









**Law  
Commission**  
Reforming the law

## **Kinship care**



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### **Summary of the Consultation Paper**

# This consultation

<p><b>Who are we?</b></p> 	<p>The Law Commission of England and Wales is an independent body established by statute to make recommendations to government to reform the law.</p>
<p><b>What are we doing?</b></p> 	<p>Conducting a public consultation on our proposals to reform the law governing kinship care.</p>
<p><b>What is it about?</b></p> 	<p>The law relating to kinship care.</p>
<p><b>Why are we consulting?</b></p> 	<p>We are seeking views on our provisional proposals and asking questions. Your views will be carefully considered when we decide on our final recommendations.</p>
<p><b>Who do we want to hear from?</b></p> 	<p>We are keen to receive responses from as many people and organisations with an interest in kinship care as possible. This includes those who are experiencing or have experienced kinship care, kinship carers, parents and other family members of children in kinship care, local authority children's services, lawyers, academics, social workers, charities and support organisations, and anyone else working in this area or interested in kinship care.</p>
<p><b>Where can I find the consultation paper?</b></p> 	<p>The full consultation paper is available on our website: <a href="https://lawcom.gov.uk/project/kinship-care/">https://lawcom.gov.uk/project/kinship-care/</a></p>

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<p><b>What is the deadline?</b></p> 	<p>The consultation runs for 14 weeks and closes on 16 October 2026.</p>
<p><b>What happens next?</b></p> 	<p>After reviewing all responses, we will decide on our final recommendations for law reform, which we will publish in a report in autumn 2027.</p>



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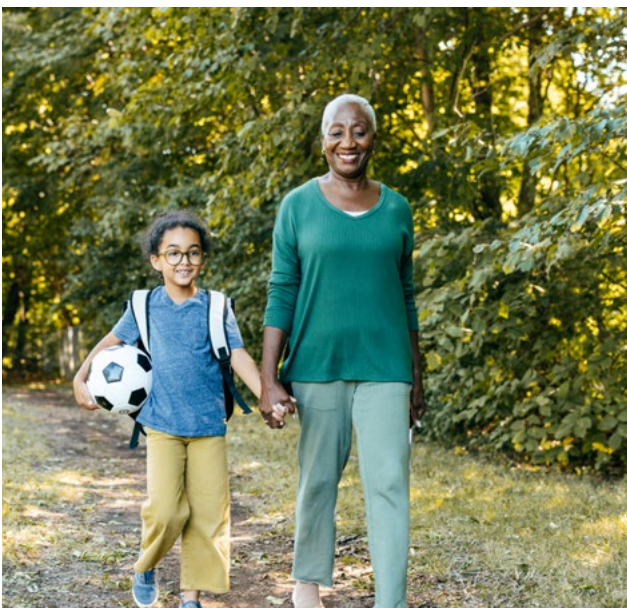
## This summary

This summary does not summarise all of the provisional proposals and questions set out in our consultation paper. Instead, it explains what the project is about, provides some context, and then highlights significant issues discussed in the consultation paper and our key provisional proposals for reform.

There are consultation questions in the consultation paper which are not discussed in this summary. Before responding, you are encouraged to read our full consultation paper, or the relevant parts of it. You do not have to respond to all the questions in our consultation.

The consultation paper does not contain any final recommendations for reform of the law. Rather, it contains our provisional proposals. Where appropriate, we also ask consultees to give their views about issues where we have not made provisional proposals.

We will analyse the responses we receive and consider what recommendations we make to UK Government and Welsh Government in our report. It will then be for them to decide how to take forward our recommendations, and for Parliament and the Senedd to pass any new Acts needed to change the law.



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## Responding to our consultation

The full consultation paper is available on our website at: <https://lawcom.gov.uk/project/kinship-care/>. The deadline for responses is 16 October 2026.

We encourage you to submit your response using the online form available at the link above. If possible, please use this method.

Alternatively, you can send your comments:

- by email to [kinshipcare@lawcommission.gov.uk](mailto:kinshipcare@lawcommission.gov.uk) or
- by post to Kinship Care project, Property, Family and Trust Law team, Law Commission, 1st Floor, 52 Queen Anne's Gate, London SW1H 9AG.

If you send your comments by post, it would be helpful to also send them electronically if possible.

Consultation responses are most effective where we are able to report which consultees responded to us, and what they said.

However, consultees may wish all or part of their consultation responses to be treated as confidential and neither published nor disclosed by us. If consultees wish their response to be confidential, they should explain which part of their response they wish to be kept confidential and why. However, we cannot guarantee that confidentiality can be maintained in all circumstances.

Consultees might instead wish their response to be anonymous, where we refer to what is said but do not identify the consultee. We will respect requests for anonymity, to the extent that we legally can.

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We ask consultees to avoid including personal information which could identify other people – in particular, please do not provide information that may identify a child or could lead to such an identification being possible. We will redact any consultation response that identifies a child, or which we consider could be used together with other information provided to identify a child. We will do this whether or not consultees have indicated that they wish their response to be treated as confidential or anonymous.

For more details of how we treat consultation responses, please see the section ‘How we consult’ on pages i to ii of our consultation paper.

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## What is kinship care?

Kinship care arises when a child is cared for by an adult who is not their parent for a significant amount of time. Kinship carers are relatives – most commonly grandparents but also older siblings, aunts, uncles, cousins, other relatives, or family friends. The kinship care arrangement may be temporary or longer term. There can be a variety of reasons why the parents cannot care for their child on a full-time basis. Most commonly, kinship care will be an alternative to the child entering the care system, or a way of caring for a child who is the subject of a care order.

Based on the 2021 Census, it is estimated that in England and Wales around 141,000 children live in kinship care arrangements with related carers; 130,000 children in England and 11,000 in Wales. This represents approximately 1.1% of all children in England and Wales. The charity Family Rights Group has estimated that a further 23,000 children live with unrelated kinship carers, such as a family friend.



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## Types of kinship care

Kinship care can take different forms, as we describe in the following pages. Our project considers:

- informal family arrangements
- private foster care
- kinship foster care
- child arrangements orders
- special guardianship orders

The type of arrangement affects rights and entitlements, including the extent to which a carer acquires parental responsibility.

### Parental responsibility

Parental responsibility (which we call 'PR' in this summary) is defined in section 3(1) of the Children Act 1989 as 'all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property'.

PR allows the holder to make both day-to-day and more significant decisions about the child's upbringing, including where and with whom the child should live, the nature of the child's education and religion, and the child's medical treatment.

The parents of a child have PR for the child. A kinship carer will not have PR for the child unless they have obtained a court order granting it to them.

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## Informal family arrangements

Informal family arrangements are neither regulated nor defined by law. They occur where a child is being raised by a relative, when there is no court order in place and the local authority has not played a major role in making the arrangement for the child. PR for the child is retained by the child's parents, who may delegate it to the kinship carer to enable them to make day-to-day decisions.

### Private foster care

Private foster care is described in section 66 of the Children Act 1989, which defines a privately fostered child. The definition is a child under the age of 16 (or 18 if disabled), who is cared for by someone who is not a parent, relative or a person with parental responsibility for the child, in that person's home, for more than 28 days. A person who is privately fostering a child is obliged to notify the local authority that they are doing so.

PR for the child is retained by the child's parents, who may delegate it to the kinship carer to enable them to make day-to-day decisions.

### Definition of relative

'Relative' is defined in section 105 of the Children Act 1989 as meaning, in relation to a child, 'a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent'. This is the meaning of relative which we use in this summary and our consultation paper.

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## Kinship foster care

Kinship foster care occurs when a child is placed with a family or friend carer who is approved as a local authority foster carer, with the involvement of the local authority. The child is a 'looked after' child, and is either the subject of a care order, or being accommodated by the local authority with parental agreement.

Kinship foster carers do not have PR. The parents retain PR, however, if the child is under an interim or final care order the local authority shares PR with the parents, and it may determine how PR should be exercised.

## Child arrangements order ('CAO')

A CAO is an order made under section 8 of the Children Act 1989 which regulates with whom a child lives, and with whom a child spends time or otherwise has contact.

In a kinship care context, a CAO will usually set out that a child is to live with the kinship carer, and may also regulate the contact that the child is to have with their parent(s).

A CAO can be made for any duration but will end when the child reaches 18. The holder of a 'live with' CAO gains PR for the child. The child's parents retain their PR.

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## Special Guardianship Order

An SGO is an order made under section 14A of the Children Act 1989. It appoints a person who is not the child's parent to be their 'special guardian'. An SGO lasts until the child is 18. Most SGOs made appoint kinship carers as special guardians.

A special guardian gains 'enhanced PR' which they can use to the exclusion of other holders of PR. The child's parents will retain their PR, but the special guardian can make most decisions without requiring their agreement.

SGOs can be made in private law proceedings, where there is no local authority involvement, but can also be (and most often are) made at the end of public law care proceedings.

## Kinship adoption

Kinship adoption takes place when an order gives PR for a child to an adopter who was a friend or family member of the child before the making of the order. The kinship carers become the child's legal parents. Kinship adoption is rare. Reform of adoption law is outside of the scope of our kinship care project.



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## Problems with the current law

The current legislation governing kinship care and the processes surrounding it can lead to a variation in rights and entitlements for families, and does not always promote the welfare of the child. A range of private and public law orders can be used to regulate kinship care, with very different consequences.

We have heard of numerous challenges facing kinship carers, most notably in terms of the approach that the current system takes to kinship care arrangements, the processes involved, and the exercise of the rights granted to kinship carers under different types of arrangements.

We have also heard concerns about funding and support for kinship families – however, funding is outside the scope of our kinship care project.

### Issues relating to legal status, availability of rights, and assessment

- **PR** – whether a kinship carer obtains PR (and whether they can use it to exclude the parents' PR) depends on the type of legal order that recognises the arrangement. The child's parents will retain PR. The exercise of PR by those involved needs to be managed in the best interests of the child.
- **Permanence** – the current system places an emphasis on an understanding of 'permanence' as providing a long-term solution to meet a current inability of the parents to look after a child. This can affect the choice of legal order (for example, a preference for SGOs), and can make it harder for the child to be reintegrated back to their parents' care, where this can safely be done.
- **Contact** – it can be difficult to manage the relationship between the child and their parents (and wider family members), especially as the kinship carer may also have to manage their own relationship with the child's parent, or may be subject to abuse from them.
- **Inequality** – there is evidence to suggest that cultural and racial biases may also operate when considering both how kinship care is formalised, and the type of order which is supported by local authorities.
- **Lack of definition** – until recently, when the Children's Wellbeing and Schools Act 2026 introduced a definition of kinship care in England, there was no statutory definition of kinship care. There is no statutory definition in Wales. The lack of a definition can result in a lack of visibility or inconsistent understanding of when kinship care is happening so that it is not always recognised and supported.
- **Prevalence of informal arrangements** – the majority of kinship care arrangements are not formalised by an order or by involvement of the local authority. There may be a need to recognise some of these informal arrangements by giving kinship carers PR, in a way that does not need the involvement of the courts or a local authority, where that is safe for the child.
- **Assessment processes** – assessment of kinship foster carers has been criticised for being designed for non-kinship situations, and inappropriate or intrusive in the context of kinship care; kinship carers may fail an assessment as a result. Similar criticisms are made of the SGO assessment process. Local authorities adopt different approaches to assessment and the extent to which they consider kinship-specific factors. Provision of information for the prospective kinship carers also varies between local authorities.

## **Our approach to reform of existing court orders**

To address the issues that we have identified with the operation of SGOs and CAOs, our preferred reform route is to introduce a new kinship care order ('KCO') available only to kinship carers, which would replace CAOs and SGOs for kinship carers (12 to 16 of this summary).

In the alternative, we make provisional proposals for reform of SGOs and CAOs, which seek to resolve those issues within the existing legal framework (page 10 of this summary).

## **A statutory definition of kinship care**

At present there is no statutory definition of kinship care across England and Wales. Chapter 3 of the consultation paper sets out our provisional proposals for such a definition.

A definition of kinship care has recently been introduced as section 22I of the Children Act 1989 by the Children's Wellbeing and Schools Act 2026. This definition applies in England only, and is summarised in the box on this page.

We consider that this definition could be adopted for the purposes of the reforms that we propose in our consultation paper, which would apply in both England and Wales.

At present, the newly introduced definition does not apply to any of the orders under the Children Act 1989.

We provisionally propose to use the definition of kinship care contained in section 22I of the Children Act 1989 for the purposes of both our proposed kinship care order and kinship parental responsibility agreements (see pages 12 and 17 of this summary), with some additional eligibility requirements for each, to make the definition workable in those contexts.

A kinship carer is a relative, friend or other person connected with a child, with whom the child either lives for all the time, or for more time than the child lives with a parent, and who provides all the care and support to the child, or more care and support than is provided for the child by a parent.

For the purposes of this definition, a 'person connected with the child' cannot be a parent of the child, a local authority foster parent of the child who had no connection with the child prior to the child being placed with that person, or a person caring for the child in a professional capacity.



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## Reform to SGOs and CAOs

We make a number of provisional proposals with respect to the existing legal orders in relation to kinship care, and summarise the key proposals below. Some proposals apply to both SGOs and CAOs, others to only one type of order.

- **Potential reunification** – there are tensions between providing permanence for the child, and the possibility of reunification between the child and parents, at a point where the parent is able safely to resume caring for their child. This is a particular issue in SGOs, which last until the child reaches 18. We provisionally propose that when making either an SGO or a CAO governing a kinship care arrangement, the court should consider the potential for the child to be reintegrated into their parents' care in the future.
- **Support for contact between child and parents** – we provisionally propose that UK Government should consider revising the guidance on Special Guardianship Support Plans to emphasise the importance of local authorities considering what help is needed to support contact between a child in kinship care under an SGO and their parents.
- **Protecting placement stability** – we recognise that stability of the kinship care arrangement is crucial. We therefore provisionally propose that when making either an SGO or a CAO, the court should be under a duty to consider whether it would be appropriate to make an order requiring anyone other than the kinship carer to obtain permission from the court before they make any subsequent applications for a CAO, prohibited steps or specific issue order. This could help protect kinship carers from repeated applications challenging the kinship care arrangement.
- **Interim SGOs** – we provisionally propose that it should be possible for a court to make an interim SGO when kinship care is raised in public law proceedings. This would enable the child to live with the prospective special guardian, and allow both the child's and the special guardian's support needs to be assessed before the final order is made.
- **Permission requirements for CAOs** – we provisionally propose that when applying for a CAO, a kinship carer (within the definition that we propose), should not need to first obtain the court's permission. This would make it easier for kinship carers to seek CAOs.
- **Review** – we seek consultees' views on whether it would be helpful if the court could attach a review requirement to SGOs, in order to ensure that the order remains the best solution to further the child's welfare. We consider that a review could also be helpful in enabling a child's voice to be heard.

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## Reform to kinship foster care

The Children's Wellbeing and Schools Act 2026 introduces a duty on local authorities in England to offer family group decision-making to support the identification of potential kinship carers within a family in need of support. When a family member is identified, a local authority will carry out an initial viability assessment to determine whether they can offer a viable placement for the child. However, the assessment process differs between England and Wales, and between local authorities within each country. In addition, local authorities tend to use non-family fostering assessment criteria which some claim are ill-suited to the kinship care situation.

To address these issues, we provisionally propose that the foster care regulations in England be adapted to specifically refer to relevant aspects of kinship care, as has recently been done in Wales. To improve consistency, we provisionally propose that all local authorities use a prescribed form of assessment for prospective foster carers. Finally, to recognise the particular characteristics of kinship foster care, we provisionally propose less frequent visits and reviews of kinship foster care placements where there are no safeguarding concerns.



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## Key features of a KCO

The table below shows the key features of our proposed KCO.

<b>Welfare of the child</b>	The welfare of the child would be of paramount importance. This means that when the court decides whether to grant, vary or discharge a KCO, the child's welfare would be the single most important factor in the court's decision-making.
<b>The kinship guardian</b>	The KCO would appoint a kinship carer as the child's 'kinship guardian'. A KCO would only be available to kinship carers over the age of 18 who have cared for the child for at least 28 days. If a friend, relative or other person connected with the child cannot meet these requirements we propose that they could, with the court's permission, apply for an interim KCO (see following page).
<b>Living arrangements</b>	The KCO would regulate the living arrangements for the child. The order would specify that the child will live with the kinship guardian. If the child is not to live with the kinship guardian all the time, the order will explain when the child is to live there.
<b>The child's relationship with their parents</b>	When making a KCO the court would need to consider the child's relationship with their parents. The KCO will set out the extent to which the child will live with, spend time with, or otherwise have contact with their parents. Where appropriate, a KCO should also make clear that a child is to have contact with other family members important to them.
<b>Parental responsibility</b>	A kinship guardian will gain PR for the child. The court would need to consider how PR for the child should be shared between the kinship guardian and the parents. Depending on the circumstances of the case, the court may also grant enhanced PR for the child to a person named in the KCO, meaning PR which can be used to the exclusion of other holders of PR.
<b>Duration</b>	A KCO would have a flexible duration, decided by the court at the time the order is made. It could be made for a fixed term, where it is expected that the kinship care arrangement will not need to last indefinitely, or until the child reaches the age of 18, in circumstances where long-term care is required.

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<b>Interim KCOs</b>	An interim KCO could be made during proceedings where needed, allowing the court to appoint a kinship guardian to care for the child on an interim basis whilst arrangements for their longer-term care are being made. An interim order would have effect for a period of time specified in the order, subject to a maximum period, and would cease on the child reaching the age of 18.
<b>Support</b>	Where a local authority is involved in a case, a KCO would set out the support which the local authority has agreed to provide to the child, the kinship guardian, and the parents. A Kinship Care Support Plan should be attached to the KCO.



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## Interaction between KCOs and other orders

Our aim in provisionally proposing the introduction of KCOs as a bespoke order for kinship carers is to both make the law easier for kinship families to understand and use, and to provide an order suited to the individual family's circumstances.

We intend KCOs to replace the existing private law orders governing kinship care – that is, CAOs and SGOs. However, KCOs will not replace public law care orders, which may lead to a placement with a kinship foster carer.

Under our provisional proposals, kinship carers who would be able to apply for a KCO will no longer be eligible to apply for a CAO or SGO in respect of the child for whom they are caring. However, this will not affect kinship carers who already hold a CAO or SGO.

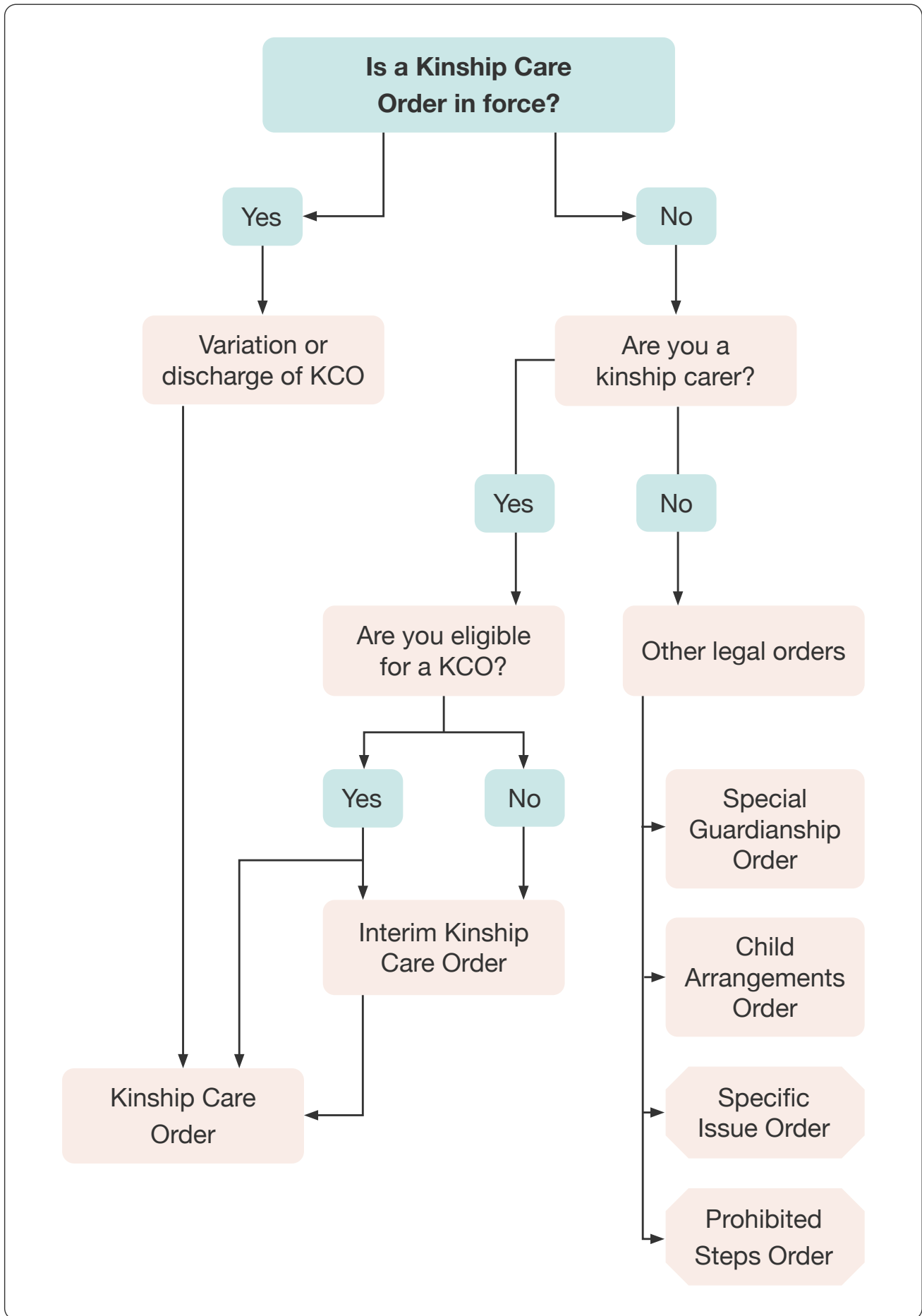
Whilst a KCO is in force, decisions about the child should be made with reference to the KCO – this means that it will not be possible for anyone to apply for a CAO, SGO, prohibited steps order or specific issue order in respect of the child.

If a person wishes to alter the living arrangements for the child, or wishes PR in relation to the child to be exercised in a particular way (for example, a decision about medical treatment of the child), they should apply to the court for directions as to how the provisions of the KCO are to operate in that particular case, or they should apply to the court to vary or discharge the KCO.

If no KCO is in force, people (other than a kinship carer who would be eligible to apply for a KCO) can apply for CAOs, SGOs, prohibited steps orders and specific issue orders in relation to the child, just as they currently can.

We also provisionally propose that where the child is subject to a public law care order, it should be possible for that care order to continue when an interim KCO is made. This would allow the local authority to remain involved until arrangements for the child are finalised. We provisionally propose that the care order would end when a final KCO is made. The court would determine how PR for the child would be exercised by the local authority, kinship guardian, parents or anyone else with PR during the period whilst a care order and interim KCO are both in force.





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## The assessment process for a kinship care order

The assessment process required to obtain a KCO would reflect the circumstances of the case and depend upon the features of the KCO sought. We are clear that any type of assessment for a KCO should ensure that the child's wishes and feelings are taken into account. However, we have not made provisional proposals about the process which should be used in a KCO application to assess the suitability of the kinship care arrangement to meet the child's needs. Instead, we ask for consultees' views. In particular, we ask consultees for their views on:

- who should prepare any assessment or report;
- whether there should be a requirement to notify the local authority before an application for a KCO is made, and, if so, what that should be; and
- what should be covered by any assessment or report, and the extent to which this should vary depending on the features of the KCO that is being applied for.



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## Kinship parental responsibility agreements

Many kinship carers do not seek court orders to regulate the kinship care arrangement, nor do they care for a child as a local authority-approved kinship foster carer. A kinship carer in such an informal arrangement will not have PR for the child.

Making it possible for the child's parents to grant the kinship carer PR by agreement could make it easier for kinship carers to care for the child, by allowing them to make decisions about the child's upbringing which would otherwise require PR. It could also make it simpler for kinship carers to engage with services such as doctors and schools.

### Step-parent parental responsibility agreements

Under the current law, a step-parent who is married or in a civil partnership with one of the child's parents can enter into a parental responsibility agreement (which we call a 'PRA' in this summary) with the child's parents. The PRA, and proof of everyone's identity, are filed with the Central Family Court and the court then 'seals' the PRA to show that it has been acknowledged and recorded by the court. The PRA grants the step-parent PR for the child and lasts until the child reaches 18, unless PR is removed by a court order.

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**We provisionally propose that it should be possible for a kinship carer to enter into a ‘kinship PRA’ with the child’s parents.** However, we think that there should be limitations on which kinship carers apply for a kinship PRA. In our view, for parents to grant PR to anyone without restriction poses too great a safeguarding concern, given that we do not propose that the court or local authority investigate the child’s situation before an agreement is made.

We therefore provisionally propose that kinship PRAs should be available to kinship carers (within the definition we propose) who are also relatives of the child, within the meaning of the Children Act 1989 – effectively, close relatives. Like a step-parent, such kinship carers are already part of the child’s family.

We consider that parents in a kinship care situation will not always want to give PR for their child to a kinship carer that endures until the child reaches 18 or until the court makes an order removing the PR, as is the case for step-parent PRAs. It may be that they wish the kinship carer to care for the child for a much shorter period. We therefore provisionally propose that it should be possible for a kinship PRA to be made for a fixed period, with a minimum period of one year.

We also provisionally propose that it should be possible for a kinship PRA to take effect when the kinship carer begins caring for the child concerned. This would enable parents to make plans for a known point in the future when they will be unable to care for their child; for example, if they have to receive hospital treatment, or to work abroad.

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## Inclusion and diversity

We are concerned to understand any potential disparities in how the current law governing kinship care is experienced by families from a wide range of backgrounds and circumstances.

In our consultation, we ask consultees to tell us if they believe or have evidence or data to suggest that either the operation of the current law governing kinship care, or the provisional proposals which we make in the consultation paper, results or would result in advantages or disadvantages to certain groups. By certain groups we mean those based on characteristics such as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation.

We also invite consultees to give any views they may have on how any disparities in the operation of the current law governing kinship care could be reduced or removed.



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## Next steps

The provisional proposals contained in our kinship care consultation paper provide an opportunity to simplify and streamline the orders underpinning kinship care placements. The publication of this summary and the consultation paper marks the beginning of a period of formal consultation where we will engage with a broad and diverse range of stakeholders to encourage responses to the provisional proposals that we make and to the questions that we ask.

Your responses to this consultation will enable us to make final recommendations that reflect the experiences of children and families involved in kinship care arrangements and those who support them.

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