

**Step-Parent and Non-Agency Adoption**

**Practice Guidance**

What is it?

Step-Parent Adoption is a way in which someone can become the legal parent of a partner’s child or children from a previous marriage or relationship.

Step-Parent Adoption is the most common form of **Non-Agency Adoption** – this is where someone is applying to adopt a child that was not placed with the prospective adopter for the purposes of adoption. Other Non-Agency Adoptions include applications by relatives of the child and applications by Local Authority Foster Carers.

In the past, Step-Parent Adoption was the usual way chosen by people who wanted to take legal steps to integrate step-children into their a new family, enabling them to share the new family’s name and making sure that their role as step-parent is legally recognised.

However, there are some **disadvantages** to Step-Parent Adoption for the child that need to be considered:

* If step-children are adopted, the law no longer recognises the other birth parent as having any links to the child – this also applies to wider family such as grandparents, uncles, aunts and cousins. Adoption formally cuts these legal ties that were established at birth.
* Because a step-child is legally cut off from a birth parent and wider family, they lose rights to any maintenance and inheritance to which they would have been legally entitled.
* If step-children are adopted, they may feel confusion and loss at the legal separation caused by the adoption and have a sense that they are required to cut off from the past in a way that is not emotionally helpful – this can impact their mental health and wellbeing.
* If step-children are adopted, they may feel a sense of rejection from their birth parent or that the adoption was a result of fault on their part – these negative feelings are not emotionally helpful and can impact their mental health and wellbeing.

In recognition of some of the disadvantages of Step-Parent Adoption, there are a variety of alternatives available which are likely to be easier to achieve and may be more appropriate – especially for a child who has some involvement with both sides of his or her original family.

Alternatives to Step-Parent and Non-Agency Adoption

Parental responsibility means having all the legal rights, duties, powers and responsibilities for a child. Parental responsibility can be obtained through:

* + A **Parental Responsibility Agreement**. This can be agreed with the child’s birth parent. This can be obtained with the assistance of a solicitor and will enable a person to make certain decisions about a child to be made.
	+ A **Child Arrangements Order** can be made by a court which will allow someone to share parental responsibility with the birth parent/s and can formalise things like where a child lives and contact arrangements
	+ A **Special Guardianship Order** allows someone to have overriding parental responsibility.  Unlike adoption, a Special Guardianship Order will not remove parental responsibility from the child's birth parent/s. This means that the Special Guardian will have responsibility for the day-to-day decisions as well as all the important decisions about the child or young person, but will need to consult the birth parent/s at times where key decisions are being made

Those considering their options should be signposted to a **Solicitor**. The Law Society keeps a list of solicitors with experience of family law.

<https://solicitors.lawsociety.org.uk/>

Alternatively, Resolution is a group of over 5,000 specialist family lawyers who work to resolve family matters. They also provide a range of helpful online guidance.

<https://resolution.org.uk/>

Still thinking about going ahead and applying to adopt?

To be able to apply for Step-Parent or Non-Agency Adoption a person must be:

* Over the age of **21** years old
* Resident within the United Kingdom for at least **12 months**

For Step-Parent Adoption:

* The applicant must be **married** to, or the **partner** of, one of the child’s birth parents for at least **2 years**
* The child must have had his home with the applicant or, as the case may be, applicants at all times during the period of **6 months** preceding the application\*.

For other Non-Agency Adoption:

* **Foster parents**: The child must have had his home with the applicants at all times during the period of **1 year** preceding the application\*.
* **In any other case**: The child must have had his home with the applicant or, in the case of an application by a couple, with one or both of them for not less than **3 years** (whether continuous or not) during the period of **5 years** preceding the application\*

\*If a prospective adopter does not fulfil the residence requirement which applies to their circumstances, it is still possible to make an application to court but the leave of the court is required first. You will need to discuss this with a Solicitor.

To apply to be assessed by Adopt North East:

* The child to be adopted **must be resident** within the geographical area of Gateshead, Newcastle, North Tyneside, Northumberland and South Tyneside

If the applicant is not resident within the area of responsibility of Adopt North East, the Agency will signpost them to the relevant Adoption Agency or Local Authority.

## Should the applicant tell the other parent / birth parents that they are applying?

Yes, because the court is required by law to consider the child’s connection with the other parent, even if there is no current contact with them. The court will have to take into account the child’s whole family network and their relationships with grandparents and other significant people before making an Adoption Order.

It is the applicant’s responsibility to advise the absent birth parent/s of your wish to apply for an Adoption Order and to provide this information to the Court and to Adopt North East.  It is not the responsibility of the Court or Adopt North East to locate or advise the absent birth parent/s of their intention.

The Process of Step-Parent and Non-Agency Adoption

1. Initial Meeting

If someone wants to proceed with Step-Parent or Non-Agency Adoption, they will need to [contact](https://www.adoptnortheast.org.uk/enquire-now) Adopt North East. A Social Worker will arrange to meet with them in their home so that they can find out much more about what will be involved in the process, understand the legal orders and alternatives to step-parent adoption and get answers to any questions they may have. The Agency will also use the opportunity to begin to ask about the applicant’s circumstances.

1. Application Pack

Following this meeting, if someone wishes to proceed, they will need to contact the Agency to request a Step-Parent / Non-Agency Application Pack. Within the Pack is a **Notice of Intention to Apply.** An applicant must complete and return it to us **3 months** before they apply to the Court.

1. Notice of Intent to Apply

If the Agency does not receive a Notice of Intention to Apply from an applicant **within 3 months of the visit** the case will be closed.

Upon receipt of a Notice of Intention to Apply, the Agency will advise the applicant how and when to make an application to [the local Family Court](https://courttribunalfinder.service.gov.uk/search/).

Where the Agency receives a Notice of Intention to Apply from carer/s of a child under the age of sixteen where no carer/s have parental responsibility for the child, the Agency will notify the relevant Local Authority Children’s Services of a potential Private Fostering Arrangement.

1. Disclosure and Barring Service Checks

Upon receipt of Notification of Intention to Apply, the Agency will contact request payment for the Enhanced Disclosure and Barring Service (DBS) Check for every adult member of the household.

The Agency will not start the process until it has received payment.

The Agency will require written consent from the applicant (and any other adult member of the household) to undertake the check and evidence of identification and supporting documentation.

The Agency will progress the checks upon receipt of payment even if the applicant subsequently does not make an application to the Court – this avoids any delay at a later stage.

1. Application to the Court

An application for a non-agency adoption order is made on [**Form A58**](http://formfinder.hmctsformfinder.justice.gov.uk/a58-eng.pdf) which is available online or from the Local Family Court. The applicant must apply to the Court within **2 years** of their Notice of Intention to apply (and no earlier than **3 months**).

Those involved in the application will be each person with parental responsibility for the child (unless they have given notice stating that they do not wish to be informed), any person who is named in a child arrangements order as a person with whom the child is to have contact or spend time with, and the child in rare cases.

The applicant will be expected to pay directly to the Court the non-refundable Court Fee for an Adoption Order Application.

<https://www.gov.uk/court-fees-what-they-are>

1. Appointment of Assessing Social Worker

The Court will ask Adopt North East to appoint a Social Worker to provide them with a detailed report on all the circumstances.

Where a Court receives an adoption application in relation to a non-agency adoptive placement, the Court will notify the Adoption Agency of the hearing date and request a Report be prepared and submitted to the Court, usually **within 6 weeks** of the receipt of the notification. The Court timescales will be clarified at an early stage and if more time is required, a written request must be submitted to the Court as soon as the need for an extension is identified.

A Qualified Social Worker will complete an assessment which focuses on the applicant’s relationship with the child and why they believe they should become a legal member of the family. The applicant’s relationship and knowledge of the absent birth parent(s) will be discussed as will their relationship with their partner (if applicable). The Agency also needs to understand the applicant’s personal history, including childhood, relationship with their parents, education and employment.

The child will be spoken to, their understanding of adoption and their wishes gained, taking into consideration their age and understanding.  Where the child is not aware of the adoption application, the Social Worker will discuss this with the applicant to agree the best way to address this so that the child's views can be obtained. The discussion with the child should address any confusion on the part of the child in relation to the implications of an Adoption Order for example where the adoptive applicant is a relative.

The applicant must be able to show why adoption is in the best interests of the child and why they should be permanently legally removed from their absent birth parent’s family. The applicant will have to evidence how they will share information with the child about their birth family history and information about their absent birth parent. The applicant will also need to consider what future contact arrangements there will be with the absent birth parent.

The report must contain information about:

* the child
* each parent of the child and other family members, including other children
* what alternatives to adoption have been considered
* evidence that adequate attempts have been made to trace, contact and seek the views of an absent parent
* the impact of the proposed adoption on the child and both birth parents
* whether, taking into account all the circumstances, adoption is likely to be in the child’s best interests

This report will help the court decide if an adoption order should be made. The court must decide what is best for the child/children.

1. Checks to be undertaken

As part of the assessment that will be presented to the Court, the Social Worker will undertake some checks about the applicant’s circumstances. They will need to consent to these checks (if they do not, the assessment cannot continue and your application will be ended).

Following written consent, Adopt North East will check with:

* Probation
* The school/s of your child/ren
* Local Authority Children’s Services in the area you live
* Your General Practitioner
* Two Family Members
* Three Friends
1. Court Hearing/s

The court will initially convene a Directions Hearing. At this Hearing any emerging issues will be considered to ensure the case is prepared for a Final Hearing to take place.

At the Final Hearing, the application for an Adoption Order will be considered. If a parent opposes the making of an adoption order, the principle issue to be determined at the final hearing is likely to be whether their consent should be dispensed with. A Court will only dispense with consent where:

* the parent or guardian cannot be found or is incapable of giving consent, or
* the welfare of the child requires the consent to be dispensed with.
1. End of Assessment

The role of the Agency will end with the decision of the Court.