

What is stepparent adoption?

Introduction

A stepparent can apply for an adoption order for a child they live with and wish to adopt if they meet the criteria for this. An adoption order is permanent and cannot be revoked. A new birth certificate is issued and all legal ties with the non-resident parent and their family are severed.

Decisions like this can be difficult for all those involved, particularly the child who may feel cut off from a part of their birth history or feel that they are losing connection with an important part of their former life.

Common reasons for considering stepparent adoption

Adopting a stepchild is commonly considered as a way of showing commitment to a family unit and a relationship and for a non-birth parent to feel more involved in supporting a child and being able to make important decisions for the child.

Other reasons include –

- Name change
- Consent to medical treatment
- recognition of stepparent role in a child's life
- severing ties with birth family
- inheritance
- security of family unit
- child's sense of belonging
- parental responsibility

What is in the best interest of the child?

The Children Act recognises that in most cases it is in the child's best interest for families to come to informal arrangements without resorting to a court order. Usually, family courts wish to encourage children to maintain links with their birth relatives, where possible. This is important for a child's sense of identity as they are growing up.

In most cases, a permanent legal decision may not be in the best interest of the child. There is no automatic right to adopt and it is not appropriate for many children who live in stepfamilies to be adopted by a stepparent.

What is Parental Responsibility? (See sections 3 and 4 Children Act 1989)

Parental responsibility means all the rights, duties, powers, responsibilities, and authority, which by law a parent of a child has in relation to the child and his property.

The birth mother of a child will always have parental responsibility unless it is extinguished by the making of an adoption order to another person.

Where the child's father and mother are married to each other at the time of the birth, they both have parental responsibility for the child.

Where the child's mother and father are not married to each other at the time of the birth the general rule is that the mother has sole parental responsibility for the child. However, an unmarried father will have parental responsibility for a child born after 1st December 2003 if he is named on the birth certificate.

Other ways in which a birth father can obtain parental responsibility are by:

- a) Drawing up an agreement with the mother (a parental responsibility Agreement), which is a specific form that has to be signed by both parents.
- b) Marrying the mother.
- c) The court making a child arrangement order for parental responsibility if the parents cannot agree on the father having parental responsibility.
- d) Other people may acquire parental responsibility by entering into an agreement if they are the husband or civil partner of the mother, or if they obtain a child arrangement order for residence.

More than one person can have parental responsibility for the same child at the same time. Parental responsibility is shared between everyone, but where more than one person has parental responsibility for a child each of them may act alone in meeting that responsibility except in circumstances where the consent of everyone with parental responsibility is required.

Ways of securing a child's place in your family

Change a surname by deed poll

A simple alternative to stepparent adoption is to change a child's surname by deed poll, if all of those with parental responsibility are in agreement. More information can be found at <http://www.deedpoll.org.uk/CanIChangeMyChildsName.html> or <https://www.gov.uk/change-name-deed-poll/change-a-childs-name>

Parental Responsibility Agreement

A stepparent, who is married to or has entered a civil-partnership with the parent of a child, may acquire parental responsibility for the child – sometimes without the need for a court order.

A Parental Responsibility Agreement is a simple agreement made between the birth parents and the stepparent to allow them to have joint Parental Responsibility. Both parents will have to agree to this. This agreement must be filed to make it legally binding: if it is simply signed and not filed then the agreement is not legally binding.

You can find the agreement and guidelines how to complete it at <https://www.gov.uk/government/publications/form-cpra1-parental-responsibility->

Once you have completed the agreement form (do not sign it) please contact the Family and Civil Service helpline on 0300 123 5577 to book an appointment with your local family court who will arrange for you to attend the court and have someone witness the signing of the form.

Parental Responsibility Order

A local authority can apply to the court for a Parental Responsibility Order. This means the stepparent will have complete parental responsibility for the child. The Child's birth parents have greatly diminished parental responsibility but retain the right to oppose their child being adopted or freed for adoption. This is initiated by you hiring a solicitor.

Child Arrangement Order (See section 8 Children Act 1989)

These orders decide who the child is to live with and/or who the child will spend time with and can be granted to more than one person whether they live together or not. If a child arrangement order states that the child will live with a person, that person will have parental responsibility for that child until the order ceases. Contact with a child can either be direct e.g., face to face meetings, or indirect e.g., by letter or exchange of cards.

Some orders will make very specific arrangements for the child; other orders will be more open with detailed arrangements to be made between the parties by agreement. Child arrangement orders are not only made in respect of parents; there can also be orders for arrangements between siblings, and wider family members. Sometimes the order will give directions that contact is to be supervised by a third person, or that contact is to take place in a specific location.

Failure to comply with an order may result in the court making further orders specifying activities for a party to undertake or the court making other enforcement orders which can include an order for unpaid work.

Adoption Order

Adoption offers the child a legally permanent relationship with the adoptive parent, which they will have for all of their life. It means the child's resident parent and their partner will share full responsibility for the child.

An adoption order grants complete parental responsibility to the child's adoptive parent(s) – it confirms who has the legal right to make decisions about the child and their future and removes it from all other, including the child's birth parent(s) and the local authority. This is initiated by contacting your local adoption agency: and you may also be required to hire a solicitor depending on your circumstances.

Adopting your partner's child/children and becoming their legal parent is called a Stepparent Adoption.

The Assessment Process for an Adoption Order

If you decide to apply for a Stepparent Adoption Order and you live in Hertfordshire the Hertfordshire County Council Adoption Agency will need to investigate the full circumstances of the family and prepare a report to the court of their findings. This enables the courts to make their decision, based on the best interests of the child.

To make this decision, the courts require a detailed report about each person within the family, and how individuals relate to one another. The report is undertaken as an assessment by a qualified and experienced social worker.

- **Your child's birth history**

If you have not yet told your child about their birth history, we can offer some ideas to help you. This needs to happen before embarking on any process. It is important that your child has a record of their early life, including photographs, documents, mementoes, and details of significant people in their life.

- **Relationships**

The court will require evidence regarding your family relationship, looking in particular at stability and permanence in relationships. This information is required whether you are married, in a civil partnership or are living together as partners in an enduring relationship.

- **Interviewing birth parents**

We have a legal duty to interview both birth parents, and anyone else who may have parental responsibility for the child and find out how they feel about the adoption application. You will need to clarify in advance of any process whether they agree with your application as the court will require written consent of all persons with parental responsibility for the child. You are responsible for supplying information on the grounds for dispensing with consent in cases where consent to adoption is not available. If you don't have the agreement of everyone who has parental responsibility, you may wish to obtain legal advice from a solicitor experienced in adoption matters.

If the absent birth parent does not want the adoption to go ahead, the court will do what is in the best interest of the child and may (or may not) ignore the absent parent's consent. They may also consider the question of whether contact should take place between the child and the absent parent.

Even if the absent birth parent does not have parental responsibility they will need to be contacted as they have rights being a birth parent of a child. Information about their life, family, health, education and employment are all important to record as well as their wishes and feelings about the proposed adoption. If the parent has not maintained contact with the family, the court will want to know that all possible efforts have been made to find the absent parent.

If the birth parent is deceased the court will require a copy of the death certificate, and the social worker will want to interview extended members of the deceased's birth parents' family to find out how they feel.

- **Interviewing extended family**

The social worker will also need to see the child's brothers and sisters and may wish to see other members of the family. You will need to think about important people in the child's life, for examples: aunts, uncles and grandparents who might be affected if an Adoption Order is made.

- **Checks and References**

You will be asked to supply the names and address of three referees, people who know you well personally, who are happy to talk to a social worker if they are asked. A number of other checks and references will be obtained alongside the assessment – including DBS checks for yourself and your partner (the birth parent), previous addresses via the relevant local authority, employer references, and school references for the child/children. You may be required to complete a medical assessment which you will be required to pay for.

- **Contact arrangements**

The social worker will ask you about any contact arrangements you have for the child and different members of your family, the other birth parents' family, extended family and people who have a significant relationship with the child/children. If you have challenges or issues around contact, you may find it helpful to talk to your social worker about these.

- **Nationality and Immigration Issues**

If the applicant or the resident birth parent is British, and adoption order will have the effect of conferring British citizenship on the child if they are not already a British citizen. In cases where there may be issues around immigration status or nationality, the Secretary of State will be informed, and in this case the Home Office may wish to become party to the proceedings.

The written report

The written report that the social worker completes will therefore include information about the child/children who is the subject of the application, the child's family, what child and other members of the family want to happen – their wishes and feelings. It will also contain information about the prospective adoptive parent including information obtained from checks and references.

The report will include information about the local authority compiling the report, and recommendations that consider the implications of making an Adoption Order, the merits of adoption against other potential Orders that could be made and will state a recommendation regarding Adoption and contact arrangements for the child.

Once completed the report is submitted to the court.

Frequently Asked Questions about Stepparent Adoption

Who can apply to adopt a stepchild?

You can apply to be an adoptive parent either individually or jointly with someone else. You do not have to be married. You can apply to the court for stepparent adoption if all of the following criteria are met:

- You are over 21 years of age
- You reside in the British Isles or have been habitually resident in the UK for at least a year
- You are married to the resident birth parent, or are living with the resident birth parent in an enduring family relationship (we recommend for a minimum of 2 years)
- You have been living with the child for at least 6 months
- You have notified your local authority in writing of your intention to apply to court for an Adoption Order at least 3 months before submitting an application to court
- The child is under 18 years of age at the time of the application to the court (although the court can make an order up to the day before the person's 19th birthday)

How to apply to adopt a stepchild?

- You must have notified your local authority adoption agency in writing of your intention to apply to court for an Adoption Order at least 3 months before submitting an application to court
- You must make an application to the court for an adoption hearing

Do I need a solicitor?

Our recommendation is that you seek legal advice to decide on your next steps.

What court do I go to?

You can apply to any court entitled to hear adoption applications.

How long will it take?

Your first step must be to notify the local authority of your intention to apply for an adoption order. This notice is valid for 2 years during which time you must either lodge your application in court or notify in writing to the local authority that you wish to withdraw your original notification of intent. Please note the notice of intention to apply for an adoption order will not be accepted if you are not eligible to apply.

The local authority, education, police and Department of Health checks can take up to 3 months to complete. You must wait until these have been done before lodging your application to the court. The court asks the local authority for its report when it receives your application. This report will not normally be started until all the checks are complete. It takes up to 3 months, or longer if the case is complex for checks to be completed.

There can sometimes be a wait until a social worker has space to take your case on. When the court receives the local authority report, it then appoints its own social worker. Their role is to verify and witness consent to adoption in straightforward cases, or to make more extensive enquiries in more complex cases. There can sometimes be a wait before this social worker has space to take on your case. The court may have a busy schedule of cases and may be unable to list your case for a hearing for a number of weeks. You should therefore anticipate a timescale of around 6 months to a year or longer in certain circumstances.

Is there anything I must do?

The local authority social worker will advise you of this as the enquiries progress. It is important to remember, however, that their role is confined to welfare supervision of the child/children prior to the application being lodged, and production of the report for the court.

This is your adoption application and only you can decide whether you wish to proceed. For example, it is your responsibility to trace the whereabouts of the absent parent. Similarly, you are responsible for supplying information on the grounds for dispensing with consent in cases where consent to adoption is not available.

What happens after court?

If an adoption order is granted the child will be issued with a new birth certificate listing the name of the resident parent and the adoptive parent. The child can apply for a copy of their original birth certificate when he/she reaches 18 years of age and can apply to access their adoption records through the local authority where they live.

What will you ask me?

We are obliged to make enquiries about your health, the child/children's health, welfare and education and about any criminal offences committed by you, your spouse and any other member of the household over the aged of 18. It is important to remember that for the purpose of these enquiries, there is no such thing as a "spent" offence. You should also be aware that we will know about cautions as well as convictions, and that certain offences will prevent you from adopting. We must tell the court about offences and comment on the circumstances. This will mean interviewing the offender. We try to do this discreetly, and neither of you are entitled to see the report that is presented to the court.

You should however be aware that if you have not told your spouse about offences committed before you met, there is a risk that they could find out as a result of your adoption application. Transparency is important for the assessment and the Court

process. We will need to see you together, separately, and with the child/children to tell the court about your background, your relationship and your care of the child/children.

Who else is involved?

We will need to interview the absent parent to ascertain their views on the proposed adoption. We will also need to interview anyone else who holds parental responsibility, as they will be required to give consent to the adoption. If you were not married to the child/children's father/mother, their consent to the adoption is not required; however, the court will expect us to comment on their views.

What documents do I need?

The social worker will need to see your marriage certificate and divorce certificate where appropriate, and the birth certificate of each child who is subject of the adoption application. You will later need to attach these documents to the adoption application form you will obtain from the court clerk. The court clerks can give assistance with the completion of the form.

For the police checks, the social worker will need to see proof of identity and verification of address such as a passport or photo driving license, birth certificate, P45 or P60, bank statement, mortgage statement or benefit statement, council tax bill, utility bill, tax office letter or credit card statement.

What will it cost me?

The local authority does not make any charge. There are costs which you need to fund:

- Court fee for lodging the adoption application (the court will advise you on the costs)
- Solicitor's fees (if applicable – it is unusual for legal aid to be granted in such cases)
- Charge for a medical

Charge for the issue of an adoption certificate

Factors to consider

- The child/children's wishes and feelings and your partner's/ex-partner's views will be sought.
- The implications of ending the legal relationship between the child and one of their parents

What to do next?

Once you and your family have discussed this information; please contact the Adoption Recruitment team for advice and to discuss your family circumstances using the contact details below.

Useful Books and Websites about stepparent adoption

- We recommend purchasing a copy of ‘Stepfamily Adoption, what it is and what it means – A guide for children and young people’ This guide is also useful for adults - CoramBaaf
- Stepchildren and adoption – CoramBAAF
Contains useful information for birth parents and stepparents on stepfamilies, the advantages or not of adoption, the alternatives to adoption and obtaining further advice
- Joining Together – Jo’s Story – Sheila Byrne (BAAF, 1999)
Part of the “My Story” series, this one is about a stepparent adoption
- Stepfamilies: Living successfully with other people’s children – Suzie Hayman (Vermillion).

Offers practical and positive strategies for coping with the emotional issues likely to concern a new combination of parents and children as well as coping with the ongoing presence of the ex-partner.

- The Relate Guide to Second Families – Suzie Hayman (Vermillion)
- Adopting a Child – Jennifer Lord (BAAF)
- Law Society – www.lawsociety.org.uk – search for solicitors who specialise in child care law
- Coram BAAF - Adoption & Fostering Academy – www.corambaaf.org.uk
- First4Adoption – www.first4adoption.org.uk

Contact us...

Telephone: **01438 843281**

Email:

adoptionrecruitmentadmin@herfordshire.gov.uk

Website: www.hertfordshire.gov.uk