



Supporting Birth Parents through the Adoption process

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**As part of the adoption process,
the adoption agency must provide a
counselling service for parents...**



1) What is adoption?

Adoption is the legal process by which a child becomes a permanent and full member of a new family.

Once an adoption order is made it cannot be revoked.

You would lose parental responsibility for your child(ren).

If your child is made the subject of an adoption order, they will become part of the adoptive family and will no longer be legally related to you or anyone else in your family. However, if it is considered by the courts to be in your child's best interests, it is still possible for you to receive some information about how they are doing after the adoption order is made, and in some cases there can even be some contact arrangements between you and your child(ren).

Whether you agree to your child being adopted or not, it can be very painful to come to terms with the idea that your child(ren) is, or may be, adopted, and you may need some support.

As part of the adoption process, the adoption agency must provide a counselling service for parents, so you can ask for this. There are also other organisations you may be able to approach for independent support – (see “Where can parents get further help?” at the end of the booklet).

2) When can a child be adopted?

A child may be adopted either because:

- The parents ask the local authority to arrange for the child to be adopted with their agreement and the court later confirms this plan.
- The local authority decides that there are family difficulties, which prevent the parents from properly caring for the child so they ask the court for permission to place the child for adoption.

In either situation a child can only be adopted if the court makes an adoption order, following criteria set out in the Adoption and Children Act 2002 (ACA). Whenever a court or adoption agency is coming to a decision relating to the adoption of a child, the paramount consideration must be the child's welfare throughout their life.

The plan for your child to be adopted may be something which you have asked the local authority to arrange, or it may be a plan which the local authority puts forward as a result of concerns about your ability to look after your child.

3) Who is considered to be a parent in the adoption process?

In the adoption process, the term “parent” only refers to parents who have parental responsibility. This includes:

- All mothers since they have parental responsibility from birth and only lose it if their child is adopted;
- Fathers who:
 - Are or have been married to the mother at any time since the child’s birth
 - Have signed a formal agreement with the mother giving them parental responsibility which has been registered with the Principal Registry in London
 - Have been granted a parental responsibility order or residence order by the court.
 - Are registered as the father of the child on the birth certificate after 1st December 2003.

If you are a father of a child who may be adopted, your rights will be restricted if you do not have parental responsibility for your child. It is, therefore, important that you contact a solicitor straight away.

If you are the mother of a child who may be adopted, your child has the right to know the details of their birth father. It is important you give the adoption agency his name and contact details if he isn’t living with you, so that he is informed of his rights and offered counselling and support.



4) What steps must be taken to place a child for adoption?

If the local authority/adoption agency is considering placing your child for adoption, they need to comply with key steps:

a) Consideration of other possible placements for the child in the family network

When an adoption agency makes any decision about the adoption of a child they must consider a list of factors.

These include:

- The relationship the child has with you and other members of your family and benefit to your child of these relationships continuing.
- The possibility of anyone else in your child's family being able to provide a safe and caring home, if the you are unable to care, or prevented from doing so by the courts.
- The wishes of yourself and your family about your child's future care.

If you think anyone in your family is a willing suitable carer for your child(ren), you should discuss with the local authority as soon as possible. This will enable them to consider any placements within the family before looking for carers/adopters.

b) Counselling information and support

The adoption agency is required to provide a counselling and information service about the legal procedures and implications of adoption for parents whose children are placed for adoption. This should be available to parents and brothers and sisters of children who are being adopted.

Parents should have access to a support worker who is independent of the child's social worker from the moment adoption is identified as the plan.

Parents also have a right to be assessed about their need for certain adoption support services.

c) Finding out parents' views about the possibility of their child being adopted

The adoption agency must find out parents' wishes and feelings about:

- The possibility of a placement for adoption
- The child's religion and culture
- Contact arrangements between parents and other members of the family with the child if she/he is placed for adoption or is adopted

They must also find out the views of wider family and anyone else they consider relevant about where and with whom the child will live (known as the placement) and any contact arrangements after the placement is made.

The adoption agency should also ask about how the child should be brought up in terms of religion and culture should they go to live with adopters.

If you are the father of the child but do not have parental responsibility, the local authority should still find out your views. They should also ask you if you intend to apply for parental responsibility and/or a residence or contact order for your child. If you wish to do this you must seek legal advice urgently.



d) Should be placed for adoption

Before the local authority can decide to place a child for adoption they must refer to the Agency Decision Maker for a 'should be placed for adoption' decision. This decision is not about the placement of a child for adoption, but whether adoption should be the plan pursued. Its function is to consider all information provided about a particular child and make recommendations to the adoption agency/local authority about:

- Whether the child should be placed for adoption
- Whether other options have been considered, including placement with a family member
- Whether the adoption agency should make an application to the court for a Placement Order

The adoption agency then considers these recommendations before making any decision to pursue a plan for adoption.

This 'should be placed for adoption' recommendation cannot make any decisions about the plan for a child to be adopted, but it can make recommendations, which must be considered by the adoption agency in making its decision.

When making recommendations about whether your child(ren) should be placed for adoption, information and reports provided by the adoption agency about a child and the family will be considered along with a child's best interests throughout their life, including existing and possible future family relationships.

When the recommendation has been that a child should be placed for adoption, consideration will be given to:

- Any proposed contact arrangements (this might include face-to-face, phone, email and letter box contact with parents or other relevant family members)

A child's social worker must provide a report in order for this decision to be made. They must include birth family's wishes and feelings. *It is important you talk to this social worker about your wishes and feelings. You may wish to put what you want to say in writing to the social worker. You could set out your views about what contact arrangements would be beneficial for your child, giving reasons from your child's perspective, so that the decision-making process can consider this.*

e) The adoption agency decision about an Adoption Plan

Once a 'should be placed for adoption' recommendation is made, the adoption agency must decide whether to pursue a plan for the adoption of the child. When making this decision they must take account of the ADM's recommendations and any advice given.

f) Obtaining authority to place a child for adoption

Even if the adoption agency has made a decision to pursue a plan for your child to be adopted, they cannot act on that plan unless either you have given formal consent to the proposed placement

in writing or they have been granted a placement order by the court. You would automatically be involved in those proceedings if you were a parent with parental responsibility for your child.

However, if you are a father who does not yet have parental responsibility the placement could go ahead without you being involved so it is really important that you take legal advice immediately about obtaining parental responsibility.

5) Parental consent to placement for adoption

Consent to placement for adoption can only be given by a parent who has parental responsibility for the child. Consent means consent that has been given unconditionally and with full understanding of what is involved.

This consent is only valid if it has been witnessed by a CAFCASS Officer, (children and family court advisory and support service) who meets with parents to witness their written consent.

Once such consent is given there are only limited circumstances in which a parent can:

- Withdraw their consent and remove the child from an adoptive placement.
- Oppose the making of an adoption order at a later date.

i) Placement order authorising placement for adoption

A placement order authorises the adoption agency to place a child with any prospective adopters even if parents do not agree.

A placement order can only be made where the court is satisfied that either:

- (a) The child is subject to a care order or the threshold criteria in Section 31 Children Act 1989 have been proved for example, :
 - The child is suffering or is likely to suffer significant harm
 - This harm is due to the care being given to the child not being “what it would be reasonable to expect a parent to give him/her” or because she/he is out of the parents control
- (b) The child has no parent or guardian and either :
 - Each parent with parental responsibility for the child has consented to the child being placed for adoption with any prospective adopters and has not withdrawn that consent or
 - The consent of each parent should be dispensed with

6) Dispensing of parental consent

Takes place if the following is the case:

- She/he cannot be found
- She/he is incapable of giving consent
- The child’s welfare requires the consent to be dispensed with.

A placement order gives the local authority permission to place your child for adoption even if you do not agree. Before making the order, the court will also have considered whether you or anyone else in your family can see or remain in touch with your child whilst she/he is placed with adopters.

The placement order stage is the time when decisions are made about whether or not your child is likely to be adopted. You may still be able to raise arguments

against the adoption at a later stage, but once a placement order is granted it is likely to result in your child being adopted. It is essential that you find a solicitor to represent you in the proceedings as soon as possible.

If you feel you would like to be given a chance to raise your child, or if you cannot care for him/her but would like to remain in contact with him/her, you need to discuss with your solicitor. However, if you have been involved in care proceedings

it may be that your solicitor advises you that you do not have a realistic chance of having your child home again. If this is the case, it is really important that anyone else in your family, who might be able to provide a safe and caring home for your child, comes forward and participates in the proceedings, because this is effectively the last chance for your family to be considered as carers for your child. If they want to seek independent advice for themselves they can contact a solicitor of their own.



7) Matching a child with prospective adopters

Once you have given formal written consent to the placement or the court has made a placement order, the adoption agency must if it has not already done so, find suitable prospective adopters for the child. However it cannot make a final decision about the placement unless advice has been sought on whether these proposed carers will meet a child's needs. This is often called 'approving the match'.

Once your child has been placed with adopters you have very limited parental responsibility powers i.e. you will probably not know where your child(ren) is living.

An adoption order can only be made by the court if this is in the child's best interests.

Children are not automatically involved in the proceedings themselves. This means that there will not necessarily be a guardian appointed to represent them. However they can become involved in certain circumstances.

8) What are the grounds for making an adoption order?

Parental Consent

The court can only make an adoption order if the parents who have parental responsibility consent to adoption or the court are satisfied their consent should be dispensed with. In most cases, this issue will have been dealt with before placement. This means that a parent:

- Has formally consented to a placement for adoption
- Has given advance consent to adoption

- The child is subject to a placement order, to oppose the making of an adoption order parents need the court's permission or leave.

The court may only give a parent leave to oppose the making of an adoption order where it is satisfied that there has been a significant change of circumstances since parents gave consent or their consent was dispensed with by the court. This might arise where a father has acquired parental responsibility after the child was placed for adoption.

Child's welfare is paramount consideration:

When deciding whether to make an adoption order the court must consider the child's welfare. In particular the court needs to be satisfied that adoption is better for the child than any other legal order such as a special guardianship or residence order to a family member/carer or friend (see below).

Contact

The court must also consider any contact arrangements before making an Adoption Order but this is not the same as a presuming contact should take place – this will depend on the child's welfare.

9) What happens if the parents want to oppose the Adoption Order?

If you have parental responsibility, you will be notified of the hearing date. However, in most cases, it will be difficult for you to oppose the adoption at this stage because the issue of your consent, or lack of consent, which will have been dealt with before the placement order is made.

If you want to oppose the adoption, it is really important that you take urgent legal advice about:

- ***Whether you can apply for leave to oppose the making of the adoption order***
- ***Whether you may want to make representations to the court about any other possible order such as special guardianship and/or contact arrangements***

10) What is the effect of an adoption order?

An adoption order creates a legal relationship between a child and their adoptive parents and ends all legal ties between an adopted child, and birth parent. ***This means you will no longer have parental responsibility for your child. The adopted child will usually keep their first name and take their adoptive family's surname.***

11) Can contact take place after a child is placed for adoption or adopted?

Throughout the adoption there is:

- A duty on the adoption agency and the court to consider contact arrangements before making any decision relating to the adoption of a child
- A power on the court to make a contact order both at the placement order and/or adoption order stage.

But this is not the same as presuming contact should take place – this will depend on the child's welfare.

It is possible for some form of contact to continue with you and/or your family even when your child is placed for adoption or adopted, if this is in their best interests. Therefore, if you or other members of the birth family want contact with your child, it is very important that you discuss this with the adoption agency and your solicitor when adoption is first raised as a possibility. Your solicitor can help you to write both to the adoption panel and to the adoption agency setting out why you think continued contact with your child, will benefit him/her in the long-term, whether it is seeing him/her in person or remaining in touch by phone, email or letter.

If contact arrangements cannot be agreed with the adoption agency then you need to take urgent advice from your solicitor about how to apply to court for a contact order.

12) What other orders could the court make instead of an adoption order?

Special guardianship is a court order which secures a child's home with someone who is not their parent until they are 18, but the child remains part of your family and continues to be legally related to you. This order gives the special guardian parental responsibility so they are able to make almost all decisions about your child, without asking you.

A special guardianship order can be revoked but parents can only apply to revoke it if the court gives them permission to do so, this will only be given where there has been a significant change of circumstances since the original order was made.

It is possible for the court to make a Child Arrangement Order instead of an Adoption Order although this would be very unusual. ***You may want to seek independent legal advice about this form a solicitor specialising in childcare law, in case you want to raise this in any Court Proceedings***

13) Use of social media when your child is placed for adoption

It is important that you as birth parents are aware of the issues of confidentiality when your child is in care and subject to a care or placement order if using social media.

In law, **Confidentiality relates to the duty to maintain confidence and respect privacy**

If using social media, such as Facebook, the posting of photographs of your child who is being placed for adoption is not appropriate. This can lead to poor outcomes for the child within their adoption placement as this can make the placement vulnerable to disruption. This does not increase the likelihood of your child being returned to your care and could jeopardise any contact you may be having.

Additionally the posting of confidential information relating to the adoption of your child on social media sites including the details of the social worker and courts, is not appropriate and may again lead to cessation of contact with your child or placement disruption.

We know there are lots of difficult issues wrapped up with adoption; there are lots of personal and emotional issues, however the publication of information relating to court proceedings is a contempt of court. Social media sites, such as Facebook, could pose a serious threat to the placement of your child which will not result in the return of the child to your care but instead seriously jeopardise their future.

14) Are birth parents entitled to support services?

You have a right to receive independent counselling and you should have access to independent support from the outset of the adoption process. You can ask at any time to be assessed for support services that you may need for example in relation to contact arrangements etc.

If you want support you should speak to the adoption agency about this or you can access it through any of the independent adoption support agencies mentioned at the end of this guide.

You can ask your child's social worker to make a referral for support services or you can do so yourself you can contact:

**Post Adoption Support Team
County Hall
Pitt Street
Preston PR1 0LD**

**Or contact Customer Care Centre on
0300 123 6720**

The Post Adoption Support Service will also be able to signpost you to other agencies and organisations who offer independent counselling and support. Depending on your circumstances you may be referred to other organisations by the Post Adoption Support Service.

Other useful links:

Adoption UK

BAAF (British Association for Adoption and Fostering) Northern Ireland

Adopt NI website (external link)

Adoption - Contacts (DHSSPS website) (external link)

15) Where do parents get further help?

Legal Advice

Contact a solicitor on the Law Society's Children Panel who has experience in representing parents in adoption cases. Ask your local Citizens Advice Bureau to recommend one or contact the Law Society's information line on 0870 606 6575 or search www.solicitors-online.com you may be entitled to free legal advice, even if you are working, depending on your financial circumstances.

Citizens Advice is an independent organisation providing free, confidential and impartial advice on all subjects to anyone. The address and telephone number of your local CAB can be found in the telephone directory. There is also advice online on their website. They may be able to help you find a local solicitor. www.citizensadvice.org.uk

Independent Agencies

There are a number of national organisations who offer support to birth families. These

include: the Post Adoption Centre, which supports birth relatives. They offer counselling, advice and information via the Advice line on 0870 777 2197. The number is available on Mondays, Tuesdays, Wednesdays and Fridays between 10.00am – 1.00pm and Thursday evening from 5.30pm to 7.30pm. They also offer individual counselling and birth parent support groups.

Please note that the Post Adoption Centre may charge for the services they provide. Their contact address is 5 Torriano Mews, Torriano Avenue, London NW5 2RZ. Telephone number: 02072 840555

After Adoption

They provide counselling and support to birth parents. Their advice line number is 0800 0568578. Please note that After Adoption may charge for the services that they provide.



16) Frequently Asked Questions

I'm not sure I want my child to be adopted – what shall I do?

If you are unhappy about the idea of your child being adopted, it is important you seek legal advice about your options as soon as possible. Your local Citizens Advice Bureau may know the names of solicitors who specialise in childcare cases or you can find one through the Community Legal Services Directory by telephoning 0845 608 1122. You may be able to get free legal advice and representation in court (this used to be called Legal Aid). A solicitor will be able to advise you about this.

My child is going to be adopted – what does that mean?

This means your child is going to live with a new permanent family. The new carers will

become the child's legal parent/s as soon as a court makes an adoption order. Once an adoption order is made, you will have no legal ties with your child.

Will I be able to choose the family my child is placed with?

You can say what sort of family you would like your child to be placed with. For example, you can ask that your child be placed with a family where there are other children so that they have brothers and sisters. You can also ask that your child is brought up in a certain religion or culture. The best interests of the child are always put first, but your wishes will be taken into account.

What rights do I have as a birth parent afterwards?

Once an adoption order has been made, birth parents have no legal rights to the child and cannot claim the child back.



What happens if I don't agree to my child being placed for adoption?

If you don't agree to your child being placed for adoption but the adoption agency has decided that adoption is the right plan for your child, they can apply to the court for a placement order. This order would give them permission to place your child for adoption even if you didn't agree.

Will there be any publicity about my case?

Maybe. The basic rule is that a judgment in a family court case involving children cannot be published unless the hearing was held in public or the judge has given permission. However the rules have recently changed so that when a case is heard by a circuit judge or a High court judge, certain judgments (for example in care proceedings) must be published 'unless there are compelling reasons' why they shouldn't be. This is decided on a case by case basis. You, your child and your family should not be identified but any professionals in your case would normally be named.

Will my child be able to find me after adoption?

From the age of 18 onwards your child, like any other adopted adult, has the right to have a copy of their original birth certificate if they choose to do so. This will show their original name, the name of their birth mother and possibly the name of their birth father, as well as the address where they were living when their birth was registered. There is an Adoption Contact Register, which helps to put adopted people and their birth family in contact with each other if this is what they both want. You can record your name and a contact address on this register, if your adopted adult child chooses to trace you, they can get information about you from the register. It is up to your child to decide whether or not to contact you.

17) Key words in the adoption process

Adoption Agency

The term adoption agency means the local authority children's services or a voluntary adoption agency, which is authorised to undertake adoption work. Where a child is looked after in the care system, it will usually be the local authority, in its role as adoption agency, that deals with the adoption plan although a voluntary agency may also be involved, for example if it looks after the approved proposed adopters.

Placement Order

A placement order is a court order that gives the adoption agency permission to place a child with prospective adopters even if the parents do not agree.

Principal Registry

The Principal Registry of the Family Division is the main family court in London. All parental responsibility agreements between parents must be sent to this court and returned to the parents before the father is treated as having parental responsibility. Details of how to do this are on the application form which is available from a county court or online at www.hmcourts-service.gov.uk

