

*SUBMISSION  
TO SUSI GRANT SCHEME REVIEW*



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April 2021

## Introduction

This submission is made by Kinship Care Ireland (KCI), in response to an open invitation from the *Minister of Higher Education, Research, Innovation and Science*, for contributions to the review of the SUSI Grant scheme.

KCI hopes to assist the review, in determining whether the current system reflects the realities of 'the student experience', in keeping with the vision of the current Minister and commitments made in the programme for government, to review SUSI eligibility and adjacency rates<sup>1</sup>.

KCI makes this submission, to impact on the future direction of the SUSI scheme, in order to improve access to third level for a particularly vulnerable group of young people, whose needs are not adequately recognised or consistently supported, under the current system.

## 1. Background

### 1.1 Kinship Care

Kinship Care involves the full-time parenting of children by grandparents, older siblings, aunts, uncles and other relatives or close friends of the family. It occurs for many reasons, including death of a parent, parental substance misuse, abandonment, illness or imprisonment<sup>2</sup>.

Informal care is described by the UN guidelines on alternative care (2010) as 'any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis, by relatives, or friends or by others in their individual capacity, at the initiative of the child, his/her parents or other person, without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body.'

While there is increasing acknowledgement of the benefits conferred on children and young people, by being cared for within their extended family and kin networks, there may be less awareness of issues such as economic adversity, which is experienced by many kinship carers, who step into this important role, on a voluntary basis.

Children in informal kinship care are 'likely to have similar complex psycho-social and educational needs to children in state care.'<sup>3</sup> Recent recommendations in the global context, emphasise the need for national governments to offer such families a full range of supports, including financial assistance<sup>4</sup>.

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<sup>1</sup> <https://merrionstreet.ie/en/about/programme-for-government/>

<sup>2</sup> Kinship care is defined as: Family-based care within the child's extended family or with close friends of the family known to the child, by the UN General Assembly Guidelines for the alternative care of children (2010)

<sup>3</sup> Burns, K., O'Mahony C., Brennan R. (2021)

<sup>4</sup> The Paradox of Kinship Care, (November 2019)

## 1.2 Kinship Care Ireland (KCI)

KCI was established in 2019, to work with and on behalf of, kinship carers, children and young people in kinship families. The priority of Kinship Care Ireland is the support and recognition of informal kinship carers.

KCI is hosted by Treoir, the National Federation of Services for Unmarried Parents and their Children, and funded through TUSLA, the Child and Family Agency. The Steering Group of the organisation is made up of kinship carers, individuals who have care experience and organisations who have a remit for and experience of working with families. These organisations include the National Family Support Network, the Irish Foster Carers Association and the National Forum of Family Resource Centres.

The key objectives of Kinship Care Ireland are:

- i. To raise awareness, understanding and recognition of the diversity and value of kinship care and the challenges faced by children, young people and families.
- ii. To ensure that kinship families are supported, can access relevant and culturally appropriate information, advice and specialist supports and services, when needed.

## 2. Context for Change

### 2.1 Prevalence of Kinship Care

*Effective decision-making and planning can only be undertaken, with reliable and adequate data.<sup>5</sup>*

Unfortunately, the dearth of accessible and accurate data, makes it is very difficult to fully represent the nature and extent of kinship care in Ireland. More work is definitely warranted in this area and could possibly be undertaken using microdata analysis of the current Census statistics. In the meantime, some statistical information in the public domain, can offer an indication of the prevalence of this cohort of families.

In October 2019, there were 2,249 children living with kinship carers, in receipt of the Guardians payment. This demonstrates an upward trend between 2017 and 2019, of 13.5 %.

However, international experience suggests that 1% of children are generally in the care of relatives. This indicates that there may be potentially over 10,000 children in kinship families in Ireland, when applied to the whole population.

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<sup>5</sup> Centre for Effective Services (2015) An Implementation Case Study of Student Universal Support Ireland

Table One: *Data to inform a working estimate of children and young people in kinship care*

Number of Children in Ireland  (CSO, 2019)	Number of Children and Young People in relative foster care i.e. with state support and recognition  (Tusla, August 2019)	Number of Children and Young People in receipt of Guardians payment  (Dept. of Social Protection, October 2019)	Estimated Number of Children and Young People in informal Kinship Care
1,251,796	1,560	2,249	> 10,000

## 2.2 The Current System

### 2.2.1 Legislative and Administrative Framework

The Student Grant Scheme is underpinned by the following legislation:

- Student Support Act (2011)
- Student Grant Scheme (Statutory Instrument)
- Student Support Regulations (Statutory Instrument)

The Student Support Act 2011 provides some of the key definitions and parameters within which the scheme operates, including the definition of an approved institution, an approved course, and an approved student.

The City of Dublin Vocational Education Committee administers the student grant scheme nationally through Student Universal Support Ireland (“SUSI”), a centralised system that operates via an online application process.

### 2.2.2 Eligibility for Maintenance grants

The maintenance grant is a contribution towards the living costs of the student. It is payable at the standard rate, at either full (100%) or part (75%, 50% or 25%) rate, or at the special rate, depending on the **applicant's level of reckonable income** and other requirements.

Under Article 22 (4) of the Student Grant Scheme 2018, Foster/After Care Allowance and Independent Living Allowance for Young People in Residential Care are known as “income disregards”. These payments are not included in calculating reckonable income and SUSI will not look for any information regarding the income of foster parents of applicants.

### 2.2.3 Dependent vs independent students

“Independent student” means a student who is at least 23 years of age on 1st January of the year when they first enter/re-enter further or higher education and who is living independently of his or her parent(s), as defined under the Act.

“Dependent student” means every other student other than an independent student who is eligible to be considered for a grant. In the case of dependent students, the income of the applicant and his or her parents, as appropriate, are taken into account.

Where a dependent student has no living parent, the student “may” be exempt from having their parent(s) income taken into account in calculating reckonable income. The term “parent” is defined in the Act as including a guardian appointed under the Guardianship of Children Acts 1964 to 1997 (the “Guardianship Acts”), other than temporary guardians. Therefore, court-appointed guardians as well as testamentary guardians appear to fall under the definition of “parent” in the Act.

### 2.2.4 Special Rate Eligibility

In order to receive the special rate of maintenance grant, an applicant must have a reckonable income of under €23,500, which must include one of a number of eligible payments. There are 41 eligible payments, which include the Contributory Guardian’s Payment and the Non-Contributory Guardian’s Payment. Foster care, Aftercare, and Independent Living Allowance for Young People in Residential Care, where paid in respect of the applicant, may qualify the applicant for the special rate of grant. Importantly, if a young person with care experience is currently in Residential Care, or living independently, there is an option on the online grant application to tick ‘*In Care of the State*’ or ‘*Aftercare*’.

### 2.2.5 Specific Issues which Impact on Kinship Families

Kinship Care Ireland believes that there are specific issues with the application of the current SUSI system, which need to be addressed as part of the current review.

These relate mainly to how the entitlement of young people to grant aid is assessed, based on (i) the specific status of their legal guardian(s) and (ii) to whom the relevant social welfare payment is paid. These issues may result in differential treatment of young people in the full-time care of those other than their birth parents, where that takes place outside the formal care system. Therefore, these provisions threaten to discriminate against a particularly vulnerable group of young people and require urgent reform.

***Anomalies experienced by Kinship Families within the current system, include the following:***

1. While the SUSI scheme may apply a ‘disregard’ to the income of testamentary guardians<sup>6</sup>, the same exemption is not applied to court-appointed guardians<sup>7</sup>. The income of court-appointed legal guardians as well as the young person’s income is taken into consideration, when assessing the ‘reckonable income’ of young people in kinship care, who are considered ‘dependent’.
2. While the Guardian’s Payment technically constitutes an eligible social welfare payment, for the purposes of awarding the special rate, the approach adopted by SUSI is not always consistent and does not sufficiently recognise the status of court appointed guardians, who step in to care for children and young people, when parents cannot.
3. Where payment of the Guardian’s Payment is made directly to a Guardian, the young person is seen as not entitled to the special rate of grant. This appears to be contrary to the provisions of the Social Welfare Consolidation Act (2005), which states that the Guardians Payment should be paid to the Guardian and only in exceptional circumstances directly to ‘the orphan who has attained the age of 18 years where that orphan is not normally residing with a guardian’. The effect of current provisions under SUSI, could be to cause pressure on young people in kinship care, to leave their family home, resulting in substantial additional expenditure on rent and potentially depriving them of access to support for their emotional wellbeing, which is available within their family home.
4. If a student living at home receives an Orphan’s pension directly, they may be entitled to receive a special rate award. However, the application of this rule risks impacting negatively on the household in which the young person resides, as there is no obligation on young people to use payments received, to contribute to their upkeep when living at home and in most cases young people cannot afford to live independently, especially while attending college, as evidenced by the fact that 60% of college students normally live at home<sup>8</sup>.
5. Although it is possible to appeal a decision by SUSI, this requires the ability to recognise a discrepancy which forms the potential basis for an appeal, as well as the capacity to navigate the process and supply the relevant supporting documentation. This may be beyond the capacity of many kinship carers, who have been shown to have fewer educational or professional qualifications than the general population.<sup>9</sup>

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<sup>6</sup> The term “testamentary guardian” refers to a guardian nominated by someone in their will, to care for their child(ren) after their death.

<sup>7</sup> A Court may appoint a Guardian where a child has no parent/guardian willing or able to exercise the responsibilities and where another person has cared for the child for a continuous period of 12 months.

<sup>8</sup> <https://www.zurich.ie/savings-and-investments/education-costs/college/>

<sup>9</sup> University of Bristol, 2001

### 3. Rationale for Change

The Minister has expressed the need for changes to be made to the Student Universal Support scheme, that will allow wider eligibility for, as well as availability of, grants available to students. The terms of reference for the current review also includes examining how Ireland compares to other jurisdictions.

Kinship Care Ireland believes that addressing the specific needs of kinship families, requires that anomalies and issues in the provisions and parameters of the SUSI scheme should be resolved, in order to:

- Recognise the reality of the economic impact of providing informal kinship care, on families.
- Acknowledge the economic (and societal) benefit to the State, from the contribution (in kind) made by informal kinship carers, in caring for young people.
- Ensure access to higher education for young people, who have experienced adversity in childhood.
- Uphold the rights of a particular cohort of care experienced young people, to address the current inequity between those in formal and informal care.
- Join up policy approaches between departments and administrative bodies, where contradictions may currently exist in how assessments are made and to whom payments are directed.
- Reflect progress that has been made in neighbouring countries, to acknowledge and support young people in kinship families.

#### 3.1 Economic Hardship among Kinship Carers

*‘Informal Kinship Carers and the children they look after are still an overlooked group who experience high levels of poverty and disadvantage with little or no statutory support’.*<sup>10</sup>

Research demonstrates that there is a consistent relationship between kinship care and poverty, with informal carers more likely to be living on very low incomes, compared with those providing care under formal arrangements.<sup>11</sup>

In fact, Kinship carers often report financial difficulties as being their paramount concern<sup>12</sup>, with some struggling to meet children’s basic needs. Census data from the United States indicates that 31.6% of grandparent carers live below the poverty line.<sup>13</sup>

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<sup>10</sup>Nandy and Selwyn, 2013

<sup>11</sup> Swann and Sylvester, 2006; Strozier and Krisman, 2007; Harnett et al, 2014.

<sup>12</sup> McKenzie et al, 2010; Backhouse and Graham, 2012; Farmer et al, 2013

<sup>13</sup> Minkler and Fuller-Thompson, 2005.

### 3.2 Access and Outcomes for Young People

In the context of measuring access to higher level education, while there are limited statistics available in the Irish context, kinship organisations in the UK have found that young people in kinship care often struggle in school and are less likely to progress to Higher Education.<sup>14</sup>

Research suggests that only 7% of care leavers enter Higher Education, even though it has been shown that it can be a 'transformative experience', given that studying at university level has the potential to mitigate disadvantage experienced in early life (Harrison, 2017).

### 3.3 Rights Perspective

Taking a human rights informed perspective is useful, because it is based on internationally accepted standards, draws from a notion of basic entitlement, rather than charity, and places kinship families at the centre of efforts to solve problems, agree on actions and facilitate changes to improve their outcomes.<sup>15</sup>

The UN Convention on the Rights of the Child (UNCRC), which has been signed and ratified by Ireland provides for the right to freedom from discrimination (Article 2) and the principle of all matters being decided in the best interests of the child (Article 3), to apply to all children equally.

According to the UN guidelines on Alternative Care, (2010)<sup>16</sup> States should recognise the role played by informal kinship care and take adequate measures to support its optimal provision.

Adhering to an international rights framework, along with addressing domestic requirements to avoid inequality in all policies and practices, requires the Irish government to apply the provisions of the SUSI scheme uniformly and with due regard for the impact and effects on cohorts and communities, who may be vulnerable.

### 3.4 Joined Up Policy Approach

The current practices under SUSI which deny the special rate of payment to students, where a Guardian receives the relevant Social Welfare Allowance directly, are not consistent with the recommendations of the review of the 'Orphan' payments in 2003, that payments be made directly to a Guardian, *'to ensure that the payment is effectively targeted and to prevent fraudulent claims'* and seems contrary to the associated provisions of the Social Welfare Consolidation Act (2005). This makes a strong case for reviewing the administration of the SUSI Grant scheme, to ensure continuity across policy and practices by government departments and funded bodies.

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<sup>14</sup> 16% of young people in kinship care pursue further education, compared to a third of their peers

<sup>15</sup> Daly, 2019

<sup>16</sup> Resolution Adopted by the General Assembly 64/142: Guidelines for the Alternative Care of Children, Geneva, United Nations (2010)

### 3.5 Support for Young People in Kinship Care, in the UK

For 2022 entry to the UCAS system in the UK<sup>17</sup>, the question which determines ‘care experience’, will reflect a broader definition of what care experience means for students throughout the UK.

Question: *Have you been in care? Y/N. Select yes if you've ever lived in public care or as a looked-after child, including:*

- *with foster carers under local authority care*
- *in a residential children's home*
- *being 'looked after at home' under a supervision order*
- ***living with friends or relatives in kinship care***

For care leavers or ‘looked after children’, applying to enter higher education in the United Kingdom, there is also support available to help with finance, settling in, and accommodation.

The Children and Social Work Act (2017) which has extended support to care leavers up to the age of 25, sets out expectations about the services to be provided. This is seen as a welcome focus on care leavers, which will be even further extended, so that the most vulnerable groups of young people in kinship care are identified and given support for their transition into independent living<sup>18</sup> irrespective of their legal status. This is a defined pathway, which the Irish education support system could easily follow.

## 4. KCI Recommendations for Change

Recognising Kinship Care, as a form of alternative care, by adopting the internationally accepted concepts and language relating to kinship care, will ensure that young people with both formal and informal care experience, have equitable access to state support for third level education.

Taking a human rights-based approach with particular reference to the UN guidelines on Alternative Care (2010) and the UN Convention on the Rights of the Child (1989), will help to ensure that kinship families are not subjected to economic hardship, due to inequitable state support, and potentially transform the life trajectories of young people in their care.

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<sup>17</sup> <https://www.ucas.com/providers/good-practice/emerging-cohorts/care-experienced-students>

<sup>18</sup> Growing Up in Kinship Care, (2017)

Reforming the current system, to encompass the recognition of young people in kinship care, will require adapting the current SUSI system, to implement the following changes:

- I. Identifying young people in Kinship families as ‘care experienced’, deserving of the same recognition as young people in formal foster care arrangements;
- II. Resolving the existing anomaly between testamentary and court appointed guardians, to apply benefits equally to both;
- III. Including the *Guardians Payment* both as a payment which is not included in calculating reckonable income **and** as an eligible payment for the purposes of automatically awarding the special rate, regardless of to whom it is paid;
- IV. Excluding means testing of both guardians and young people in kinship families, when calculating the applicant’s eligibility for the SUSI payment, as is the situation applied to formal Foster Carers and the children in their care.

## **Conclusion**

Kinship Care Ireland is encouraged by the recent statement by the *Minister for Higher Education Research, Innovation and Science*, that the current SUSI Grant system “has remained static, despite significant changes in Irish society in recent years.”

In this context, Kinship Care Ireland contends that there is now an urgent need and a welcome opportunity, to create meaningful reform of the SUSI system, to reflect the family structures, lived experiences, and needs of young people in kinship care.

Our submission endeavours to demonstrate how the system can be relatively easily updated, to maintain consistency across government departments and fall into line with contemporary practices in other jurisdictions, which will ensure equitable treatment of vulnerable young people, enabling their equal access to, and full participation in, third level education.

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**15<sup>th</sup> April, 2021**