Andrea recognised that Ailsa and Riley needed stability and that they would be cared for permanently by Rose and Robert.

Robert and Rose applied for and were granted a kinship care order when Ailsa was 7 years old.

Now in early adolescence Ailsa is struggling with not living with her mother. She has become moody, argumentative with her brother and cheeky with her aunt and uncle. Rose and Robert have reached out to the school for assistance. Kinship care

⁶⁷ [Section 22 of the 1995 Act](#)

assistance under Part 13 is not applicable in this circumstance as Ailsa was not previously looked after, and is not at risk of becoming looked after.

A family meeting is held and a child's plan within GIRFEC is agreed by the family and school. This includes sessions with the school counsellor for Ailsa, support to access an athletics club, volunteering with a local mental health charity to help her better understand mental health, and regular family time together.

Appendices

Appendix A: Useful Organisations and Supports

Kinship Care Advice Service for Scotland (KCASS)

The Kinship Care Advice Service for Scotland is funded by the Scottish Government to provide independent advice and guidance to all kinship carers and those who support them.

Social Security Information

Those kinship carers and guardians who are caring for non-looked after children and young people may apply for any means-tested state benefits. Local authorities will wish to take any means-tested child-related state benefits received into account when calculating the Scottish Recommended Allowance, to ensure that there is no double funding.

Local authorities should encourage and support kinship carers and guardians to access all relevant benefits for the children in their care. It is advisable to encourage such carers to seek specialist benefit advice. To find out more about social security benefits visit [Children and family - mygov.scot](https://www.mygov.scot/children-and-family)

There are national organisations, such as Citizens Advice Scotland and Child Poverty Action Group that can provide specialised advice and support on how to make a claim (see Appendix G for contact details).

Legal Aid

When a kinship carer or prospective kinship carer is applying for a kinship care order they may be asked to explore legal aid as an option for covering the cost of the action before the local authority funding is considered. For more information visit the Scottish Legal Aid Board website. [Home - Scottish Legal Aid Board \(slab.org.uk\)](https://www.slabb.org.uk)

Appendix B: THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

PART 13

SUPPORT FOR KINSHIP CARE

71 Assistance in relation to kinship care orders

(1) A local authority must make arrangements to secure that kinship care assistance is made

available for a person residing in its area who falls within subsection (3).

(2) Kinship care assistance¹ is assistance of such description as the Scottish Ministers may by order specify.

(3) A person falls within this subsection if the person is—

- (a) a person who is applying for, or considering applying for, a kinship care order in relation to an eligible child who has not attained the age of 16 years,
- (b) an eligible child who has not attained the age of 16 years who is the subject of a kinship care order,
- (c) a person in whose favour a kinship care order in relation to an eligible child who has not attained the age of 16 years subsists,
- (d) a child who has attained the age of 16 years, where—
 - (i) immediately before doing so, the child was the subject of a kinship care order, and
 - (ii) the child is an eligible child,
- (e) a person who is a guardian by virtue of an appointment under section 7 of the 1995 Act of an eligible child who has not attained the age of 16 years (but this is subject to subsection (4)),
- (f) an eligible child who has a guardian by virtue of an appointment under section 7 of the 1995 Act.

(4) Subsection (3)(e) does not include a person who is also a parent of the child.

(5) An —eligible child¹ is a child who the local authority considers—

- (a) to be at risk of becoming looked after, or
- (b) to fall within such other description as the Scottish Ministers may by order specify.

72 Orders which are kinship care orders

- (1) In section 71, —kinship care order^{ll} means—
 - (a) an order under section 11(1) of the 1995 Act which gives to a qualifying person the right mentioned in section 2(1)(a) of that Act in relation to a child,
 - (b) a residence order which has the effect that a child is to live with, or live predominantly with, a qualifying person, or
 - (c) an order under section 11(1) of the 1995 Act appointing a qualifying person as a guardian of a child.
- (2) For the purposes of subsection (1), a —qualifying person^{ll} is a person who, at the time the order is made—
 - (a) is related to the child,
 - (b) is a friend or acquaintance of a person related to the child, or
 - (c) has such other relationship to, or connection with, the child as the Scottish Ministers may by order specify.
- (3) But a parent of a child is not a —qualifying person^{ll} for the purposes of subsection (1).
- (4) The references in subsection (2) to a person who is related to a child include a person who is—
 - (a) married to or in a civil partnership with a person who is related to the child,
 - (b) related to the child by the half blood.

73 Kinship care assistance: further provision

- (1) The assistance which may be specified as kinship care assistance includes—
 - (a) the provision of counselling, advice or information about any matter,
 - (b) the provision of financial support (or support in kind) of any description,
 - (c) the provision of any service provided by a local authority on a subsidised basis.
- (2) An order under section 71(1) may specify assistance by reference to assistance which a person was entitled to from, or being provided with by, a local authority immediately before becoming entitled to assistance under that section.
- (3) The Scottish Ministers may by order make provision about—
 - (a) when or how kinship care assistance is to be provided,
 - (b) when or how a local authority is to consider whether a child is within paragraph (a) or (b) of section 71(5),
 - (c) when or how a local authority is to review whether a child continues to be within paragraph (a) or (b) of section 71(5),

(d) such other matters about the provision of kinship care assistance as the Scottish Ministers consider appropriate.

(4) An order under subsection (3)(d) may include provision about—

(a) circumstances in which a local authority may provide kinship care assistance subject to conditions (including conditions as to payment for the assistance or the repayment of financial support), and

(b) consequences of such conditions not being met (including the recovery of any financial support provided).

74 Interpretation of Part 13

In this Part—

“kinship care assistance” has the meaning given by section 71(2),

“parent” has the same meaning as it has in Part 1 of the 1995 Act

Appendix C: THE KINSHIP CARE ASSISTANCE (SCOTLAND) ORDER 2016
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 153

CHILDREN AND YOUNG PERSONS

The Kinship Care Assistance (Scotland) Order 2016

Made - - - - 15th March 2016
Coming into force - - 1st April 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 71(2) and (5)(b) and 73(3) of the Children and Young People (Scotland) Act 2014(a), and all other powers enabling them to do so.

In accordance with section 99(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Kinship Care Assistance (Scotland) Order 2016 and comes into force on 1st April 2016.

Interpretation

2. In this Order —the Act¹ means the Children and Young People (Scotland) Act 2014.

Manner of providing kinship care assistance

3. A local authority must provide kinship care assistance in such a way as to safeguard, support and promote the wellbeing of an eligible child.

Kinship care assistance

4. For the purposes of section 71(2) of the Act, the following assistance is specified—
 - (a) in relation to a person falling within section 71(3)(a) of the Act where the person is considering applying for a kinship care order, the provision of such information and advice as that person may reasonably require for the purpose of making a decision about that matter;

- (b) in relation to a person falling within section 71(3)(a) of the Act where the person is applying for a kinship care order the provision of—
 - (i) such information and advice as that person may reasonably require for the purpose of the application; and
 - (ii) financial support towards the cost of the application;
- (c) in relation to a child falling within section 71(3)(b) of the Act, the provision of such information and advice as that child may reasonably require for the purpose of facilitating the placement under a kinship care order;
- (d) in relation to a person falling within section 71(3)(c) of the Act—
 - (i) the provision of such information and advice as that person may reasonably require in relation to a kinship care order; and
 - (ii) the provision of an allowance;
- (e) in relation to a child falling within section 71(3)(d) of the Act—
 - (i) the provision of such information and advice as that child may reasonably require for the purpose of facilitating a transition following a placement under a kinship care order; and
 - (ii) when the local authority considers it appropriate, the provision of an allowance;
- (f) in relation to a person falling within section 71(3)(e) of the Act—
 - (i) the provision of such information and advice as that person may reasonably require in relation to a kinship care order; and
 - (ii) the provision of an allowance;
- (g) in relation to a child falling within section 71(3)(f) of the Act—
 - (i) the provision of such information and advice as that child may reasonably require for the purpose of facilitating that child’s placement with a guardian; and
 - (ii) when the local authority considers it appropriate the provision of an allowance.

Extension of the definition of eligible child

5. The description specified for the purpose of section 71(5)(b) of the Act is a child who was previously looked after.

Factors to be taken into account in determining whether a child is at risk of becoming looked after

6. For the purpose of considering whether a child is within section 71(5)(a) of the Act, a local authority must consider whether the child's wellbeing is being, or is at risk of being, adversely affected by any matter, such that the child is at risk of becoming looked after.

Application for types of kinship care assistance

7. A person who seeks kinship care assistance of a type described in article 4(b)(ii), (d)(ii), (e)(ii), f(ii) or g(ii) must apply to a local authority.

Notification of decision

8. — (1) A local authority must notify a person who applies for kinship care assistance described in article 7 of that local authority's decision, and the reasons for that decision, as soon as reasonably practicable.

(2) Notice under paragraph (1) which relates to a payment must include, where applicable—

- (a) the method of determination of the amount;
- (b) where kinship care assistance is to be paid by instalments—
 - (i) the amount of each instalment;
 - (ii) the frequency of the payment;
 - (iii) the period for which kinship care assistance is to be paid; and
 - (iv) the date of the first payment;
- (c) where kinship care assistance is to be paid as a single payment, the amount and the date the payment is to be made.

Publication of information about kinship care assistance

9.—(1) A local authority must publish information in relation to the provision of kinship care assistance in that local authority's area, including—

- (a) the local authority's policy in relation to provision of kinship care assistance;
- (b) the local authority assessment criteria for a kinship care placement;
- (c) the local authority's application process for kinship care assistance of a type defined in article 4(b)(ii), (d)(ii), (e)(ii), (f)(ii) or (g)(ii);
- (d) the rate at which allowances are payable;

(e) any further information that the local authority considers relevant.

(2) A local authority must—

(a) keep published information under review; and

where appropriate, publish revised information

Appendix D: Other Relevant Legislation, Policy and Frameworks

[Children and Young People \(Scotland\) Act 2014](#)

[The Kinship Care Assistance \(Scotland\) Order 2016](#)

[Children \(Scotland\) Act 1995](#)

[Getting it right for every child](#)

[The Promise](#)

[Keeping The Promise to our children, young people and families \(www.gov.scot\)](#)

[The Looked After Children \(Scotland\) Regulations 2009](#)

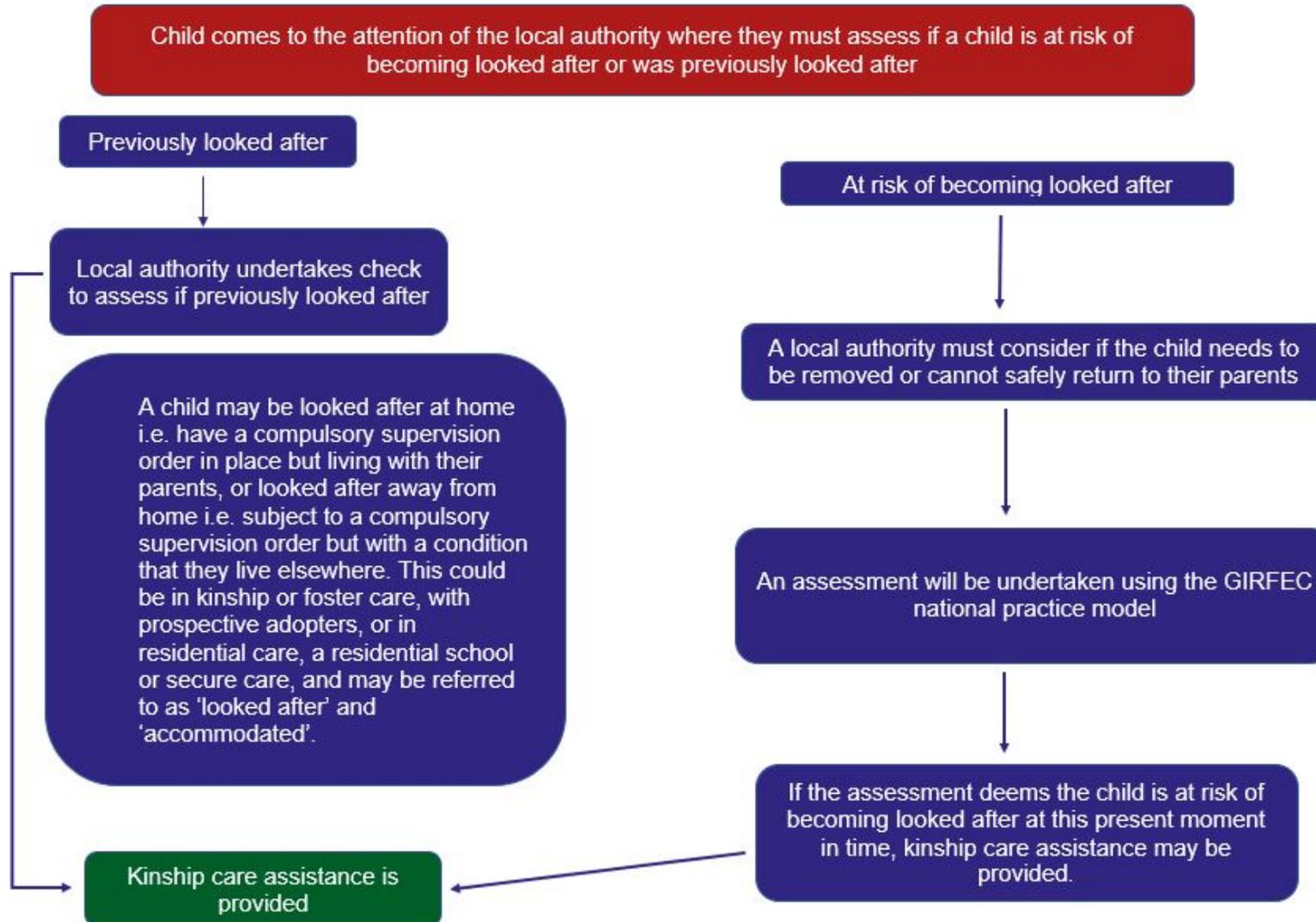
[Adoption and Children \(Scotland\) Act 2007](#)

[Children's Hearings \(Scotland\) Act 2011](#)

[Social Care \(Self-directed Support\) \(Scotland\) Act 2013](#)

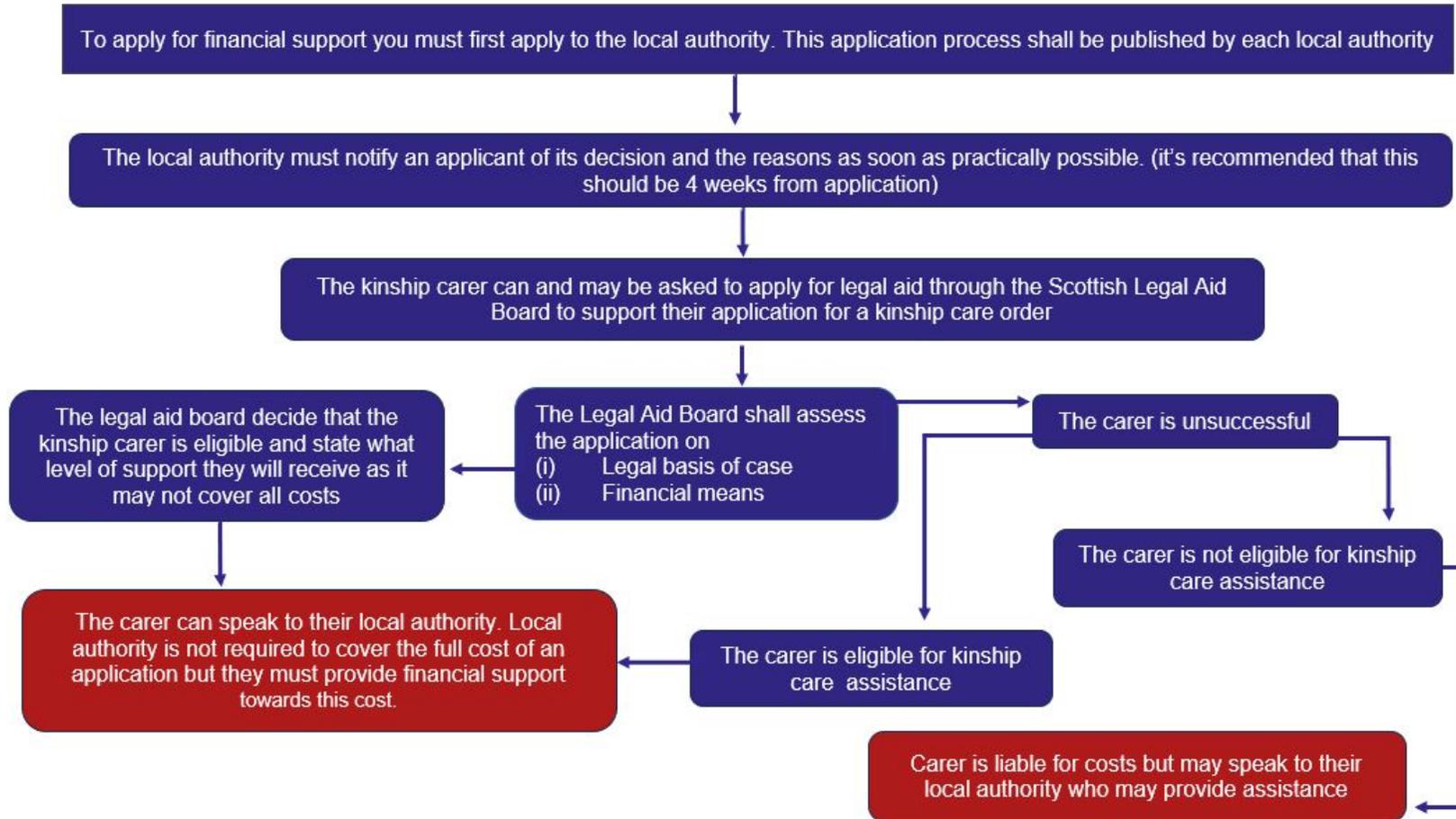
[Children \(Scotland\) Act 2020](#)

Appendix E: Kinship Care Assistance – Flow Chart



Financial Assistance When Applying for A Kinship Care Order – Flow Chart

Where kinship care assistance is applicable it includes the provision of financial support towards applying for a kinship care order,



Appendix F: Using the GIRFEC National Practice Model

A local authority must assess whether a child is at risk of becoming looked after to determine for whom they must provide kinship care assistance and the duties of local authorities to make arrangements to ensure that kinship care assistance is made available for persons residing in their area who are entitled to it.

A Lead Professional role is most likely to be undertaken by a child and family social worker in a local authority when there is a risk a child may become looked after.

It is proposed that this assessment should be framed using the [Getting it Right for Every Child National Practice Model](#). The National Practice Model brings together the [My World Triangle](#), [Resilience Matrix](#), [eight wellbeing indicators](#) (SHANARRI) and the four contexts for learning within [Curriculum for Excellence](#), to support overall assessment.

Practitioners and organisations should consider each of the eight wellbeing indicators (SHANARRI) in collaboration, with children, young people and their family.

Safe: feeling safe, cared for and listened to when growing up. Protected from abuse, neglect or harm.

Healthy: having the best physical and mental health possible. Access to good healthcare. Support to make healthy and safe choices.

Achieving: supported and guided in learning skills, confidence and self-esteem.

Nurtured: growing, developing and being cared for in a place that feels safe. Getting the kindness and compassion needed to be healthy and positive.

Active: having opportunities to take part in activities such as play, recreation and sport. This helps healthy growth and development at home, in school and in the community.

Respected: having a voice and being involved in decision that affect them.

Responsible – having opportunities and the chance to take active roles at home, in school and in the community. Having advice and support if needed.

Included – having help to overcome inequalities. Be accepted as part of their family, school and community.

Appendix G: Further Information

This is a selection of relevant organisations and is not intended to be an exhaustive list. Local kinship care groups will also be a valuable resource and local authorities should be aware of those operating within their own areas.

Kinship Care Advice Service for Scotland (KCASS)

They provide advice, information, workshops, training and dedicated family support to kinship carers and children whilst also delivering training to professionals and raising awareness of kinship care.

Tel: 0808 800 0006

Email: advice@kinshipscot.org

Website: www.kinship.scot

Social media: Facebook, X, YouTube

Association for Fostering Kinship and Adoption Scotland

They support practitioners and organisations working in fostering, kinship and adoption to promote the safe and loving care to which every child has a right.

Tel: 0131 322 8490 for general enquiries

Email: info@afkascotland.org

Website: www.afkascotland.org

Social Media: X

CEL CIS

Celcis is a leading improvement and innovation centre in Scotland, based at the University of Strathclyde. They improve children's lives by supporting people and organisation to drive long-lasting change in the services they need, and the practices used by people responsible for their care.

Email: celcis@strath.ac.uk

Website: www.celcis.org

Social Media: Facebook, X, LinkedIn

Child Poverty Action Group

They work to get a better life for low-income families in Scotland.

Tel: 0141 552 3303

Email: staff@cpagscotland.org.uk

Website: www.cpag.org.uk

Social media: Facebook, X

Capability Scotland

Scotland's leading disability organisation provides flexible services which support disabled people, their families and carers.

Tel: 0131 337 9876

Contact via

Website: www.capability.scot

Social Media: Facebook, Instagram, X

Carers Trust Scotland

Provides information, advice, discussion and support for unpaid carers.

Tel: 0300 772 7701

Email: info@carers.org

Website: www.carers.org

Social Media: Facebook, Instagram, X, YouTube

Children's Health Scotland

Children's Health Scotland is dedicated to promoting and championing the needs of all children and young people in their families at times of illness. They inform children and young people, parents and carers of their rights and responsibilities, where to access information and support and what they should expect from health service providers. They are not part of any health board or hospital; they provide information on any aspect of children and young people's healthcare; and often signpost enquirers to other organisations as sources of help.

Tel: 0131 553 6553

Email: enquiries@childrenshealthscotland.org

Web: www.childrenshealthscotland.org

Social media: Facebook, Vimeo, X

The Children and Young People's Commissioner Scotland

The Children and Young People's Commissioner is a person who works with their team to protect the human rights of children and young people.

Tel: 0131 346 5350

Children and young people's FREEPHONE: 0800 019 1179

Text: 0770 233 5720

Email: inbox@cypcs.org.uk

Web: www.cypcs.org.uk

Social media: Facebook, Instagram, X, YouTube

Children in Scotland

They bring together a network of people working with and for children, alongside children and young people, offering a broad, balanced and independent voice.

Tel: 0131 243 2781

Email: info@childreninscotland.org.uk

Website: www.childreninscotland.org.uk

Citizens Advice Bureau

They help people resolve their financial, legal and other problems by providing information and advice.

Tel: 0800 023 2581

Getting advice in BSL: Citizens Advice Bureau use ContactSCOTLAND-BSL. You can call an interpreter at ContactScotland directly, who will act as an intermediary for you.

Visit: <https://www.citizensadvice.org.uk/scotland/> or <https://contactscotland-bsl.org/>

Social media: Facebook, X

Clan Childlaw

They provide children and young people throughout Scotland with free information about the law and their rights. They provide free legal advice and representation to children and young people as well as training in information about the law to people who work with children and young people in Scotland.

Tel: 0808 129 0522

Text: 0752 756 6682

Email: info@clanchildlaw.org

Website: www.clanchildlaw.org

Families Outside

This is an independent charity that works on behalf of families in Scotland affected by imprisonment.

Tel: 0131 557 9800

Email: admin@familiesoutside.org.uk

Website: www.familiesoutside.org.uk

Social media: Facebook, Instagram, Vimeo, X

ParentLine Scotland

This is a free confidential email and helpline for anyone caring for a child.

Tel: 08000 28 22 33

Email: parentlinescotland@children1st.org.uk

Website: www.children1st.org/help-for-families/parentline-scotland/

Relationships Scotland

This network provides relationship, counselling, family mediation, child contact centres and other family support services across all of mainland and island Scotland.

Tel: 0345 119 2020

Email: enquiries@relationships-scotland.org.uk

Website: <https://www.relationships-scotland.org.uk/>

Social media: Facebook, Instagram, X, YouTube

Scottish Child Law Centre

They provide free expert legal advice about children's rights and child law in Scotland

Tel: 0300 3301 421

Email: advice@sclc.org.uk

Website: www.sclc.org.uk

Social media: Facebook, LinkedIn, X

Scottish Families Affected by Alcohol and Drugs

This is a charity that supports anyone affected by another person's alcohol or drug use in Scotland.

Tel: 08080 10 10 11

Email: helpline@sfad.org.uk

Website: www.sfad.org.uk

Scottish Kinship Care Alliance

The Alliance is a national network of kinship care support groups in Scotland. They are a grassroots organisation run by kinship carers, formed to campaign for basic rights and justice for the vulnerable children in their care.

Tel: 0141 237 5960

Email: scottishkinshipcarealliance@gmail.com

Website: <https://www.linkupwestdunbartonshire.org/organisations/223-scottish-kinship-care-alliance>

Social media: X

Glossary

Assessment of Wellbeing

An assessment of wellbeing refers to an assessment of an individual child or young person to determine whether 'their wellbeing is being, or would be, promoted, safeguarded, supported, affected or subject to an effect.' In terms of this guidance these terms have the following meanings and form the basis of an assessment:

- a. promoted – actively encouraged or further developed;
- b. safeguarded – protected from harm or damage;
- c. supported – given assistance, approval, encouragement;
- d. affected – influenced, changed; and
- e. subject to an effect – likely to be affected by a set of circumstances.

Child or young person

An individual who has not yet attained the age of 18 years.

Child protection

The processes involved in consideration, assessment and planning of required action, together with the actions themselves, where there are concerns that a child or young person may be at risk of harm from abuse, neglect or exploitation.

Children's human rights and UNCRC

Human rights are the basic rights and freedoms which we all have in order to live with dignity, equality and fairness, and to develop and reach our potential. Human rights are a list of things that all people – including children and young people – need in order to live a safe, healthy and happy life.

The European Convention on Human Rights (ECHR) has been incorporated into UK domestic law through the Human Rights Act 1998 (HRA). Everyone, including children and young people, have these rights, no matter what their circumstances. Under international law, States/Governments are obliged to respect, protect and fulfil human rights. Those delivering public services should respect human rights when they make decisions, plan services and make policies.

Children's human rights span the entire spectrum of civil, political, economic, social, cultural and environmental rights. Children and young people also have additional rights that recognise that childhood is a special, protected time, in which children and young people must be allowed to grow, learn, play, develop and flourish with dignity. Specific human rights for children are set out in the UN Convention on the Rights of the Child (UNCRC). The UNCRC offers a vision of the child as an individual and as a member of a family and community. By recognising children's rights in this way, the Convention firmly sets the focus on the child as a whole and multi-faceted person. It is important to be clear that all rights are equal, there is no hierarchy of human rights.

We know that children and young people face unique barriers to realising their rights. Their future often depends on the action taken by adults to implement their rights in practice. As children their voices can be unheard, or more easily dismissed. For that reason, the UNCRC recognises that children and young

people are human beings with fundamental rights that are written into international law. It also makes clear that special action needs to be taken to ensure those rights are respected, protected and fulfilled. As one of the core United Nations (UN) human rights treaties, the UNCRC helps to safeguard the dignity and the equal and inalienable rights of all children and young people. It does this by making sure that important rights set out in other international human rights treaties are applied in a way that is relevant and appropriate to the needs of all children and young people.

Child's Plan

A personalised child's plan is developed when those working with the child or young person and family identify that a child or young person needs a range of extra support planned, delivered and co-ordinated. The child's plan should reflect the child or young person's voice and explain what should be improved for the child or young person, the actions to be taken and why the plan has been created. Acceptance of a child's plan within GIRFEC along with the advice, information and support which are offered is voluntary: Unless compulsory measures are otherwise justified, if the intervention requires co-operation from children, young people and their families, they will be free to reject any proposed interventions.

Family/families

Not all family units look the same. In this document the term 'families/family' can mean biological, kinship, extended, composite and others, for example settings and homes that have felt like family. Some children and young people may belong to more than one family.

Getting it right for every child

This is Scotland's national approach to promoting, supporting, and safeguarding the wellbeing of all children and young people. It provides a consistent framework, shared language and common understanding of wellbeing. GIRFEC puts the child or young person at the heart and helps children and young people get the right support from the right people at the right time.

Kinship Care Collaborative

Formed in late 2020 they are a group of third sector and public organisations who partnered with the Scottish Government to deliver both national and local improvements to better support kinship families and professionals working with them.

Lead professional

When children, young people and families require the help and support of a child's plan, a lead professional will be needed. The lead professional is an agreed, identified person within the network of practitioners who is working alongside the child or young person and family. In most cases, the professional who has the greatest responsibility in coordinating and reviewing the child's plan will undertake this role.

Practitioner

In this guidance, practitioner means any person involved in working with children, young people and/or families, whether on a voluntary basis or through paid work. In addition to roles typically thought of as working with children and young people such as health visitors and teachers; this includes wider services that work with children, young people and families, such as housing services or police.

Team around the child (TAC)

A TAC meeting may be necessary when a child or young person and their family require a range of support from professionals to ensure they are supported to meet their full potential. A TAC meeting can also agree on and subsequently review a child's plan. A TAC will include the child or young person, and may include family members and professionals, where appropriate, who will work together to ensure the child or young person and their family are supported. Local arrangements and the term used to describe this type of meeting may vary from area to area.

Wellbeing

For the purposes of these guidance documents, wellbeing is a measure of how a child or young person is doing at a point in time and if there is any need for support. The eight wellbeing indicators (SHANARRI) provide a framework for assessment and planning in relation to wellbeing.

Wellbeing indicators (SHANARRI)

Any assessment of a child or young person's wellbeing should be founded on the 8 wellbeing indicators: Safe, Healthy, Active, Nurtured, Achieving, Respected, Responsible, Included, sometimes referred to as SHANARRI. The wellbeing indicators (SHANARRI) are informed by the UNCRC. They are overlapping and connect areas that are fundamental to understanding what children and young people need in order to grow, develop and thrive.



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-742-9 (web only)

Published by The Scottish Government, March 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1391734 (03/24)

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