

TERMS OF REFERENCE – KINSHIP CARE PROJECT

Scope of the project

- 1.1 The Law Commission has agreed to carry out a review into the legal statuses and orders affecting children living in kinship care and kinship carers, to ensure that the legislative framework in England and Wales is fair, modern, and meets the needs of its users.
- 1.2 The kinship care project will seek to understand:
 - (1) how current legislation can lead to a variation in rights and entitlements for families, including the impacts on parental responsibility, contact, permanence as well as access to support;
 - (2) the scope for reform to simplify and streamline the orders underpinning kinship care placements, to increase transparency, coherence and accountability of the system and make it easier for kinship carers to navigate and understand their responsibilities;
 - (3) how to better support the consideration of kinship care as an option for children who cannot remain with their parents.
- 1.3 The project will focus on reform of the law governing kinship care arrangements where the child concerned needs to be cared for by people other than their parents - children who are, or who but for the availability of kinship care, would be, “in need” (defined in s17(10) Children Act 1989) and who are or who are at risk of becoming looked after.
- 1.4 In particular the kinship care project will consider:
 - (1) producing a legal definition of kinship care for the purpose of the issues considered in the project;
 - (2) the adequacy and consistency of the legal orders underpinning kinship placements, including whether the current legislation meets the needs of children and kinship carers
 - (3) the potential for reform of such orders, including considering the possibility of a new bespoke order for kinship care situations to recognise, support and regulate kinship arrangements
 - (4) the legal processes and thresholds for assessment, approval and oversight of kinship carers
- 1.5 The project will not consider:
 - (1) the reform of orders, such as care orders, child arrangements orders and special guardianship orders, beyond their application in kinship care
 - (2) issues that can best be addressed by changes to practice, procedure and funding (rather than statutory reform)

(3) reform of adoption law.

1.6 The kinship care project will actively consider inclusion and diversity throughout, including how the legal framework – and any proposed reforms – affect families from a wide range of backgrounds and circumstances. The project will pay attention to potential disparities in how the law is experienced and the outcomes it produces.