

Who has Parental Responsibility (PR)?

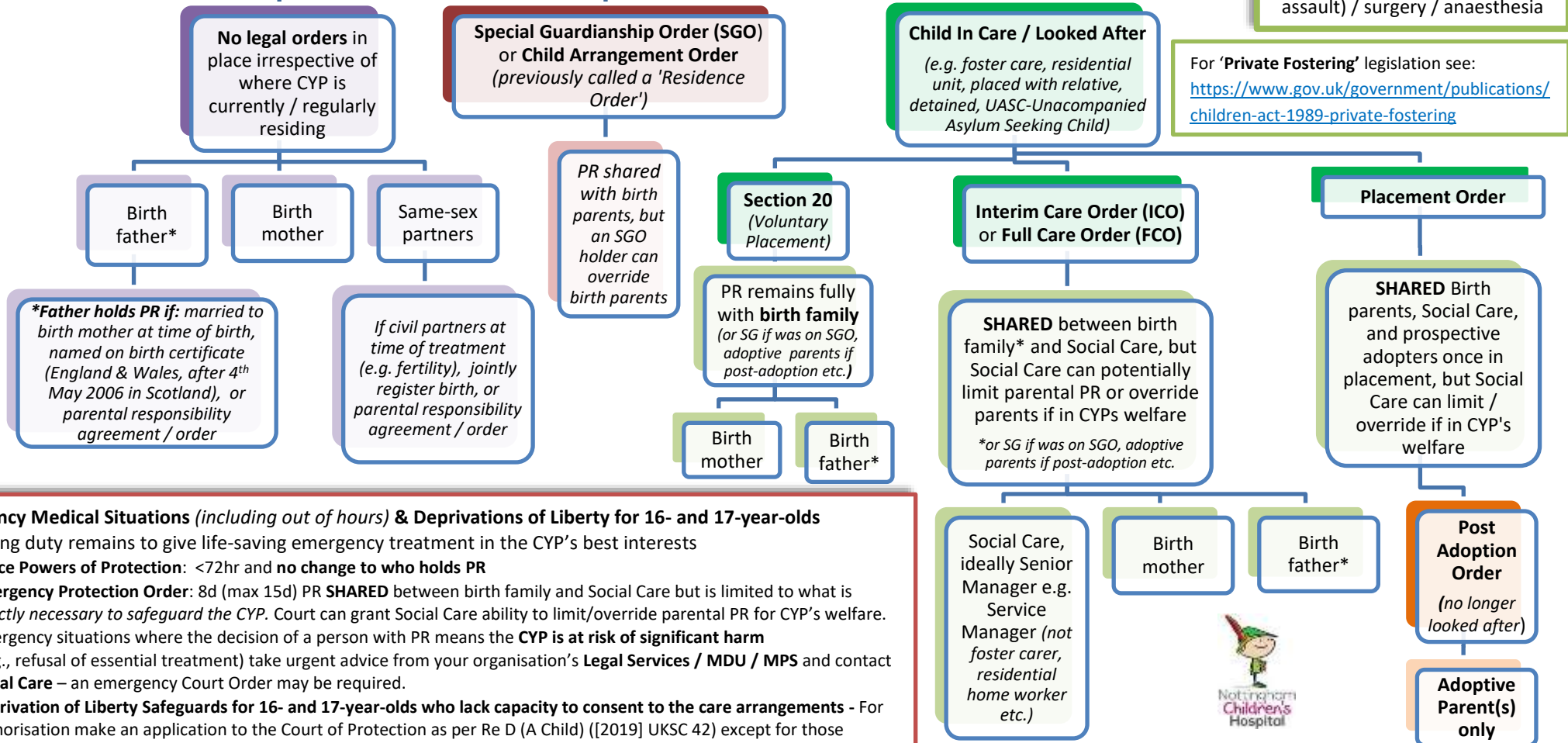
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Foster Carers may have *delegated authority* for routine health reviews, emergency healthcare, and to follow parental choice for *routine* immunisations but NOT give consent for Blood Borne Infection screening / genetic tests / safeguarding examination (non-accidental injury, sexual assault) / surgery / anaesthesia

If in doubt or parental responsibility (PR) is unclear: ask to see copies of any legal consent documents / court orders, and take advice from your legal or other advisory service
This is not a comprehensive list of all forms of legal order but covers the main scenarios.

Child or Young Person (CYP) has been assessed and is NOT believed competent to give their own consent at this time (e.g. per GMC publication 0-18 years: guidance for all doctors, principles of Gillick competence; for 16 & 17 year olds follow MCA (2005))

For 'Private Fostering' legislation see: <https://www.gov.uk/government/publications/children-act-1989-private-fostering>



Emergency Medical Situations (including out of hours) & Deprivations of Liberty for 16- and 17-year-olds

Overriding duty remains to give life-saving emergency treatment in the CYP's best interests

- **Police Powers of Protection:** <72hr and **no change to who holds PR**
- **Emergency Protection Order:** 8d (max 15d) PR **SHARED** between birth family and Social Care but is limited to what is *directly necessary to safeguard the CYP*. Court can grant Social Care ability to limit/override parental PR for CYP's welfare.
- Emergency situations where the decision of a person with PR means the **CYP is at risk of significant harm** (e.g., refusal of essential treatment) take urgent advice from your organisation's **Legal Services / MDU / MPS** and contact **Social Care** – an emergency Court Order may be required.
- **Deprivation of Liberty Safeguards for 16- and 17-year-olds who lack capacity to consent to the care arrangements** - For authorisation make an application to the Court of Protection as per Re D (A Child) ([2019] UKSC 42) except for those detained under the [MHA 1983](#). For details see [Deprivation of liberty and 16-17 year olds](#)
- **If the young person has capacity to consent to the confinement and gives their consent, there will be no DoL- but if they do not consent to the confinement** the young person will be deprived of their liberty and issues/concerns can be taken to the High Court for adjudication under Inherent Jurisdiction.

Dr Nadya James (nadya.james@nhs.net): Cons. Community Paediatrician, Desig. Doctor, MA for Adoption, EMCYPSAS, Nottingham Children's Hospital. If planning to adopt this for your organisation, please contact me to ensure the latest version. *Responsibility remains with the individual to ensure that they access any appropriate and up to date legal advice and take into account any relevant local legislation or details of legal orders specific to an individual case.*

