



Guidance – Kinship Care Contingency Planning

Kinship carers often worry about what will happen to the child/ren they are caring for if they become ill or die. This is especially true in the current pandemic. Planning for your children will not only give you piece of mind, it will also help prevent any confusion regarding your wishes in the future.

In the event you are not able to deal with your affairs because of your health or in the event of your death, there are steps you can take to make sure the children will be okay if you are not able to take care of them.

Testamentary Guardianship

A testamentary guardian is a person who is appointed to look after the interests of a child in the event the child's special guardian dies. When a person becomes a guardian, they gain all the responsibly and legal rights known as parental responsibility. It is important to appoint a guardian to look after any child you are caring for should you die. It means that you can make sure your child will be looked after by someone you trust, or someone that already has a relationship with the child.

If you would like further information about testamentary guardianship please refer to our [fact sheet](#).

Making arrangements for the child/ren in case you are temporarily ill

There may be circumstances where you are unable to make decisions for your child/ren, if you become seriously unwell, or if you have developed an illness such as dementia. In these circumstances, if a special guardian is still living but is mentally incapacitated or unconscious, the testamentary guardian appointment will not take effect and the appointed person will not gain parental responsibility.

However, you can still make arrangements for the children to put your mind at rest:

1. Talk to your family and friends to identify somebody who would be willing to step in and look after the children if you were to become unwell or mentally incapacitated. It could be a relative or friend who would agree to look after them until you are able to again.
2. Put something in writing to say that you would like the nominated person to look after the children if you are not able to. Provide their name and contact details. You may also want to include that you are temporarily delegating your parental responsibility to that person. The document should be dated and signed in front of a witness who should also date and sign the document. This will not be a legally binding agreement, but it should prevent any confusion about who should care for the child/ren until they are able to formalise the arrangement.
3. It is also important to inform as many people as you can of your wishes, making sure they are aware of the person you have nominated to care for the children before becoming unwell. It may be worth thinking about who might need to know this information.

For example, it could include:

- Children's services
 - School
 - Children's parents
 - Next of kin
4. If you do become unwell and you are not able to look after the child/ren long term, the nominated person may wish to seek legal advice about applying for an interim child arrangements order. This would give them parental responsibility for the child. The document you have provided nominating them, will also help the courts and show that you agree for the chosen person to care for the child/ren.
 5. Before applying to the court, the nominated person should seek legal advice about how they can do this.
 6. They can look at our [legal pages](#) or seek free legal advice from one of the organisations listed below:

Grandparents Legal Centre

0843 289 7130

www.grandparentslegalcentre.co.uk

Provide free confidential advice over the telephone.

This factsheet is for information only and should not be taken as a full statement of the law. Last updated March 2021.

Family Rights Group

0808 801 0366

www.frg.org.uk

Provide free confidential advice over the telephone.

Child Law Advice at Coram Children's Legal Centre

0300 330 5480

<https://childlawadvice.org.uk/clas/contact-child-law-advice/>

Provide free confidential advice over the telephone.

We also have a Lawyers List on our website

<https://kinship.org.uk/for-kinship-carers/lawyers-list/>

Most of the solicitors on the list will provide free initial advice over the telephone or face to face if you mention Grandparents Plus.

Please Note: There will usually be a charge by the above sources if you require them to take on any additional work or representation. Please make sure you discuss any potential fees before you agree to any further work being carried out on your behalf.

For further information and support please contact our Kinship Advice Service:

Visit us at - <https://kinship.org.uk/for-kinship-carers/advice-and-support/>

Email us at - advice@kinship.org.uk

Call our advice line - on 0300 123 7015