



# You and your stepfamily

## Options to consider when you want to make a legal change

This fact sheet is a guide to help you consider the legal options to the birth parent and the step-parent of a child living in your household.

### Adoption

Adoption means that the adopters acquire sole parental responsibility for the child on a permanent basis, which means they become the child's legal parents and are able to make all decisions on the child's behalf. Adoption also gives the child the same status and rights as if born into that family.

This is such an important event in the child's life that the law states that a social worker should undertake thorough enquiries into all the circumstances of an adoption application and its impact on all those concerned. The social worker must also write a report for the court where the decision will be made. The court has to put the needs and wishes of the child at the centre of the process and consider the child's long-term welfare above all other factors.

With adoption, the child gains new legal parents, rights of inheritance and becomes an adopted child. Also the child loses any benefits from former parents and those parents lose all parental responsibility in respect of that child. Any contact orders or maintenance orders cease and so will any legal links with the former family such as grandparents.

However it does not necessarily mean the end of all contact. This may take place by agreement or, in exceptional circumstances, by a Contact Order attached to the Adoption Order.

## Who can adopt and when?

The Adoption and Children Act 2002 made significant changes in step-parent adoption. It is now no longer necessary for the birth parent to apply to adopt their own child, which means that only the step-parent needs to apply. In addition, couples no longer need to be married, but in all cases the court will want to see evidence that your relationship is stable. We therefore advise you not to start the process until you have been living together as a couple for at least two years.

Legally, you must also have been caring for the child you are applying to adopt for at least 6 months when you apply to the court for an adoption order.

The step-parent who is applying must be at least 21.

## Do we have to tell the child's other birth parent about our plans?

It is essential that you let the other birth parent know of your plans to adopt. If that person has parental responsibility for the child, their consent to the child's adoption must be sought. If you don't know where that person is, it is important that you make every effort to find them and can show the court that you have done so.

## What if the child's birth parent does not have parental responsibility

Because of the Human Rights Act, which came into force in October 2000, it may be appropriate for that person to be consulted and their views given. This is to ensure their rights as a birth parent are not overlooked.

If you don't know where that person is, it may be important that you make an effort to find them and can show the court that you have done so.

### **What if the other birth parent will not agree to adoption?**

If the other parent has parental responsibility and will not agree to adoption, or cannot be found, you will need to ask the court to dispense with their consent. You will need to get legal advice about this.

The court will appoint an independent officer, called a Children's Guardian, who will make enquiries and report to the Court on what is in the child's best interests.

If the other parent does not have parental responsibility, the court may still want to know his or her views, and under the Human Rights Act it may take these views into account. Their consent to adoption is not needed, however.

### **What should I say to my child?**

All adopted children need to be brought up knowing about their adoption from an early age. Even children as young as two or three can have a simple explanation about who each birth parent is and why you are adopting.

An older child will be asked to give their views about being adopted. The social worker visiting you will want to get an impression of how much the child understands and what they think about being adopted.

You need to talk about matters openly, sometimes making the first move in bringing adoption into the conversation and not always leaving it until the child asks questions. Your social worker will encourage you to explain adoption to the child and will help you to start this if you are wondering how to begin.

It is expected that the child's views will be considered according to their age and understanding.

### **Who needs to attend court?**

The judge or magistrate must see you with the child before making an adoption order. They may want to talk to the child in private about their views and understanding about adoption.

### **Which court should we apply to?**

If you have been divorced it is advisable to make your adoption application at the Divorce County Court. Not all County Courts are Divorce County Courts, so you may need to check this. The social worker may be able to help you with this

If you have not been divorced, you can use the County Court or the Family Proceedings (Magistrates) Court. However, you should be aware that the Magistrates may choose to transfer the case to the County Court if they feel it is complex.

### **Will there be a charge for adoption?**

Yes – there is a fee for lodging an adoption application in both the County Court and the Magistrates Court. If you are on a very low income, the court may help with this fee.

You will also have to pay for Disclosure and Barring Service (DBS) checks, formerly Criminal Records Bureau (CRB) checks. Although the birth mother is not an applicant, DBS checks are required on all members of the household aged 18 and above.

### **Do we need to see a solicitor?**

There is no requirement to get legal advice. The Court may be prepared to offer some practical help and guidance, but cannot give legal advice. Likewise, the social worker may be able to provide general information, but cannot give legal advice either. If the adoption is contested by the birth parents, it may be advisable to consult a solicitor. Public Funding may be available to you but only if your income is very low.

## What about NHS Registration

You will be able to register the child in their new name when they have been adopted, by completing form FP58B which you can get from your social worker. You will then be sent a new medical card in your child's new name.

## Steps to make an application

### Step 1

Check that you are eligible to adopt, as outlined in the section 'Who can adopt and when?' Make efforts to let the other birth parent of the child know what you want to do. It is also advisable to start talking to your child about adoption and check out whether they are happy with your application.

### Step 2

If you live in Nottinghamshire County, notify the Local Authority of your intention to adopt by writing to the countywide Permanence Team. Details are provided at the end of this leaflet.

In this letter, give the full names and dates of birth of yourselves and the child to be adopted, the length of time you have been living together as a couple, and the length of time you have been caring for the child. You must both sign the letter. This is your *Notice of Intent* and is valid for two years. (After this time it lapses, although it may be renewed. If you decide to withdraw you should write to the Permanence Team).

### Step 3

The Permanence Team Business Support will write back to you, sending information about adoption and asking you to agree to enquiries of the Health Authority and child welfare services. These are done in writing so no one visits your house at this stage. You must confirm your agreement in writing. You will need to agree to DBS checks later, after you have met a social worker and started the adoption process.

### Step 4

If you want to continue with your application, a social worker will offer you an initial appointment. The appointment will usually be

in your own home during office hours, and you will both need to be there.

This meeting is to explain about adoption and for the social worker to decide with you whether adoption is right for you and your child, or whether another option is worth considering.

The social worker will help you complete a DBS (Disclosure and Barring Service) form - formerly a CRB (Criminal Records Bureau) form. Each applicant (and any other member of the household over 18) needs to pay for their check and the results are sent to you and the social worker.

The social worker will make further appointments to see you at home, to talk about adoption and ask you about your family and relationships. The social worker will want to speak to the child you are applying to adopt and other children in the household.

The views of the birth parents will be sought and reported to court.

The child's grandparents may be seen, as may a teacher.

The reason for these enquiries is to help the social worker to decide whether to recommend adoption or not. The social worker will need to ensure that the court knows enough about you to make a decision as to whether adoption is in the child's best interest.

The social worker will need to check with birth relatives that the child does not stand to lose any inheritance by being adopted. If birth relatives wish to name a child in their will this should be done by using the child's adopted name, rather than by relationship.

### Step 5

The social worker will give you a timescale for the enquiries for court and the report to be completed. We aim for this to be within four months of your letter confirming you wish to continue with adoption, but it may take longer if the application is not entirely straightforward. We will keep you informed and explain any delays to you.

## **Step 6**

When the social worker is well underway with your enquiries, you can discuss the right time for lodging your adoption application. The application form is available from the court, and you may be asked to go for a short interview at the court office to help with this part of the procedure and answer a few simple questions.

## **Step 7**

You will need to send the child's long birth certificate, your marriage certificate or certificate of civil registration if relevant and any divorce papers or maintenance order if applicable. If the other birth parent has died, you will need a copy of the death certificate.

## **Step 8**

The court may decide to hold a Directions Hearing, which you may need to attend.

This is usually for half an hour and is to find out how the enquiries into adoption are progressing, hear about any problems and set a new timescale for the social worker's report. In this way the adoption process can be heard without undue delay.

## **Step 9**

When the court receives the social worker's report it will appoint a Reporting Officer or Children's Guardian. The Reporting Officer is independent of the Local Authority and is appointed by the court to ensure that adoption is in the child's best interest.

If parents do not agree to adoption, or the Reporting Officer has concerns, a Children's Guardian is appointed by the court. That person can make a more detailed enquiry into all the circumstances surrounding the adoption application. (The Children's Guardian may be the same person who was appointed as Reporting Officer).

## **Step 10**

When the court receives the report written by the Reporting Officer or Children's Guardian it will set the date for the adoption hearing.

The whole family needs to attend the court hearing, including any other children in your home. The hearing usually only lasts a short time and is often held in a side room at the court to make the environment more relaxed for parents and children.

The court tries to make this a special occasion and usually welcomes other close relatives such as grandparents. If you check with the court officials they may also let you take photos to record the event.

After the adoption hearing, the court will return your certificates by post. You will receive an Adoption Certificate in the post which will replace the original birth certificate.

## **Alternatives to adoption**

### **Name Change**

If the child's parents were married to each other, the child's surname cannot be changed to that of the step-father unless the birth father agrees or the court gives permission.

In other circumstances, if the parent and step-parent's motivation is simply to change the child's name to that of the step-father, this can be done just by common usage, or by a deed poll which can be arranged through a solicitor.

Changing a child's name is a serious step and needs careful consideration. It is advised that you seek the views of your child, if they are old enough to understand, and also the views of other birth parent. You need to ensure that other agencies such as the child's doctor and school know about the name change.

### **Acquiring parental responsibility**

Under the Adoption and Children Act 2002 a step-parent may now gain parental responsibility for the child of his partner. This may be either by agreement between the step-parent and the parents who have parental responsibility for the child, or by court order. This has the advantage of not removing parental responsibility from the other birth parent and does not legally separate the child from membership of the family of the other birth parent.

## **Legal Guardianship**

Guardianship is available to all families, allowing arrangements to be made if a parent dies. A parent who has parental responsibility for a child can appoint another person to be the child's guardian in the event of their death. The guardian gains parental responsibility upon the parent's death.

If this means that more than one person has parental responsibility for the child and there is disagreement about where the child should live, the court will decide.

**Whichever option you consider to be the best for the child, there are some basic issues you will need to think about:**

### **You need to let the child's other birth parent know of your plans**

Even if a birthparent does not have parental responsibility, under the Human Rights Act they must be consulted and their views considered.

### **You need to talk to the child**

The child needs to know what you want to do and their opinions should be sought. Even very young children can begin to understand a simple explanation.

### **Will there be a cost?**

Yes. The court will advise you on costs. If your income is very low the court may be able to reduce the fee or waive it altogether.

### **Do I need a solicitor?**

If you want to consider adoption and the alternatives, it may be helpful for you to seek legal advice to get a clear idea of what each option would mean for you and the child.

## **Contact details for Permanence Team:**

**Tel: 0115 804 1231**

Nottinghamshire County Council  
Bevercotes House, Fountain Court,  
Darwin Drive, Sherwood Energy Village,  
Ollerton, Nottinghamshire, NG22 9FF

Website: [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

Phone **0300 500 80 80** if you need the information in a different language or format.