



Northern Ireland  
Assembly

## Research and Information Service Briefing Paper

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# International Examples of Kinship Care

This briefing paper provides three examples of approaches to Kinship Care in the United States of America (USA), Canada and Australia. In addition, it briefly discusses parental leave in each jurisdiction and if it applies to kinship carers. (For a discussion of kinship care practices in Northern Ireland, Great Britain and the Republic of Ireland, please see RaISe paper NIAR 631 – 2014.)

**This information is provided to MLAs in support of their Assembly duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice or as a substitute for it.**

## Key Points

### **United Nations Guidelines on Kinship Care**

- Linked to the “*United Nations (UN) Convention on the Rights of the Child*”, the “*Guidelines for the Alternative Care of Children*” were adopted by the United Nations (UN) in 2010, in order to enhance the Convention’s implementation;
- Under the UN Guidelines, kinship care is recognised as a form of alternative care; and,
- The Guidelines do not make any reference to rights regarding parental leave for carers.

### **Washington D.C., United States**

- There are three main pieces of federal legislation relevant to kinship care across the United States (US). These are:
  - *The Personal Responsibility and Work Opportunity Reconciliation Act 1996*;
  - *Adoption and Safe Families Act 1997*; and,
  - *Fostering Connections Act 2008*.
- Across the US, kinship care generally includes public agencies (such as departments of social services and family services), private welfare agencies and the family of the child concerned;
- For children in either voluntary or formal kinship care there are a range of services available, although those in formal kinship care may have greater access to these;
- In Washington D.C., KinFirst is a programme used to speed up the identification of relatives for kinship care and devotes resources to engaging and supporting them;
- KinFirst is able to stop some children from entering care and ensure that at least some who do enter the care system are placed with relatives;
- In the first year of the programme it was found that kin placements following a child’s removal from the home had increased from 16 to 24 per cent;
- In the USA there is no federal law regarding maternal or parental leave; and,
- It is only possible to use kin care for kinship care situations if a child has been declared a legal ward, (i.e. formal kinship care).

### **Alberta, Canada**

- In Canada, child welfare services are provincially and territorially funded and legislated. Some provinces such as Alberta, British Columbia, Ontario and Saskatchewan have a statutory requirement to consider placement within the child’s extended family or significant relationship network before considering other options, such as foster care;
- Kinship care in Alberta is a formalised part of the care system, with a particular focus on ensuring a child remains within their cultural setting;
- To be a kinship carer in Alberta relatives must meet a series of eligibility requirements and undergo training;

- In Canada, parental benefits are nationally provided via Employment Insurance; and
- On a national level, parental leave is only available if someone is the legally recognised parent or guardian of a child.

### **Victoria, Australia**

- Kinship care in Australia falls under the remit of individual states; although the approach taken to it is largely standardised following the Department of Social Services producing guidelines for out-of-home Care in 2011;
- Figures from June 2014 find that 93.4% of children living in out-of-home care were living in a home based environment, and 48.5% of these were living with kin;
- Work carried out by the Australian Institute of Family Studies examined the legislation related to child protection. This work found that each state and territory had broadly similar provisions in relation to out-of-home care;
- The Government of Victoria funds 29 metropolitan and regional kinship care services, with the intent of improving the support available to children living in kinship care; and,
- There appears to be some scope for support for parental style leave for kinship carers through carers leave. In terms of direct provision of kinship care leave there does not appear to be any national legal provision unless the carer has fostered or adopted the child in question.

### **Conclusion**

- Within each of the examples discussed above kinship care receives recognition as the priority placement for children;
- All three examples follow aspects of the UN Convention, for example, KinFirst, is a prime example of the UN Convention's guideline on information sharing, with its implementation greatly speeding up the process by which kin carers are found for children and improving outcomes overall; and,
- The review of the policies around kinship care in each of these jurisdictions also found that there is no specific provision made for kinship care leave, although in some cases there is some flexibility around leave arrangements (for example in California).

## Introduction

Generally speaking “kinship care” is provided when a family or friends take on caring responsibilities for a child in order to keep them out of care.

Section 2 of this paper outlines examples of kinship care in an international setting. It first discusses this at a broad national level where policy and strategy is established and then at the level at which it is implemented.

The prevailing law in each of the following jurisdictions recognises kinship care as the initial approach taken when a child needs to be taken into care:

- Washington D.C., United States;
- Alberta, Canada; and,
- Victoria, Australia.

In addition, it briefly considers the legal standing regarding parental leave rights for kinship carers in each of the countries mentioned above.

(For a discussion of kinship care practices in Northern Ireland, Great Britain and the Republic of Ireland, please see *RaISe NIAR 631-2014* (31 October 2015)<sup>1</sup>).

Following an extensive search, it appears there is no agreed best practice standard for kinship care. It therefore has not been possible to identify examples of best practice.

However, the United Nations (UN) has issued guidelines for care which may be of note and of use in assessing kinship care. As such, Section 3 of this paper discusses the broad framework of these guidelines.

In conclusion, Section 4 outlines key observations arising from the previous sections.

## 1 United Nations Guidelines on Kinship Care

Linked to the United Nations (UN) Convention on the Rights of the Child<sup>2</sup>, the Guidelines for the Alternative Care of Children were adopted by the UN in 2010 in order to enrich the convention’s implementation. This was done through enhancing instruments already in place to protect and ensure the well-being of children who do not have access to parental care.<sup>3</sup>

The guidelines have four key aims:

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<sup>1</sup> Available here: <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2015/del/7915.pdf>

<sup>2</sup> UN, Convention on the Rights of the Child (1989), <http://www.unicef.org.uk/UNICEFs-Work/UN-Convention/>

<sup>3</sup> UN Guidelines for the Alternative Care of Children (2010) [http://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf)

- To support efforts to keep children in, or return them to, the care of their family or, failing this, to find another appropriate and permanent solution, including adoption and kafala<sup>4</sup> of Islamic law;
- To ensure that, while such permanent solutions are being sought, or in cases where they are not possible or are not in the best interests of the child, the most suitable forms of alternative care are identified and provided, under conditions that promote the child's full and harmonious development;
- To assist and encourage Governments to better implement their responsibilities and obligations in these respects, bearing in mind the economic, social and cultural conditions prevailing in each state; and,
- To guide policies, decisions and activities of all concerned with social protection and child welfare in both the public and the private sectors, including civil society.

Under the UN guidelines, kinship care is recognised as a form of alternative care and is defined as:<sup>5</sup>

*Family- based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature.*

The guidelines cover a broad range of areas in regards alternative care, including:

- The child and the family;
- Alternative care;
- Measures to promote application;
- Framework of care provision;
- Determination of the most appropriate form of care;
- Provision of alternative care; and,
- Support for aftercare.

In terms of the provision of alternative care the report provides several guidelines, including:

- Special attention should be paid to the quality of alternative care provision, both in residential and in family- based care, in particular with regard to the professional skills, selection, training and supervision of carers;
- All state entities involved in the referral of, and assistance to, children without parental care, in cooperation with civil society, should adopt policies and procedures which favour information-sharing and networking between agencies and individuals in order to ensure effective care, aftercare and protection for these children;

<sup>4</sup> Islamic law does not recognise adoption and adoption type care arrangements. Kafala is the nearest Islamic equivalent to adoption and it can vary from one country to another - for example it can range from anonymous financial support for a child in a residential facility to a quasi-adoptive relationship. CELCIS, (2012) Implementing the Guidelines of the alternative care of children,

[http://www.unicef.org/protection/files/Moving\\_Forward\\_Implementing\\_the\\_Guidelines\\_English.pdf](http://www.unicef.org/protection/files/Moving_Forward_Implementing_the_Guidelines_English.pdf)

<sup>5</sup> UN Guidelines for the Alternative Care of Children (2010) [http://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf)

- In each country, the competent authorities should draw up a document setting out the rights of children in alternative care in keeping with the present Guidelines;
- A regulatory framework should be established to ensure a standard process for the referral or admission of a child to an alternative care setting; and,
- Agencies and facilities should have a clear policy and should carry out agreed procedures relating to the planned and unplanned conclusion of their work with children to ensure appropriate aftercare and/or follow-up.

All three countries discussed in this paper are signatories to the UN Convention on the Rights of the Child, although it should be noted that the USA has not ratified it.

In addition, it should be noted that the guidelines do not make any reference to rights regarding parental leave for carers.

## 2 Kinship Care in the USA

The United States of America (USA) is a federal republic consisting of fifty states. The federal government legislates on major policy issues with state legislatures able to put in place their own legislation on specific matters. As such, there can be a great deal of variety on how states approach matters such as kinship care.

There are three main pieces of legislation relevant to kinship care across the USA. These are:

- *The Personal Responsibility and Work Opportunity Reconciliation Act 1996;*
- *Adoption and Safe Families Act 1997;* and,
- *Fostering Connections Act 2008* (allows states to use funds to provide payments to support children and young people living in kinship arrangements).

The 1996 and 1997 Acts promote and support kinship care:<sup>6</sup>

*The legislation requires the states to give preference to family members when placement options are being considered for a child requiring care.*

In the USA, kinship care is defined as:<sup>7</sup>

*The full-time care, nurturing, and protection of a child by relatives, members of their Tribe or clan, godparents, stepparents, or other adults who have a family relationship to a child.*

In 2013 there were 402,407 children living in Out-of-Home placements.<sup>8</sup> Of these 84% were placed within a family (via relative foster care, non-relative foster care and pre-adoptive homes).

<sup>6</sup> The Benevolent Society and the Social Policy Research Centre, July 2009, A framework of practice for implementing a kinship care program, [https://www.sprc.unsw.edu.au/media/SPRCFile/11\\_Report\\_ImplementingAKinshipCareProgram.pdf](https://www.sprc.unsw.edu.au/media/SPRCFile/11_Report_ImplementingAKinshipCareProgram.pdf)

<sup>7</sup> US Department of Health and Human Services, Child Welfare Information Gateway – Definitions and language of kinship care, <https://www.childwelfare.gov/topics/outofhome/kinship/about/definitions/>

Across the US the process of a child entering kinship care can involve public agencies (such as departments of social services and family services), private welfare agencies and the family of the child concerned.

There are three types of kinship care recognised in the USA:<sup>9</sup>

- **Informal kinship care:** This is an arrangement made between a child's parents and other family members. It does not involve any state authorities (hence "informal"). Legal custody remains with the parents resulting in some issues for the carer and the child, including difficulty in enrolling in school, obtaining health insurance and accessing some benefits;
- **Voluntary kinship care:** In this situation a child lives with relatives, with the child welfare system informed of the arrangement but the state does not have legal custody. In voluntary kinship care, the child is in the physical custody of relatives but they may remain in the legal custody of their parents, or the parents may sign over temporary legal custody to the kin. Some states have consent forms that parents can sign to allow kin caregivers to have some temporary decision-making power regarding the child (for instance, to seek medical treatment or enrol the children in school); and,
- **Formal kinship care:** Under these circumstances a child is placed in the legal custody of the state, with the child welfare system placing the child in the custody of grandparents or other relatives. The child welfare system has legal custody of the child, with kin having physical custody. The child welfare agency is responsible for legal decisions for the child (although in consultation with the family), medical care and education. The involvement of the child welfare system in kinship care situations varies from state to state, since each one has its own laws and practices that govern these situations; it also varies from case to case, depending on the child's age, safety needs, legal custody, and other differences.

For children in either voluntary or formal kinship care there are a range of services available, although those in formal kinship care may have greater access.

Support may vary dependent on state but in most cases the following is available:<sup>10</sup>

- **Financial support:** Depending on a number of factors, including the caregiver's age, caregiver's income, child's income, child's disability status, number of siblings, and the legal status of the caregiving arrangement (i.e. voluntary or foster care), there may be financial support available such as Foodstamps, Temporary Assistance to Needy Families (TANF) and kinship guardianship or foster care payments;

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<sup>8</sup> <http://www.aecf.org/m/resourcedoc/aecf-EveryKidNeedsAFamily-2015.pdf>

<sup>9</sup> US Department of Health and Human Services, Child Welfare Information Gateway, Kinship caregivers and the child welfare system, [https://www.childwelfare.gov/pubPDFs/f\\_kinshi.pdf](https://www.childwelfare.gov/pubPDFs/f_kinshi.pdf)

<sup>10</sup> Ibid

- **Health insurance:** Many children being raised by relatives are eligible for medical insurance through either Medicaid or the Children’s Health Insurance Program (CHIP); and,
- **Respite care:** Respite care refers to programs that give caregivers a break by taking over care of the children for short periods of time—either on a regular schedule or when a caregiver needs to travel, go into the hospital, or otherwise be away for a few days.

Sub-section 4.1 below provides an example of the additional support that can be provided at the regional level.

## 2.1 Washington D.C. - Child and Family Services Agency KinFirst Programme

The Child and Family Services Agency (CFSA) is the public child welfare agency for District of Columbia (DC). It is responsible for protecting child victims and those at risk of abuse and neglect. It also assists families in providing children with the supportive environment they need.<sup>11</sup>

The CSFA has four main functions:

- Take and investigate reports;
- Assist families;
- Provide safe out-of-home care; and,
- Re-establish permanent homes.

Launched in 2012, KinFirst speeds up the identification of relatives and devotes resources to engaging and supporting them.<sup>12</sup>

The initiative coordinates multiple interagency resources, including the Child and Family Services Agency (CFSA)’s Family Team Meeting (FTM) unit, Diligent Search Unit (DSU) and the Kinship Licensing Unit (KLU).

Using these resources as early as possible, KinFirst is able to stop some children from entering care at all. For those that do need to enter the care system, KinFirst ensures that at least some of these children are placed with relatives.

KinFirst operates in the following way:<sup>13</sup>

- DSU is CFSA’s “one-stop shop” for expediting and running clearances, background checks and FBI live-scan fingerprinting within 72 hours;
- At the time of a child’s removal from the home, or when it becomes evident that there is an imminent risk of removal, CFSA policy requires the convening of a formal

<sup>11</sup> DC.GOV, Child and Family Services Agency, About CFSA, <http://cfsa.dc.gov/page/about-cfsa>

<sup>12</sup> The Annie E. Casey Foundation, Every Kind Needs A family: Policy Report, <http://www.aecf.org/m/resourcedoc/aecf-EveryKidNeedsAFamily-2015.pdf>

<sup>13</sup> Child and Family Services Agency, 2012, Annual Public Report, [http://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/CFSA\\_2012\\_Annual\\_Public\\_Report.pdf](http://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/CFSA_2012_Annual_Public_Report.pdf)



FTM. Participation is encouraged from a number of parties including the child in question, their birth parents or caregivers, relatives and any other person identified as having a significant supportive connection to the child and family. The purpose of the meeting is to identify and develop supported networks to promote child and family well-being and (if necessary) to make placement decisions that promote child safety and permanency;

- If a child is removed from the family's home, the KLU quickly and temporarily licences a relative's home (within five hours in DC and within 48 hours in Maryland). This allows children in CFSA's custody to be placed immediately with family members who can keep them safe. In addition to securing greater potential for positive permanency outcomes, immediate placement with family caregivers reduces the trauma of a home removal for children;
- Support for relatives comes from access to services that help kinship caregivers and their own families adjust to having their relative's child integrate into the household. Kinship licensing staff help caregivers access these services and ensure that the services are tailored to meet the needs of all family members so that reunification can be expedited or that other permanency options can be finalised with family; and
- Within 24 hours of a report to Child Protective Services (CPS) an investigative social worker engages a child's parents to identify family members who may be able to support the family in preventing removal or if removal is unavoidable, to function as kinship placement options.

In the first year of the programme it was found that kin placements following a child's removal from the home had increased from 16 to 24 per cent.

As stated in a policy report by the Annie E. Casey Foundation:<sup>14</sup>

*The rapid identification of kin and quickly scheduling of family team meetings have allowed children to safely return to their parents with the appropriate services in a shorter amount of time. And those who cannot return home are moving more quickly to guardianship and adoption, often with the kin who are found so quickly.*

## 2.2 Parental Leave

In the USA there is no national law regarding maternal or parental leave. Indeed, a Guardian Newspaper article in December 2014 stated that only four states have paid parental leave in place - California, New Jersey, Washington and Rhode Island.<sup>15</sup>

Federal law provides "job-protected" unpaid leave for both mothers and fathers. This was established via the *Family and Medical Leave Act 1993*. Eligible employees are

<sup>14</sup> The Annie E. Casey Foundation, Every Kind Needs A family: Policy Report, <http://www.aecf.org/m/resourcedoc/aecf-EveryKidNeedsAFamily-2015.pdf>

<sup>15</sup> The Guardian, 3 December 2014, Popovich N, The US is still the only developed country that doesn't guarantee paid maternity leave, <http://www.theguardian.com/us-news/2014/dec/03/-sp-america-only-developed-country-paid-maternity-leave>

entitled to twelve work weeks of leave in a 12 month period for (in relation to child care):<sup>16</sup>

- The birth of a child and to care for the newborn child within one year of birth;
- The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement; and,
- To care for the employee's spouse, child, or parent who has a serious health condition.

A review of Department of Labor published guidance did not find any references to support for kinship carers under the Act.

Some states, as mentioned above, do provide some provision over and above that laid out in Federal law. For example, California has introduced Family Leave Laws, which includes provision for "Kin Care".

This:<sup>17</sup>

*...allows employees who accrue sick leave to take half of sick leave accrued annually to care for an ill close family member.*

Kin care can be taken for spouses, parents, children, step children and legal wards.

As such it is only possible to use kin care for kinship care situations if a child has been declared a legal ward (i.e. formal kinship care).

### 3 Alberta, Canada

In Canada, child welfare services are provincially and territorially funded and legislated.<sup>18</sup>

Some provinces such as Alberta, British Columbia, Ontario and Saskatchewan have a statutory requirement to consider placement within the child's extended family or significant relationship network before considering other options, such as foster care.<sup>19</sup>

For the purposes of this paper, focus will be maintained on Alberta.

As stated by Alberta Human Services:<sup>20</sup>

*When a child must be brought into care, the first options for placement are with extended family, members of the community or anyone who has a*

<sup>16</sup> United States Department of Labor, Wage and Hour Division – Family and Medical Leave Act, <http://www.dol.gov/whd/fmla/>

<sup>17</sup> The California Work and Family Coalition, 2013, California Family Leave Laws, [http://workfamilyca.org/resources/pdf/ca\\_family\\_leave\\_guide2013.pdf](http://workfamilyca.org/resources/pdf/ca_family_leave_guide2013.pdf)

<sup>18</sup> Canadian Child Welfare Research Portal, Policy and legislation, <http://cwrp.ca/policy-legislation>

<sup>19</sup> Government of Alberta, November 2009, Kinship Care Review Report, <http://humanservices.alberta.ca/documents/kinship-care-review-report.pdf>

<sup>20</sup> Alberta Human Services, Kinship Care, <http://humanservices.alberta.ca/foster-kinship-care/14907.html>

*bond with the child so there is the strongest possible connection for that child to their cultural community.*

This was introduced to Alberta via the *Child, Youth and Family Enhancement Act 2004*.<sup>21</sup>

As a result kinship care in Alberta is a formalised part of the care system, with a particular focus on ensuring a child remains within their family and cultural setting.

In Alberta, the following requirements must be met to become a Kinship Carer:<sup>22</sup>

- Must be a resident of Alberta;
- Must be at least 18 years old. The maximum age will be determined by the best interests of the child;
- Any adult, regardless of marital status, can be eligible to be a kinship caregiver. Cohabiting applicants must be in a stable relationship for at least 12 months prior to applying;
- Must be physically and mentally capable of meeting the child's needs with no major illness or trauma in the past 12 months; and,
- Applicants must be financially stable and living within their means.

For a child to be placed in a potential carers home, additional checks are carried out, including.<sup>23</sup>

- Three personal references;
- Medical reference;
- Criminal record check; and,
- Child intervention record check.

In addition, carers must:

- **Attend Orientation to Caregiver Training:** This consists of eight, three-hour training sessions. These classes give carers an overview of what to expect when caring for a child, such as child development, special needs of children in care and supports provided to kinship care providers; and,
- **Complete approved home study:** The home study determines if the applicant can provide a safe and suitable home for children and addresses a variety of topics such as family history, parenting skills and home safety.

Kinship Caregivers are financially compensated for the children in their care. This compensation includes:<sup>24</sup>

<sup>21</sup> Government of Alberta, November 2009, Kinship Care Review Report, <http://humanservices.alberta.ca/documents/kinship-care-review-report.pdf>

<sup>22</sup> Alberta Human Services, Kinship Care, <http://humanservices.alberta.ca/foster-kinship-care/15440.html>

<sup>23</sup> Ibid

<sup>24</sup> Alberta Human Services, Financial Support, <http://humanservices.alberta.ca/foster-kinship-care/15442.html>

- Initial financial assistance to help with setting up for home to care for the child;
- A daily basic maintenance allowance, based on the age of the child, to cover all of a child's day-to-day costs of raising a child such as food, clothing, shelter, personal care items, general household costs and a spending allowance;
- A respite allowance of \$2.60 per child, per day for incidental costs associated with babysitting;
- Medical coverage for each foster child is paid for through the child's Personal Healthcare Number (PHN) or Treatment Services Card; and,
- Any other child-related costs that carers may have to pay up front and receive reimbursement for.

### 3.1 Parental Leave

In Canada, parental benefits are provided via Employment Insurance<sup>25</sup> to those who:<sup>26</sup>

- Are waiting for a child;
- Have recently given birth;
- Are adopting a child; or,
- Are caring for a newborn.

Canada Service states that:

*Parental benefits are offered to parents who are caring for a newborn or newly adopted child. A maximum of 35 weeks of parental benefits is available to biological, adoptive, or legally recognized parents. The two parents can share these 35 weeks of benefits. A person recognized as the child's legal parent on the provincial or territorial birth certificate may be eligible to receive parental benefits.*

As such, on a national level, parental leave is only available if someone is the legally recognised parent or guardian of a child.

It should be noted that since 2006 Quebec has been responsible for providing maternity, paternity, parental, and adoption benefits through the Quebec Parental Insurance Program.

In a slight difference to the national programme, the Quebec programme allows parents to share parental benefits. However, as with the national programme provision is only provided to biological, adoptive or legally recognised parents.

<sup>25</sup> Employment Insurance (EI) provides temporary financial assistance to unemployed Canadians who have lost their job through no fault of their own, while they look for work or upgrade their skills.

<sup>26</sup> Government of Canada, Service Canada, Having a baby, <http://www.servicecanada.gc.ca/eng/lifeevents/baby.shtml>

## 4 Australia

As with Canada and the USA, kinship care in Australia falls under the remit of individual states although the approach taken to it is largely standardised following the Department of Social Services producing guidelines for Out-of-Home Care, an umbrella term that includes:<sup>27</sup>

- Foster care;
- Relative or kinship care;
- Family group homes;
- Residential care; and
- Independent living.

In 2009 it was found that 30,000 children in Australia lived in out-of-home care. Of these 94% lived either in foster care (47%) or with relatives (45%). More recent figures as of 30 June 2014 find that 93.4% of children living in out-of-home care were living in a home based environment, and 48.5% of these were living with kin.<sup>28</sup>

There has been a limited amount of research into kinship care in Australia, despite its high levels of use. A review of the existing research on kinship care in Australia in 2007 identified only four studies into its operation. The research found that:<sup>29</sup>

- Kinship care is the fastest growing form of out-of-home care in Australia;
- Kinship care placements require the same entitlements to monitoring and support as non-relative foster care placements;
- Grandparents raising grandchildren due to parental substance abuse need greater social, financial and service supports; and,
- Differentiating kinship and foster care is not useful for Indigenous Australians as most carers are already kith or kin to children, are caring for multiple children at a time and have dual roles of kinship and foster carer.

### 4.1 National Standards

Following concerns being raised in research and a series of recommendations from a KPMG review into kinship care in Australia<sup>30</sup> on behalf of the Government, the Department of Families, Housing Community Services and Indigenous Affairs identified 13 National Standards for out-of-home care.

These include:

<sup>27</sup> Department of Families, Housing, Community Services and Indigenous Affairs, July 2011, An outline of standards for out-of-home care, [https://www.dss.gov.au/sites/default/files/documents/pac\\_national\\_standard.pdf](https://www.dss.gov.au/sites/default/files/documents/pac_national_standard.pdf)

<sup>28</sup> Australian Institute of Family Studies, June 2015, Children in Care, <https://aifs.gov.au/cfca/publications/children-care>

<sup>29</sup> Australian Institute of Family Studies, October 2007, Kinship Care, <https://aifs.gov.au/cfca/publications/kinship-care>

<sup>30</sup> KPMG, July 2010, National Standards for Out-of-home Care, [https://www.dss.gov.au/sites/default/files/documents/final\\_report\\_nsfohc\\_kpmg.pdf](https://www.dss.gov.au/sites/default/files/documents/final_report_nsfohc_kpmg.pdf)

- **Standard 1:** Children and young people will be provided with stability and security during their time in care;
- **Standard 4:** Each child and young person has an individualised plan that details their health, education and other needs;
- **Standard 5:** Children and young people have their physical, developmental, psychosocial and mental health needs assessed and attended to in a timely way;
- **Standard 9:** Children and young people are supported to safely and appropriately maintain connection with family, be they birth parents, siblings or other family members; and,
- **Standard 12:** Carers are assessed and receive relevant ongoing training, development and support, in order to provide quality care.

Each of the standards included 22 measures intended to ensure state and territory governments meet expected targets.

A review of kinship care practices in Australia by the Benevolent Society in 2010, found what it described as ‘promising’ kinship care practices across Australia, including:<sup>31</sup>

- Financial assistance at the same level as foster carer payments;
- Family support model;
- Assessment and authorisation of kinship carers;
- Family Group Conferencing (FGC);
- Training and support groups; and
- Respite.

Implementation of out-of-home care arrangements is the responsibility of individual states and territories:<sup>32</sup>

*Each state and territory government has a duty of care, and invests a great deal to ensure that the out-of-home care system within its jurisdiction provides the opportunities for optimal development and well-being of children and young people in care.*

In addition:

*Each state and territory government has its own legislative and policy framework governing and regulating its child protection system.*

A study by KPMG identified work carried out by the Australian Institute of Family Studies which examined the legislation related to child protection in this area and found

<sup>31</sup> The Benevolent Society, July 2010, Supporting kinship care: Towards a new practice framework, <http://www.benevolent.org.au/~media/62ABA294D1E60599D1A621BE8FAA7A68.ashx>

<sup>32</sup> Ibid

that each state and territory had broadly similar provisions in relation to out-of-home care.<sup>33</sup>

Of note is the move towards quality assurance models for out-of-home care which some states have begun to adopt.

For example, Victoria makes use of quality assurance to benchmark services and to ensure service standards are met.

## 4.2 Victoria

In Victoria there are two broad types of recognised kinship care:

- **Statutory kinship placements:** These are used when a Child Protection intervention has occurred and a decision has been made to place a child with relatives or a significant friend, and may also involve an order made by the Children's Court; and,
- **Private, informal or non-statutory kinship care:** These are terms which may be used to describe arrangements where children are cared for by relatives without any Child Protection intervention.

The Government of Victoria funds 29 metropolitan and regional kinship care services, with the intent of improving the support available to children living in kinship care.

These services provide:

- Information and advice;
- Family support services (available to all kinship carers); and,
- Intensive support services for the most vulnerable children placed in kinship care as a result of child protection involvement.

An example of the support offered can be seen via Anchor Services. This organisation provides kinship care support for the City of Knox, City of Maroondah and the Shire of Yarra Ranges.<sup>34</sup>

Anchor helps both children in kinship care and their carers via:

- **Family services:** These are targeted at those in informal kinship care. This service is self-referred and provides a time-limited response of up to 40 hours in order to assist the placement to remain self-reliant in the provision of kinship care;
- **Placement support:** Available to kinship families currently involved with the Department of Human Services Child Protection. Support offered is a case managed placement and support service to promote the best interest of the

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<sup>33</sup> KPMG, July 2010, National Standards for Out-of-home Care,

[https://www.dss.gov.au/sites/default/files/documents/final\\_report\\_nsfohc\\_kpmg.pdf](https://www.dss.gov.au/sites/default/files/documents/final_report_nsfohc_kpmg.pdf)

<sup>34</sup> Anchor Services, Kinship care, <http://www.anchor-services.com.au/child-family/53-kinship-care>

child/young person and ensure kinship carers receive intensive support at the time when they require it the most;

- **Information and advice:** Anchor Services provides advice on a number of issues including finance, legal issues, parenting classes and education; and,
- **Support groups:** Anchor Services runs a number of support groups including Carers Groups and the Eastern Kinship Network.

In addition to organisations such as Anchor Services, the Department also funds Kinship Carers Victoria, which supports carers themselves, *via*.<sup>35</sup>

- Identifying, promoting and representing the views of kinship carers in decision – making processes;
- Informing carers to enable them to better perform their role as carers;
- Advocating the needs of kinship carers with decision makers; and,
- Promoting and assisting in the delivery of programs designed to support kinship carers.

Organisations such as Anchor Services and Kinship Carers Victoria are externally reviewed as part of the Victoria Government’s quality assurance model once every three years by a panel of independent review bodies.

They are assessed against the Victoria Department of Human Services published standards:

- **Empowerment:** People’s rights are promoted and upheld;
- **Access and engagement:** People’s right to access transparent, equitable and integrated services is promoted and upheld;
- **Wellbeing:** People’s right to wellbeing and safety is promoted and upheld; and,
- **Participation:** People’s right to choice, decision making and to actively participate as a valued member of their chosen community is promoted and upheld.

The standards are underpinned by the *Children, Youth and Families Act 2005*. The Act introduced a policy shift, moving away from foster care as the main method for out of the home care to kinship care. The Act requires that, before any other option, consideration is to be given to placing a child or young person with an appropriate family member or person significant to the child.

*The Child Wellbeing and Safety Act 2005* also provided a legislative basis for the monitoring of out of the home care in the state.<sup>36</sup>

<sup>35</sup> Kinship Carers Victoria, <http://kinshipcarersvictoria.org/>

<sup>36</sup> Social Policy Research Centre, July 2009, A Framework of Practice for Implementing a Kinship Care Program, [https://www.sprc.unsw.edu.au/media/SPRCFile/11\\_Report\\_ImplementingAKinshipCareProgram.pdf](https://www.sprc.unsw.edu.au/media/SPRCFile/11_Report_ImplementingAKinshipCareProgram.pdf)



### 4.3 Parental Leave

In Australia, under the *Fair Work Act 2009* employees are entitled to parental leave when a child is born or adopted.<sup>37</sup> It has a series of entitlements including maternity leave, paternity and partner leave, adoption leave and foster leave.<sup>38</sup>

Parental leave and its related entitlements are part of the National Employment Standards.

There are three types of parental leave available in Australia:

- When an employee gives birth;
- When an employee's spouse or de facto partner gives birth; and
- When an employee adopts a child under 16 years of age.

Employees can receive up to 12 months of unpaid parental leave and can request an additional 12 months.

In addition to parental leave, the National Employment Standards have provision for carer's leave which provide for an employee taking time off work to deal with caring responsibilities and family emergencies involving a family or household member.

A household member is defined as any person who lives with the employee.<sup>39</sup>

As such, there appears to be some scope for support for kinship carers via carers leave. However, in terms of direct provision of kinship care leave there does not appear to be any national legal provision unless the carer has fostered or adopted the child in question.<sup>40</sup>

## 5 Conclusion

Within each of the examples discussed above kinship care receives special recognition as the priority placement for children. The USA, Canada and Australia all recognises the important role close connections with family members and cultural groups play in supporting children and minimising the issues that can arise for children facing out-of-home care.

All three examples follow aspects of the UN Convention. For example they all promote alternative care (kinship care) rather than focusing on residential care systems for children.

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<sup>37</sup> Australasian Legal Information Institute, Fair Work Act 2009 – Sect 70,

[http://www.austlii.edu.au/au/legis/cth/consol\\_act/fwa2009114/s70.html](http://www.austlii.edu.au/au/legis/cth/consol_act/fwa2009114/s70.html)

<sup>38</sup> Fair Work Ombudsman, Maternity and parental leave, <http://www.fairwork.gov.au/leave/maternity-and-parental-leave>

<sup>39</sup> Australian Government, Fair Work Ombudsman, Sick and carer's leave, <http://www.fairwork.gov.au/leave/sick-and-carers-leave>

<sup>40</sup> Australian Government, Fair Work Ombudsman, Parental Leave, <http://www.fairwork.gov.au/about-us/policies-and-guides/best-practice-guides/parental-leave>

KinFirst, in Washington DC is a prime example of the UN Convention's guideline on information sharing, with its implementation greatly speeding up the process by which kin carers are found for children and improving outcomes overall.

Australia too has introduced kinship care policies which are complementary to the Convention such as national standards which all state and territorial agencies must adopt.

This review of the policies around kinship care in each of these jurisdictions also found that there is no specific provision made for kinship care leave, although in some cases there is some flexibility around leave arrangements (for example in California).