

## Adoption - A guide for court users

### Who is this leaflet for?

This leaflet is intended for anyone thinking of applying to a court for an adoption order under the Adoption and Children Act 2002 (in force from 30th December 2005). It is also for use by legal and child care professionals who are involved in the adoption process.

The leaflet gives general information about who may adopt a child, what information the court will need, and how the court will deal with your application. It is intended as a guide only. It does not give you advice about deciding whether to adopt a child and it is not a full statement of the law, nor does it deal with all the decisions about adoption the courts may make under the Adoption and Children Act 2002.

You can get advice and more information about adoption (and about possible alternatives to adoption, such as step-parental responsibility orders or special guardianship orders) from: your local authority; an approved adoption agency; a solicitor; a Citizens Advice Bureau or a law centre or legal advice centre. Leaflets CB1 - Children and the family courts and CB4 - Special Guardianship – a guide for court users, also give more information.

For free legal information, help and advice contact Community Legal Service Direct on 0845 3454345 or [www.clsdirect.org.uk](http://www.clsdirect.org.uk).

This leaflet does not deal with the adoption of children from overseas. If you are thinking of adopting a child whose permanent home is outside the UK, the Channel Islands or the Isle of Man, you should get advice from: your local authority; an approved adoption agency; a solicitor; a law centre or legal advice centre; a Citizens Advice Bureau; or the Department for Education and Skills website ([www.dfes.gov.uk/adoption/intercountry/](http://www.dfes.gov.uk/adoption/intercountry/)).

Leaflet A21 Intercountry Adoption - a guide, also gives more information about adopting a child from abroad. You can get a copy from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk) or from the court.

## Who can apply for an adoption order?

A couple may apply to adopt a child provided that, at the time the adoption order is made:

- both of them are at least 21 years of age, or
- one of them is the mother or father of the child to be adopted and is at least 18 years of age, and the other is at least 21; and
- at least one of the couple is domiciled in a part of the United Kingdom, the Channel Islands or the Isle of Man, or
- both members of the couple have been habitually resident in a part of the United Kingdom, the Channel Islands or the Isle of Man for a period of at least one year, ending with the date of the application to the court.

A 'couple' means two people who are living in an enduring family relationship. They may be of different sexes or the same sex, married, unmarried or civil partners.

One person may apply to adopt a child provided that at the time the adoption order is made the person applying is at least 21 years of age and is:

- not married/does not have a civil partner; or
- the partner of the mother or father of the child to be adopted; or
- married or has a civil partner and is able to satisfy the court that:
  - his or her husband/wife or civil partner cannot be found; or
  - they have separated and are living apart and the separation is likely to be permanent; or
  - his or her husband/wife or civil partner is incapable of making an application for an adoption order by reason of ill-health;

and he or she

- is domiciled in a part of the United Kingdom, the Channel Islands or the Isle of Man, or
- has been habitually resident in a part of the United Kingdom, the Channel Islands or the Isle of Man for a period of at least one year, ending with the date of the application to the court.

'Domicile' is normally taken to mean the place where you have your permanent home.

'Habitual residence' is normally taken to refer to usual, or customary, residence in a particular place.

If you have any doubt about whether you meet these conditions, you should seek legal advice.

## **Does the child I want to adopt have to live with me before I can apply for an adoption order?**

If the child was placed with you for adoption by an adoption agency, or you are a parent of the child, the child must have lived with you (if you are applying as a couple, with one or both of you) at all times during the 10 weeks before your application to the court.

Otherwise, the child must have lived with you:

- if you are the partner of the child's parent, at all times during the 6 months before your application;
- if you are local authority foster parents, at all times during the year before your application;
- in any other case, for a period of 3 years (whether or not continuous) during the 5 years before your application.

**Important:** if the child you want to adopt was not placed with you for adoption by an adoption agency, you must notify the local authority for the area in which you live of your intention to apply for an adoption order at least three months before starting your application with the court.

## **Where do I start my adoption application?**

An application for an adoption order may be started in:

- a Family Proceedings Court (magistrates' court). If the application involves particularly difficult or complex issues, it may have to be transferred from the Family Proceedings Court to an Adoption Centre.
- an Adoption Centre. Adoption Centres are specialist county courts with adoption judges and dedicated court staff who are experienced in the adoption process. A list of all Adoption Centres is included at the end of this leaflet.
- the High Court.

If there is already a court order under the Children Act 1989, the Adoption Act 1976 or the Adoption and Children Act 2002 relating to the child you want to adopt, it may be convenient to start your adoption application in the court which made that earlier order (but if it is a county court, only if it is an adoption centre). However, you do not have to do so.

Addresses and telephone numbers are listed in the telephone directory and in Yellow Pages under Courts.

## **Will I have to pay a fee?**

A fee is payable for adoption applications. Please ask the court staff for details or for a copy of the leaflet EX50 – County Court Fees. It is also available on our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk). Alternatively, the court staff can tell you how much it is.

Your financial situation may mean you do not have to pay a court fee, for example, if you are in receipt of a particular means tested benefit or you would suffer financial hardship if you pay the fee. The combined booklet and application form EX160A Court Fees - do I have to pay them? gives more information. This is available from the court or from our website.

If you are making your application to a Family Proceedings Court, the arrangements for helping with fees if you are on a particular means tested benefit or would suffer financial hardship are different. You should contact the court where you wish to make your application for more information.

## **What forms and documents will the court need?**

The court will need:

- your completed Form A58 (Application for an Adoption Order), and three copies;
- a certified copy of the full birth certificate for the child or, if the child has previously been adopted, a certified copy of the entry in the Adopted Children Register.

You may also have to provide any of the following, depending on your circumstances:

- if the child has been placed for adoption or freed for adoption by a court, a certified copy of the placement order or freeing order;
- if you are asking the court to dispense with the consent of any parent or guardian to the adoption, a brief statement of the facts you are relying on in support of your request (known as a 'Statement of Facts'), and two copies of the statement;
- if you are submitting evidence of your marriage or civil partnership, a certified copy of your marriage certificate or certificate of civil partnership;
- if your husband, wife or civil partner has died, a certified copy of the death certificate;
- if you are divorced or your civil partnership has been dissolved, a copy of any decree absolute or decree of nullity of your marriage, or a copy of any dissolution order or nullity order of your civil partnership;
- separate medical reports on your health, the health of the child (and other applicant) made during the period of three months before the date of your application. (But you will not have to supply medical reports if the child was placed with you by an adoption agency, or if he or she is your child or the child of the other applicant, or you are applying alone as the partner (including husband, wife or civil partner) of the child's mother or father.)

This is not an exhaustive list of the documents the court may need. You will find a list of the documents to be attached on the application form A58. If you are not sure whether any item on the list applies to you, the court staff will be able to advise you.

## **Where can I get a copy of a certificate of death, marriage or civil partnership, or the child's full birth certificate if I do not have one?**

If you were married in England or Wales, or the child was born in England or Wales, you can get a certified copy from:

- the office of the Registrar of Births, Marriages and Deaths for the district in which you were married, or the district in which the child was born. You can get the address from the telephone book.
- the Registrar General, ONS Southport, Smedley Hydro, Trafalgar Road, Birkdale, Southport, PR8 2HH.

Telephone: 0151 471 4830 – Adoptions

Telephone: 0151 471 4803 – Marriages

Telephone: 0151 471 4806 – Births

(Please note that you cannot visit this office.)

If your civil partnership was registered in England or Wales, you should contact the registration authority where the civil partnership was registered.

You may be able to find the relevant register office/registration authority by visiting the General Register Office website at [www.gro.gov.uk](http://www.gro.gov.uk). You may also contact the Family Records Centre, 1 Myddleton Street, London, EC1R 1UW ([www.familyrecords.gov.uk](http://www.familyrecords.gov.uk)).

If you were married or registered your civil partnership in Scotland or Northern Ireland, or the child you wish to adopt was born in either of these countries, you may obtain further information from:

- The General Register Office for Scotland, New Register House, 3 West Register Street, Edinburgh, EH1 3YT (Telephone: 0131 334 0380); or
- The General Register Office, Oxford House, 49-55 Chichester Street, Belfast, BT1 4HL (Telephone: 028 90252000).

**Note:** You will have to pay a fee to receive a copy certificate. The office that you contact will tell you how much it is.

## **What if the child's parents do not consent to the adoption?**

If the child's birth parents or guardian have not consented to the adoption and you are asking the court to dispense with their consent, the court will need to be satisfied that:

- the parent or guardian cannot be found, or is incapable of giving consent, or
- the welfare of the child requires that their consent be dispensed with.

You must set out on your application form which of these conditions applies. You will also need to attach a brief statement of the facts you are relying on in support of your request. This is known as a 'Statement of Facts'. It should be signed by your solicitor, or by you (and the other applicant) if you do not have a solicitor.

The court will send a copy of the Statement of Facts to each parent or guardian of the child, so, if you intend to ask the court to keep your identity confidential, you should make certain that the statement does not include any information that could identify you, where you live, or where the child goes to school or nursery.

## **What should I do if I wish my identity to remain confidential?**

If you do not want your identity to be made known to the parent(s) or guardian(s) of the child you are intending to adopt, you may ask the court to issue you with a 'serial number'. Any documents sent to the parent(s) or guardian(s) of the child will then show this number, not your personal details. In addition, if you and the parents or guardians of the child have to attend the same court hearing, the court will make arrangements to ensure that your identity remains protected throughout.

## **What will happen when I have left the application with the court?**

You will be sent a form telling you that your application has been issued and a receipt for your fee (if you have paid one). Every case is different and the court's decision about the next steps will depend on the details of your application, but it is likely that some or all of the following will happen:

- the court may ask for an officer from the Children and Family Court Advisory Support Service (CAFCASS) or a Welsh family proceedings officer to be appointed to act as a children's guardian, a children and family reporter or a reporting officer. The same officer may act as all three;
- the adoption agency or local authority will be asked to prepare a report for the court giving details about the child, you and your family, any parent or guardian of the child and other background information that may help the court;
- the court will arrange a hearing (called a 'first directions hearing'). This will usually take place about 4 weeks after your application has been received. Details of the hearing will be sent to you or your solicitor, the child's parents, any other person with parental responsibility for the child and any person preparing a report for the court or acting on behalf of the local authority, adoption agency or the child.

## What is the job of the children's guardian, children and family reporter and the reporting officer?

Where the child is made a party to the court proceedings, the court will appoint a **children's guardian** to act on behalf of the child in any court hearing. The children's guardian must make a report to the court advising on the interests of the child, and give any other advice the court asks for.

When the court is considering an adoption application, it may appoint a **children and family reporter** to make any necessary investigations and prepare a report on the welfare of the child.

If a parent or guardian of the child appears willing to consent to adoption but has not already done so, the court will appoint a **reporting officer** to witness the signing of the consent form and to make a report on any matters that may help the court in considering the adoption application. If the parent or guardian is not willing to give consent, the reporting officer must make a report to the court explaining why.

## What is a First Directions Hearing?

A first directions hearing is an appointment at which the court will consider your application and make decisions (known as 'directions') about such matters as:

- the timetable for filing any reports from an adoption agency, local authority or CAFCASS/Welsh family proceedings officer, and any other evidence;
- whether there are any mistakes or omissions in your application or supporting documents that need to be corrected;
- if the child was not placed with you by an adoption agency, whether you need to give the court a statement explaining the background to your application and your reasons for wishing to adopt;
- tracing the child's birth parents, if a father or mother has not been found;
- using alternative dispute resolution to resolve any contested issues;
- whether the child, or any other person, should be made a party to the application;
- whether the case should be transferred to a higher court;
- whether a further directions hearing is necessary; and
- if possible, the date and place of the final hearing. It is at the final hearing that the adoption order is made, if that is what the court decides.

A copy of the order explaining what directions the court has made will be sent to you or your solicitor.

Once directions have been given, the court will monitor the progress of your case to make certain that the timetable and any directions are complied with.

## What if I really cannot get to an Adoption Centre? Can my application be heard at another county court?

If you are unable to get to the Adoption Centre where your hearing is due to take place, you can write to the judge asking for the hearing to be moved to another county court. In certain circumstances, the judge may allow the appointment to take place away from the Adoption Centre. If so, the court will send a notice to everyone involved in the case telling them the new time, date and location for the appointment.

### List of all County Court Adoption Centres

Aberystwyth	Chester	Manchester	Romford
Birmingham	Coventry	Medway	Sheffield
Blackburn	Croydon	Middlesbrough	Southampton
Bolton	Derby	Milton Keynes	Stockport
Bournemouth	Exeter	Newcastle	Stoke-On-Trent
Bow	Guildford	Newport	Sunderland
Bradford	Ipswich	Northampton	Swansea
Brentford	Kingston-Upon-Hull	Norwich	Swindon
Brighton	Lancaster	Nottingham	Taunton
Bristol	Leeds	Oxford	Teesside
Bromley	Leicester	Peterborough	Telford
Cambridge	Lincoln	Plymouth	Truro
Canterbury	Liverpool	Pontypridd	Warrington
Cardiff	Llangefni	Portsmouth	Watford
Carlisle	Luton	Reading	Wolverhampton
Chelmsford	Macclesfield	Rhyl	Worcester
			York

The Principal Registry of the Family Division, in Central London, is also an Adoption Centre.