



# KINSHIP CARE

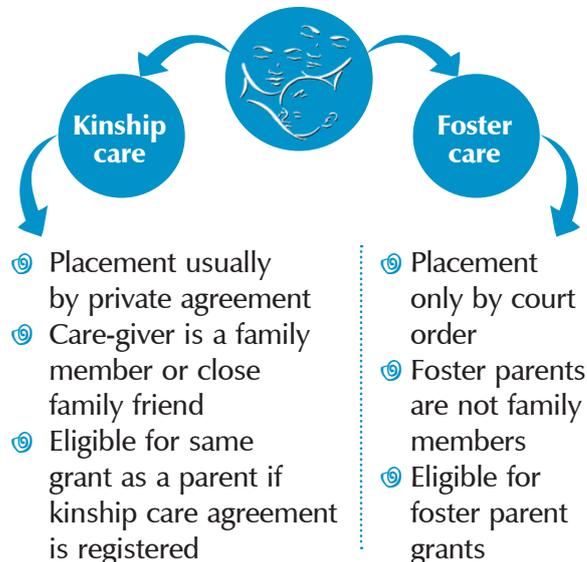
## What is kinship care?

Kinship care is a new concept in Namibia. It is designed to cover situations where families make their own arrangements for children to live with someone other than their parents – such as extended family members or close family friends. This approach to child rearing is common in Africa.

Kinship care is normally a voluntary arrangement made by a family. But a court can order a placement in kinship care if this would be in the child's best interests – such as in a situation where the child cannot be adequately cared for by the parents for some reason.

### Kinship care versus foster care

The previous law did not cater for kinship care. The result was that people in such arrangements had to go to court to be named as “foster parents” in order to be eligible for grants. This placed a burden on courts and social workers without really adding to the protection of the child, since the courts usually ended up just rubber-stamping arrangements already made by the child's family. There were also many cases where needy households were unable to access grants because they had not gone through the process of being approved as “foster parents” by the court. The new distinction between foster care and kinship care removes an unnecessary burden from community members, as well as courts and social workers.



## Kinship care agreements

It is not necessary to make a formal agreement when a child goes to stay with a relative or a friend for an extended period. But a parent or guardian may choose to make an agreement with the care-giver so that understandings about the child's care are clear. This is a kinship care agreement.

A kinship care agreement might cover:

- ④ where and with whom the child lives
- ④ the payment of maintenance
- ④ contact with the child by the parent who does not live with the child, or by other persons
- ④ the schooling and religious upbringing of the child
- ④ the rights and responsibilities that the parent or guardian is temporarily delegating to the kinship care-giver.

These are just some examples. Kinship care agreements can also cover other child-rearing issues.

A kinship care agreement must be in writing, and it must be signed by two witnesses. It should be made with due consideration for the views of the child, depending on the child's age and maturity. Kinship care agreements can be made independently or with help from someone such as a social worker, a traditional leader or a legal practitioner.

## Finalising a kinship care agreement

There are two different avenues for concluding kinship care agreements:

- (1) Kinship care agreements can be **kept private** within the family.
- (2) Kinship care agreements can be **registered at the children's court**.

A kinship care agreement **must** be registered at the children's court if the kinship care-giver wants to receive a state grant on behalf of the child. The registration process is intended to make sure that a grant paid for a particular child goes to the person who is actually caring for that child.

## Changing or cancelling a kinship care agreement

Either party to a kinship care agreement can change or cancel it at any time. The kinship care-giver does not have to agree to a parent's change or cancellation, because a kinship care-giver does not have the same rights and responsibilities over the child as a parent. Similarly, because kinship care-givers do not have parental rights and responsibilities, they do not have to continue caring for someone else's child if they choose not to.

If the kinship care agreement is *registered with the court*, the person making the change must notify the court of the change or cancellation within seven days.

If the parties to a kinship care agreement have a dispute that they cannot resolve, they can contact a social worker or a traditional leader to help. They can also refer the dispute to a trained mediator, or discuss it at a family meeting. The parties to the agreement, or the child concerned, can also take the dispute to a children's court. The court will focus on the best interests of the child in resolving the dispute. The court may try to get the parties to resolve the dispute through mediation first, or it may order a social worker or some other professional to investigate the child's circumstances.

## Grants

A kinship care-giver can apply for and collect a grant for the child in his or her care, in the same way as the child's parent. But only a parent or a person who is actually caring for a child can collect a grant on behalf of the child. If a social worker investigation finds that a kinship care agreement was fraudulent, the agreement will be cancelled. It is a crime to use a false kinship care agreement to get a child grant. The person who wrongfully received the grant money might also have to repay the money to the government.

