

# **Early Permanence**

## **Policy Practice Guide for Practitioners**

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### **1. Introduction and Definitions**

This guidance uses the term ‘Early Permanence’ to describe all placements for a child with approved adopters which are made where there is a strong likelihood of adoption but no authority of the court or consent for the child to be adopted.

Although statutory guidance distinguishes between placements that are concurrent and those that are Fostering for Adoption, the distinction is unhelpful in practice, with all Early Permanence placements subject to some uncertainty regarding the possibility of rehabilitation to birth family for the child prior to court authority or formal consent to adoption. Accordingly, the term ‘Early Permanence’ is preferred.

Adopt North East will work in partnership with Local Authorities to place children as early as possible. Adopt North East will do so because early placement has obvious advantages for a child:

- It speeds up the planning for children
- It avoids the damage caused by terminating temporary foster care relationships which children will have experienced as their primary parenting relationship
- It allows the early months and/or years of the child’s life to be what most children need and expect
- the bonding period with their adoptive parents can begin sooner, giving both child and carers the opportunity of forming a close and secure attachment
- Adoptive parents may have had the opportunity to get to know their child’s birth parents at Family Time sessions and will be in a good position to understand their background and struggles. This will be helpful for them and their adopted child in the future when adopters are talking to their child about the reasons their birth family were unable to care for them.

In Early Permanence Placements it has been well said that the emotional uncertainty associated with placement decisions and outcomes of legal processes is held by the adults rather than experienced by the child in placement moves (EP Standard 1(9)).

An Early Permanence Placement involves placing the child during the period of temporary Local Authority care with approved adopters who are also temporarily approved by the child's Local Authority as Foster Carers for the child (under Regulation 25A of the Care Planning, Placement and Case Review (England) Regulations 2010).

Early Permanence Placements can be made at birth or as soon as possible after the child has been brought into Local Authority care.

## **2. Legal Framework for Early Permanence Placements**

In order to ensure that an Early Permanence Placement will be compliant with Article 8 (right to respect for one's private and family life) and Article 6 (right to a fair hearing) of the European Convention on Human Rights (ECHR), there are a number of steps that must be followed by a Local Authority as set out in Statutory Guidance:

### **a) Permanent alternative care of the child must be required**

The first determination that must be made by a Local Authority is that, based on available evidence obtained through assessment, 'it is not consistent with the child's welfare and reasonably practicable for the child to live with his or her parents' and that permanent alternative care is required (Children Act 1989 22C(4)).

### **b) There are no suitable connected persons with whom the child can be placed**

Secondly, the Local Authority must assure itself that there are no suitable family members or connected people with whom the child can be placed who can safeguard the child and meet his or her welfare needs (Children Act 1989 22C(7)).

### **c) If adoption is being considered, the Local Authority must then consider an Early Permanence Placement**

Under Section 22C (9A and 9B) of the Children Act 1989, where the Local Authority are considering adoption for a child, or is satisfied that the child ought to be placed for adoption but this is not yet authorised (either by consent or by Placement Order), then they *must* consider placing the child with a Local Authority Foster Carer who has been approved as a prospective adopter.

Statutory Guidance notes the following reason for requiring consideration of Early Permanence as:

*The advantage of this type of placement is that the child will be placed with foster carers who, subject to a placement order being made, or parental consent, are expected to go on to become the child's adoptive family. Delay in finding a permanent family for young children who have already experienced neglect early on in their lives may have a profoundly damaging effect on their development. This type of placement has potential to reduce this delay and the damage caused significantly. (DfE, 2015, s.3.145)*

- d) Rehabilitation to family must be unlikely and adoption the most likely outcome

The Statutory Guidance, *Early Permanence Placements and Approval of Prospective Adopters as Foster Carers* (2014) sets out threshold for considering an Early Permanence Placement:

*These placements will not be suitable for all children and situations but should be considered in cases where a local authority identifies that adoption is likely to be the most appropriate long-term plan for permanence for the child based on its assessment and available evidence. In these situations, other options are also likely to be under consideration including rehabilitation with family, although this will be thought to be highly unlikely to succeed and adoption is the most likely option.*

- e) The decision to place must be made by a Local Authority Nominated Officer

Agreement to making a s.22C placement must be given by a Nominated Officer who is appointed by the Director of Children's Services. It is expected that that person will be a social worker with a good understanding of care planning, including adoption and fostering. They may, but do not need to be, the Local Authority Agency Decision Maker for Adoption. Where the Local Authority is planning to place the child in an Early Permanence Placement immediately upon discharge from maternity, whilst the Local Authority can prepare the paperwork for the Nominated Officer in advance of the child's birth and initial consideration can be given to this, the agreement cannot be given till after the child is born so that their specific needs have been considered and the views of the birth mother and other relevant parties have been confirmed.

- f) The decision to place can be reversed if another placement is more appropriate

Even when a Local Authority has considered all possible placements known to them with family members and concluded that these placements are unlikely to be able to care for the child prior to placement, it is entirely possible that a suitable family placement might emerge. In this situation, the Local Authority is obliged to assess as it is a continuing duty of a Local Authority to place the child in the most appropriate placement for that child (Section 22C of the Act).

g) The placement may not lead to adoption

The Statutory Guidance clearly states that Early Permanence Placements may not lead to adoption – the child may return home or be moved to another permanence arrangement.

There are four possible reasons for an Early Permanence Placement not to lead to adoption:

- i. where rehabilitation with the birth family is successful;
- ii. where suitable family or friends come forward;
- iii. where the court does not make a placement order; or
- iv. where a relinquishing birth parent changes their mind about placing the child for adoption.

It is of upmost importance that the Local Authority ensure timely viability assessments of people within the family network. They must be carried out with full regard to the needs of the child, and where paternity is unclear or disputed there should be prompt access to paternity testing services (EP Standard 2(2)).

h) Where a Placement Order has been made, the Court and the Agency must consider the relationship formed between the child and the Early Permanence Carers

The fact that a child is placed in an Early Permanence Placement will not influence the court in coming to a decision about whether or not adoption should be the plan for the child – the legal test that ‘nothing else will do’ remains the test for a child subject to Early Permanence. However, where the Court has concluded that a Placement Order is appropriate, the Court and the Agency are required to consider the relationship formed by the child with the Early Permanence Carers (alongside other relevant relationships the child has with their relatives or other persons) as part of their considerations about adoption (see s.9 Children and Social Work Act 2017 amending s.1(f) Adoption and Children Act 2002).

### **3. Referral to Adopt North East for an Early Permanence Placement**

A referral to Adopt North East for an Early Permanence Placement (EPP) should only be made by the child's Social Worker when the decision is taken by a Nominated Officer of the Local Authority that:

- 1) adoption is *likely* to be the most appropriate long-term plan of permanence for the child based on its assessment and available evidence; and
- 2) Even though other permanency options are also likely to be under concurrent consideration, including rehabilitation with family, these options are thought *unlikely* to succeed

It is essential that the Local Authority meet this evidential threshold before making a referral to Adopt North East. This is because upon receipt of referral, the Agency will actively family find, sharing the child's details with potential adopters. Once information is shared, adopters can quickly become emotionally invested in the child and a connection can be formed. This can mean changes of plan – a decision not to pursue an early permanence placement after all – can be difficult for potential adopters. All parties should work openly and transparently to avoid unnecessary problems emerging.

The Local Authority should provide Adopt North East with all relevant assessment and planning documentation available that was used to inform the Local Authority decision that adoption was the most likely outcome for the child.

This information provided to Adopt North East will be shared with adopters to enable them to come to an informed decision about without the benefit of a full Child Permanence Report as to whether they wish to become Early Permanence Carers for the child.

### **4. Recruiting Early Permanence Carers**

All applicant adopters will be provided by the Agency with high quality information regarding Early Permanence Placements.

All applicants will be expected to consider becoming Early Permanence Carers through accessing specific training provided by the Agency.

All applicants will be supported to come to an informed decision about whether or not they wish to be considered for Early Permanence placements. Wherever possible and appropriate, the Agency will work to a positive presumption in favour of applicants becoming Early Permanence Carers.

The Adopt North East Adoption Panel will give clear advice to the Agency as to whether approved adopters should or should not be considered for Early Permanence placements.

### **5. Temporary Approval as Foster Carers of Approved Prospective Adopters**

There are two routes to approving an Early Permanence Carer. Firstly, dual approval. This is where a prospective adopter is approved as suitable to adopt and also approved as a foster carer under the Fostering Services Regulations (2011). The second route – that practiced by Adopt North East – is temporary approval. This is where approved prospective adopters are given temporary approval as Foster Carers under Regulation 25A of the Care Planning, Placement and Case Review (England) Regulations 2010.

Temporary approval is a decision for the Local Authority that has responsibility for the child. The decision should be made by the Agency Decision Maker for the Local Authority Fostering Service.

Regulation 25A requires that the Local Authority Agency Decision Maker must be satisfied that:

- a) the most appropriate placement for the child is with a person who is not approved as a local authority foster parent, but who is an approved prospective adopter, and
- b) it is in the child's best interests to be placed with that specific person/people,

The Legislation notes before approving an approved prospective adopter as a local authority foster parent, the responsible Local Authority must:

- i. assess the suitability of that person to care for C as a foster parent, and
- ii. consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the proposed arrangements will safeguard and promote C's welfare and meet C's current and anticipated future needs (including permanency), based on the information available at that time (EP Standard 4(1)).

The temporary approval by a Local Authority expires when:

- The placement is terminated by the Local Authority;
- The approval as a prospective adopter is terminated;
- The prospective adopter is approved as a Foster Carer;
- The prospective adopter gives 28 days' written notice that they no longer wish to be temporarily approved as a foster parent in relation to the child; or
- The child is placed for adoption with the prospective adopter in accordance with the Adoption and Children Act 2002.

## **6. The role and responsibilities of Temporarily Approved Foster Carers**

The expectations about the role and responsibility of the adopters temporarily approved as Foster Carers for a child will need to be clearly understood by all parties.

The specific arrangements will vary on a case-by-case basis. However, particular thought must be given to:

- i. The management of information relating to the adopters' contact details – unless there are wholly exceptional circumstances, adopters' contact details must remain confidential
- ii. The arrangements in relation to Family Time between the child and birth family
- iii. The arrangements in regard to Children in Care / Looked After Children Review Meetings

An average Early Permanence Placement is about 8 months.

## **7. The support provided to Temporarily Approved Foster Carers**

All Early Permanence Carers will be paid an age-based fostering allowance for the duration of the fostering phase of a child's care. The carers will be paid by the Local Authority for the child and the amount of the allowance will be determined by the Fostering Service of the Local Authority. The fostering allowance will cease when a child is placed formally for adoption following a matching decision as their temporary approval automatically expires once the child is placed for adoption (DfE, 2015, 3.176).

The Local Authority Fostering Service should support the temporarily approved foster carers to meet the requirements of the Fostering role. This includes the appointment of a Fostering Social Worker. The Carers will also continue to be supported by Adopt North East throughout their adoption journey.



## **8. Support offered when the child is Re-unified to a Birth Parent or Family Member**

Both research and local practice evidence that reunification of a child from an Early Permanence Placement to the care of a birth parent or family member is rare. However, where it is in the best interests of the child to do so, the Adopt North East partnership will fully support the move, working sensitively with Early Permanence Carers to do so.

The emotional impact on Early Permanence Carers of supporting a child through the reunification process to a birth parent or family member can be significant. This is made clear to prospective Early Permanence Carers during training.

In the event, that a child is moved from an Early Permanence Placement as part of a reunification plan, for Adopt North East approved adopters, the agency will:

- a) Provide an initial offer of six sessions of funded Counselling with a suitably qualified Counsellor who is independent of any care planning for the child
- b) Ensure on-going support from their allocated Social Worker, including regular Keeping in Touch contact and visits for at least three months, including updates in relation to the child (subject to the general requirements of GDPR)
- c) The opportunity to 'buddy' with other adopters, where possible with those who have also experienced reunification
- d) Provide a written letter from the Head of Service acknowledging the reunification and honoring the care and support given to the child and the commitment of the Carers
- e) Ensure relevant staff are supported through the provision of a facilitated reflective discussion about the child's journey and reunification

This support is provided in accordance with EP National Standard 7.

## **9. Early Permanence Placements becoming Adoption Placements**

The Early Permanence Placement will only become an adoption placement when;

- A final Care Plan for adoption is approved by the court;
- A Placement Order is made; and



- The Local Authority Agency Decision Maker approves the match between the temporarily approved foster carers and the child in their capacity as prospective adopters following the recommendation of Panel.

## **10. Information sharing about Early Permanence with birth family members**

To ensure effective and meaningful care planning for children, it is imperative that information about Early Permanence is provided to the child's parents and family members in a at the earliest opportunity. Information must be given in a clear, timely and accessible format tailored to individual family needs (EP National Standard 2(5 and 6) & EP National Standard 5(3)). Adopt North East has developed information leaflets and web-hosted content to support this.

The information includes the different outcomes for the child as part of twin tracking (a return to family or adoption) and the primacy of the final court decision.

It is the responsibility of the Local Authority Social Worker to notify and work with a child's parents and family members, unless it is a relinquishment. Where a parent seeks relinquishment of their child, an Adopt North East allocated Social Worker will work alongside the Local Authority Social Worker and will take the lead in offering Birth Parent Counselling.

Where Early Permanence is considered for an unborn child, Pre-Birth Care Plans must set out clearly the support that will be provided to parents, and by consent, wider family members.

## **11. Managing Information Governance Risks in Early Permanence Placements**

There is longstanding and robust practice across the partnership in managing what information is disclosed to birth family members in relation to adoption placements. It is widely understood that inadvertent disclosure of adoption placement information could lead to birth family members seeking out children permanently removed from their care, with obvious safeguarding implications.

It is important that all practitioners involved with Early Permanence Placements are equally as vigilant and careful with the management of placement information as they are with adoption placements. It is worth emphasising that an Early Permanence Placement involves the placement of a child in care into the home of approved adopters. Should the child subsequently be made subject to a Placement Order, the placement is likely to become the child's forever home.

In deciding whether or not information about the placement can and should be shared, the following principles should be noted:

- The names of Early Permanence Carers, biographical information such as their employment, age, and details home address, are 'personal information' and EP Carers have a right to the confidentiality of their personal information, unless they consent to such information being shared or there is a justifiable reason for doing so
- There is no legal requirement that personal information about the EP Carers must be given to birth family members
- There is no legal requirement that informed consent of a birth parent to accommodate their child under s.20 Children Act 1989 in an Early Permanence Placement requires the disclosure of personal information of the EP Carers
- At the linking and matching stage of an Early Permanence Placement, risk management of information must be discussed and agreed – there are two key questions to be addressed:
  - What information do the EP Carers consent to being shared?
  - What information about the EP Carers do the practitioners judge should be shared?
- Social Work practitioners will need to ensure that wider Care Teams and other professionals involved with the child and placement are made aware of the risks of information disclosure – many professionals may not be aware of what an Early Permanence Placement is
- Any information governance breaches must be promptly reported and mitigated

## **12. National Early Permanence Practice Standards**

This Guidance has been written and reviewed to ensure compliance with the National Practice Standards for Early Permanence, in particular Standard 2.1 – that Local Authorities and their Regional Adoption Agency have clear pathways for early permanence and that these are communicated effectively throughout the LA and all relevant agencies.

### **[Early Permanence National Standards](#)**

## **13. Resources**

**<https://adoptionengland.co.uk/professionals/early-permanence>**