

Where is the law about kinship care found? And what is it helpful for kinship carers to know about it?

The law about kinship care is found in different places. This table shows where the law is found and what is useful for kinship carers to know. The information about the law is gathered together under four themes.

Theme	Where the law is found	What it is useful to know
1. Keeping children safe, well and within their families where possible and exploring the wider family and friends' network.	<p>Section 17 of the Children Act 1989</p> <p>Paragraph 11, page 8 of government statutory guidance called Working Together 2018.</p>	<p>Children's services must aim to keep children safe, well cared for and at home unless this would place them at risk</p> <p>This reminds children's services that 'children are best looked after within their families, with their parents playing a full part in their lives, unless compulsory intervention in family life is necessary'.</p>
	<p>In government statutory guidance called Volume 1 Children Act 1989: Court orders and pre-proceedings.</p>	<p>The guidance says:</p> <ul style="list-style-type: none"> • Where parents are struggling it is important that wider family are identified and involved as <u>early as possible</u>. This is to see if they can support the child and parents. • Where a child cannot remain safely with their parents, children's services should 'seek to place children with suitable wider family members where it is safe to do so.' (see paragraph 22 of the guidance). <p>And at paragraph 24 the guidance makes clear that:</p> <ul style="list-style-type: none"> • It is important for wider family members to be able to contribute to decision-making when there are concerns a child may not be safe and well cared for at home. • It is important wider family are involved early on. This is an important part of pre-proceedings planning. • Wider family meetings, such as family group conferences¹ are an important way of involving the family early 'so that they can provide support to enable the child to remain at home or look at alternative permanence options for the child' and that • 'Local authorities should consider referring the family to a family group conference service if they believe there is a possibility the child may not be able to remain with their parents, or in any event before a child becomes looked after², unless this would be a risk to the child.'

¹ [Family group conferences: advice for families](#) page for more information and advice. The page includes infographics, films, and FAQs to help families understand more about family group conferences, the process and family plans.

² If a child is described as a 'looked after' child it means either (i) children's services are providing the child with a place to live and with a carer. This might be with unrelated foster carers, or in residential care for example, or (ii) place to live and carer for the child has been arranged by children's services. And is supported by children's services. An example is a grandparent who has been assessed and approved by children's services as a kinship foster carer for a child.

Theme	Where the law is found	What it is useful to know
2. Prioritising children being cared for by family members, when the child is already looked after in the care system.	Section 22C of the Children Act 1989 .	<p>If a child is already looked after in the care system, then children's services have a legal duty to place the child with people in a certain priority order.</p> <ul style="list-style-type: none"> • Children's services should first see if a child can be safely cared for by their parent(s). Or by someone else with parental responsibility • They should next look at the most appropriate placement looking first at wider family, friends and other people already connected with the child who are already approved by children's services as foster carers • Only where this is not possible, should children's services go on to arrange for a child to live with unrelated carers.
3. Expectations of local councils and what they should provide to support kinship carers (and the children they raise)	In Family and Friends Care: Statutory Guidance for Local Authorities .	<p>All local authorities (councils) in England should have a family and friends care policy. The policy should:</p> <p>The policy should:</p> <ul style="list-style-type: none"> • Be published • Be designed to make sure that children living in kinship care receive the support they and their carers need to keep them safe and well • Have details of the support services that children's services can provide, and • Set out services that are available to kinship carers whatever the type of kinship care arrangement. Services should be particularly aimed at preventing children becoming (or remaining) looked after in the care system, wherever possible (see paragraphs 2.12, 4.2 and 4.6 of the statutory guidance). <p>Each authority must identify a senior manager with responsibility for overseeing this area of child welfare.</p> <p>A copy of this policy can be requested from the council or follow this link on our website to see policies that have been shared with us.</p>
4. Detailed rules and procedures and legal principles	<p>Government regulations, Family Court rules, primary legislation and case law³ together set out a range of specific rules and procedures relevant to kinship care. Examples include:</p> <ul style="list-style-type: none"> • How relatives and friends can become/should be assessed as foster carers for a child in an urgent situation (under regulation 24 and 25 of the Care Planning, Placement and Review Regulations 2010) • How full fostering assessments of family members should be done (The Fostering Services (England) Regulations 2011, and The Fostering Services: National Minimum Standards) • When someone will need the permission of the Family Court before applying for a child arrangements order (section 10(4) of the Children Act 1989) • That when the Family Court makes any decision relating to a child, the child's welfare must always be the court's 'paramount consideration'. This is known as the welfare principle. It means the court needs to think what is in the child's best interests when it makes decisions (see section 1 (1) of the Children Act 1989). 	

³ Case law is decisions made by senior judges in different cases.