

# **Adopting a Step-Child or Relative**

**INFORMATION FOR PARENTS,  
STEP-PARENTS AND RELATIVES**

**You may be thinking of adopting a step-child or relative.  
This leaflet explains:**

- **The legal position**
- **Advantages and disadvantages of adoption**
- **Alternatives to adoption**
- **How to apply to adopt**

## **Information about adoption**

The Adoption and Children (Scotland) Act 2007 says that only adoption agencies can make arrangements for children to be adopted, unless the proposed adopter is a relative. It goes on to give a definition of a relative as a grandparent, brother, sister, uncle or aunt, whether “by affinity, and in the cases of a brother, sister, uncle or aunt, whether of the full-blood or half blood.” It includes the civil partner of the grandparent, brother, sister, uncle or aunt.

This means that it is possible to adopt a child where:

- The child was placed with you by an adoption agency, such as Aberdeenshire Council Social Work, **or**
- The child is a relative, as explained above.

It is also possible to adopt the child of your husband or wife or civil partner - known as step - parent adoption. It is possible to adopt the child of your partner, provided you are living together in an “enduring family relationship”. In these circumstances the child’s parent must be aged at least 18, and have domicile or have been habitually resident in the U.K. for a year.

Adoption is the legal process where a parent and child relationship is created by court order. Adoption Orders transfer parental rights and responsibilities in relation to the child to the adoptive parents. After the Adoption Order has been granted, the child who has been adopted is treated as if he had been born to the adoptive parents.

A child can be adopted up to the age of 18, although the child’s consent is required if he/she is over 12. The Adoption Order cannot be made until the child is at least 19 weeks old, and has lived with you for at least 13 weeks.

## **Thinking about adoption**

You will be caring for the child that you wish to adopt, and you will have considered how you can give the child as much security as possible. You will have considered the advantages of adoption:

- It will bring security for the child
- The child will have the same surname as the rest of the family (if the child has a different surname)
- It will give the child rights of inheritance, shared with any other children that you have.

There are also disadvantages to adopting a step- child or a relative’s child which you should consider:

- Adoption can be very confusing for the child, and it can be difficult to help a child to understand the complicated relationships that adoption will create.
- Adoption may cut the child's links with family members, and this may be distressing and confusing for the child. It is known that openness and a continuing relationship with family members is generally helpful to most children, and you may want to ensure that although legal ties are cut, the child does not lose all contact with his or her birth relatives.
- The child may have a sense of loss that their birth parent was unable to care for them, and may feel cut off from their past.
- The child may lose rights of inheritance from his or her birth family.

## Alternatives to adoption

In every adoption, including step-parent adoption, adoption by the parent's partner and adoption by a relative, the court has to consider whether adoption can meet the needs of the child throughout his or her life and whether there is a better practicable alternative. The court will want to know that the following alternatives to adoption have been fully considered.

### 1. A Residence Order

An Order under Section 11 of the Children (Scotland) Act 1995 confers or removes parental rights and responsibilities in relation to a specific child. A Residence Order can require a child to live with someone who does not have parental rights and responsibilities in relation to the child. Your solicitor could ask the court to give you parental responsibilities such as:

- The right to decide where the child lives.
- The right and duty to safeguard and promote the child's health development and welfare.
- The right and duty to provide direction and guidance to the child/control the child's upbringing.
- To act as the child's legal representative.

Section 11 applications relate to individual children and therefore each one will be unique. Legal advice would be necessary to establish what powers should be applied for.

A Section 11 Order would last until the child is 16 years old, although the responsibility to guide the young person lasts until he or she is 18 years old.

It is advisable to seek legal advice from a solicitor in relation to a Section 11 application.

### 2. Change of Name

If the child's surname is different from yours, you may wish to change it. You may wish to think very carefully about this, as this could be confusing for the child. You do not need to adopt the child to change his or her name. If the child has been known by the name for at least 2 years, you can go to your local Registrar's Office, who will give you information on how to change the child's name. You may wish to seek legal advice.

### 3. Inheritance

You could include the child in your will, if you wanted to ensure that the child has the same rights of inheritance as any other person in the family. Again, you may wish to seek legal advice.

### A Birth Father Gaining Parental Rights and Responsibilities

If you are the birth father of a child, and were not married to the mother of the child at the time of your child's birth and (after 4 May 2006) you did not jointly register the child's birth with the mother, you can either enter into a written agreement with the child's mother under Section 4 of the Children (Scotland) Act 1995 or seek a Court Order under Section 11. This would give you parental rights and responsibilities and it would not be necessary to adopt your own child.

However, if you are a step-parent, a partner of the child's parent or relative of the child, the Section 4 option is not available to you and after considering Section 11 you may feel it is in the child's best interests to adopt the child.

### Making an adoption application

To apply to adopt a child, application is usually made to the Sheriff Court which covers the area where you live. You may wish to speak to the Sheriff Clerk about making an application – he or she may be able to give you:

- the adoption petition (the form that the application is made on)
- information on the documents that you would have to put into court along with the petition
- the details of the fee which you would have to pay to the court.

You can arrange for a solicitor to complete the petition and to lodge it in court, or you may be able to do it yourself. When you lodge the Adoption Petition in Court, and the Court has not previously dispensed with consent, a birth parent with any parental responsibilities and rights in relation to the child or a birth parent whose rights have been extinguished by virtue of a permanence order or any guardian of the child will receive intimation of the adoption application together with a copy of the Petition. In such circumstances where there are any reasons to withhold your name and address you, or your solicitor, should write to the Sheriff Clerk to request that a Serial Number is assigned to the case. This will mean that any identifying information will be withheld from such a birth parent or guardian.

By law, you must notify Aberdeenshire Council Social Work that you intend to apply for an adoption order if the child has not been placed with you for adoption by Aberdeenshire Council. It is best to do this and indeed to talk to the allocated Social Worker, before you start the adoption petition, as the court cannot grant the adoption order until at least 3 months after Social Work has been notified.

You or your solicitor should write to the Head of Social Work (Child Care), Social Work Service, Woodhill House, Westburn Road, Aberdeen, AB16 5GB notifying him that you intend to adopt the child. You should give the child's full name and date of birth and his birth parent's full names, your full name as step-parent, partner or relative who is applying to adopt and your address. You should keep a copy of this letter.

The Head of Social Work (Child Care) will acknowledge your letter and you should lodge his letter in court along with the adoption petition. He will then pass your letter to the local Social Work Office.

A Social Worker will arrange to visit you to get full information about your circumstances, in order to prepare a report for the court. Normally the court will expect to receive the Social Worker's Report within 4 weeks. It is best to discuss the timing of the lodging of the Petition in court with the Social Worker, so the Report can be ready at the same time. The Social Worker must see the child, and, where appropriate, will discuss with him or her their views about the proposed adoption.

The Social Worker will ask for the adoption applicants to agree to undergo a Police Check, a check of Social Work records and a check with his or her doctor. Some doctors charge for the medical check and it is the responsibility of the applicant to find out what the charge will be and to meet this charge. A charge will be made for the Disclosure Scotland check.

There is a requirement for the Social Worker to prepare a Report for the Court. There is specific information the Court expects the Social Worker to find out and this will be explained to you by the Social Worker at an early stage. The Court also has to appoint a Reporting Officer and Curator *ad litem* (usually the same person). This is an independent person who must also get full information to prepare a detailed report to the court on all the circumstances and on whether the adoption is in the child's best interests.

When the court receives all the reports, a hearing date will be set about 4 weeks ahead, to consider the application to adopt.

The court must have the agreement of the child's birth parent/s to the adoption, if he or she has parental responsibilities and rights. The Social Worker has a duty to find out the wishes of the child's birth parent/s and their views on the alternatives to adoption. Where a birth father is not married to the mother of the child and has never had parental rights and responsibilities for the child, the Social Worker has a duty to take reasonable steps to notify him of the application for adoption. The Reporting Officer will also usually meet with the birth parent/s to seek their views. If they do not agree, then the court has to be asked to dispense with that consent on one of the grounds set out in the 2007 Act. If the child's birth parent/s do not give consent, you may wish to consult a solicitor.

The Reporting Officer/Curator *ad litem* will want to meet with the child and if they are over 12 years, will ask them to sign a form agreeing to the adoption.

## After the Adoption

When the adoption is granted, the court will send you a formal notification of this. You should then apply to the General Register Office, New Register House, Edinburgh EH1 3YT, Tel 0131 334 0380, for a copy of the child's birth certificate from the Adopted Children's Register, sending the required fee.

## Further Information

You can get further information from:

- a solicitor practicing in family law
- the Scottish Child Law Centre, 54 East Crosscauseway, Edinburgh EH8 9HD Tel 0131 667 6333 website [www.sclc.org.uk](http://www.sclc.org.uk)

- Aberdeenshire Council Social Work, at your local Social Work Office and on step-parent adoption from:
- Stepfamily Scotland, Gillis Centre, 113 Whitehouse Loan, Edinburgh EH10 1BB Tel. 0131 6238951, Helpline 0845 1228655  
website [www.stepfamilyscotland.org.uk](http://www.stepfamilyscotland.org.uk)
- The British Association for Adoption & Fostering (BAAF)  
website: [www.baaf.org.uk](http://www.baaf.org.uk)

## National Care Standards

There are National Care Standards for adoption agencies which set out what you can expect. It is Standard 23 which relates to step-parent adoption.