

Adoption Orders

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

An adoption order can be applied for under the Adoption and Children Act 2002 (ACA 2002). This order provides parental responsibility for a child to the adopters, and permanently extinguishes the parental responsibility of any person who held the same for that child before the order was made. This includes the parental responsibility of any natural parent.

The making of an adoption order results in the adopters being considered the natural parents of the child, with the child becoming their child legitimately.

Once made, an adoption order will bring to an end any order in respect of the child that was made under the Children Act 1989.

Who can be adopted?

Any individual under the age of 18 can be adopted. If an application is made before the individual's 18th birthday, the order can be made at any time before they reach 19 years of age.

Who can apply for an adoption order?

An adoption order can be applied for by either an individual who is single or a couple.

A single person can make an application if the following applies:

1. The applicant must be 21 years of age or over;
2. The applicant has to have lived in the British Isles for at least one year prior to the application being made.

A couple can make an application if the following applies:

1. Each applicant must be 21 years of age or over;
2. The applicants must be either married, in a registered civil partnership, or demonstrate that they have lived together in an enduring family relationship i.e. as partners.
3. The applicants will also be expected to have been together for several years, therefore showing that their relationship is a stable one.

Prospective adopters do not usually have a connection with the child. However, it is possible for a family member to adopt a child although this is a somewhat unusual situation. It would be necessary in these circumstances for the court to be convinced that an adoption order is the most appropriate order to make as opposed to, for example, a Special Guardianship Order.

When can an adoption order be applied for?

It is necessary for a child to have resided with the prospective adopters for a period of around 10 weeks prior to any application for an adoption order being made.

What is the process?

An application for an adoption order should be made to the Family Court using form A58. Supporting documents are likely to be required to accompany the application such as the child's birth certificate, any Placement Order and the adopters' marriage certificate (if applicable).

The Applicant(s) to the proceedings will be those applying to adopt the child.

The Respondents to any adoption proceedings will be those individuals who hold parental responsibility for the child being adopted. As with other public law proceedings, if the father of the child does not hold parental responsibility, he will not automatically become a party to any proceedings and will not, therefore, be served with any application.

It is possible for Applicant(s) to request that the court ensure their details remain confidential from the birth family.

If a Placement Order has been made during earlier care proceedings concerning the child being adopted, the Respondents are unable to oppose the making of an Adoption Order without permission of the court to do so. Permission of the court will only be provided if the Respondent(s) can prove they have made significant changes since the making of the Placement Order. It can prove very difficult to obtain permission of the court to oppose.

If a Respondent is granted permission to oppose the application for adoption, the child will be made a party to the proceedings and will be allocated a Children's Guardian who will relay the child's wishes and feelings to the court. If permission to oppose is not granted, the child will not be made a party.

The first hearing will be listed within 4 weeks of issue of the application for adoption. At the first hearing the court will set down a timetable for the provision of any documents. This will include a report from the local authority regarding the suitability of the adoptive placement.

If the Respondent is not opposing the application (whether by consent or by lack of permission to do so), the Final Hearing will be uncontested. An order will, therefore, be made at this hearing if it is considered in the best interests of the child.

An Adoption Order cannot be made at the Final Hearing unless the Applicant(s) and the child are in attendance. An Adoption Order can only be made if the court considers it to be justified and better for the child than if the order were not made at all.

Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Information up to date as at 13 May 2019.

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