

STEP-PARENT ADOPTION

Introduction

The advice in this leaflet relates to the laws of England and Wales. If you want to adopt in Scotland or Northern Ireland, the system may be different.

This leaflet is for guidance only. SSAFA does not provide this service in the UK.

It does not remove the need for you to get legal advice.

Many children today live with one parent and that person's partner. If you or your partner look after a child who was not born to you, have you wondered what rights you have as a step-parent?

Parental Responsibility

If a couple has a child after they get married, they both automatically have parental responsibility. If parents were not married and the child's birth was registered before 1 December 2003, the mother alone has parental responsibility. If the birth was registered after 1 December 2003, and if both parents are names on the birth certificate, they both have parental responsibility.

The Children Act 1989 defines parental responsibility as:

"All the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property".

Many step-parents would like parental responsibility for the child or children they are bringing up. They can get parental responsibility through:

- Adoption;
- A Parental Responsibility Agreement;
- A Parental Responsibility Order;
- A Residence Order; or a
- Special Guardianship Order

The options are explained in this leaflet.

Adoption

It is possible for a step-parent to adopt a child. Adoption gives the step-parent parental responsibility and also gives them the opportunity to change the child's names. It involves a social worker from social services assessing the step-parent and writing a report for the court. All the family will be interviewed, as will the parent who does not live with the child.

If the child's father does not have parental responsibility, the adoption can go ahead without his consent (permission). However, if his identity is known, the local authority must get his views and find out if he is likely to apply for a Parental Responsibility Order or a Residence Order, or for contact. He will be given notice of the application to adopt and the court may involve him in the procedure. Because an Adoption Order ends a birth parent's parental responsibility, everyone involved should get professional or legal advice before going ahead. The court will look carefully at whether an Adoption Order is appropriate.

Parental Responsibility Agreement

A step-parent who is married to or has a civil partnership (a formal arrangement giving same-sex couples the same legal status as married couples) with the birth parents of a child can apply for a Parental Responsibility Agreement. The step-parent and the birth parents will then all share parental responsibility. Any change of the child's name must be done through deed poll or declaration.

The procedure for Parental Responsibility Order is as follows.

- You get an application form from your local family court.
- You fill in the form and take it back to the court which will then witness your signature.
- You send the witnessed form to the Principal Registry of the Family Division in High Holborn

This procedure does not involve children's services.

Parental Responsibility Order

If the birth parent that the child doesn't live with does not agree to enter into a parental responsibility agreement, you can apply for a Parental Responsibility Order. The court can make an order if it receives an application from a step-parent who is married to or the civil partner of the birth parent. The order may be made separately or in the course of other proceedings relating to the child.

Residence Order

This is an order which states that the child lives with the person who has the order. It also gives that person parental responsibility.

Special Guardianship Order

This is not normally appropriate for step-parents because the special guardian will have more parental responsibility than others, including birth parents. A special guardian is not the same as a guardian appointed to act after the death of the parent.

Which should you choose?

This is something you must decide as a family, taking account of the child's wishes and feelings. Here are some points you might like to consider.

Adoption Application

- An Adoption Order lasts for the life of the child.
- What will the other birth parent think? If you apply for adoption, he or she may object because they will lose their parental responsibility, which they will not with a parental responsibility agreement or order. If the court believes that adoption is being used as a way of "pushing out" or denying the existence of a birth parent, it may decide not to grant the order.
- How will it affect the wider families? For example, children may not like to think that one set of grandparents is no longer legally related.
- The adopting step-parent, the child and the rest of the family must go to court.
- The other birth parent would normally be told the date of the hearing if he or she has parental responsibility, unless there is a reason not to do this. Even if that parent does not have parental responsibility, unless there is a reason not to do this. Even if that parent does not have parental responsibility, the court may involve him or her and insist that they are told about the hearing.
- Children's services will make several visits. If the child is old enough, he or she will be interviewed on their own.
- If you are living overseas, it may be difficult for you to make yourself available to the social worker. SSAFA can act on your behalf if you live in some overseas countries. In Germany you would be advised to contact Core Assets.
- There is a court fee for applying for adoption. As at September 2014, the fee is £160 per application.

Parental Responsibility Agreement

- Parental responsibility is shared between both birth parents, so their relationship to the child is still acknowledged.
- It is a much simpler procedure which does not involve children's services or a court appearance.
- The parental responsibility agreement lasts until the child is 18.
- It is free.

Parental Responsibility Order

An application can still be made to court if any person with parental responsibility objects to a parental responsibility agreement being made.

Residence Order

- Although this gives someone parental responsibility, the disadvantage for a step-parent is that because the order only applies when the child is living with him or her, he or she would lose parental responsibility if the birth parent and the step-parent separated.
- A Residence Order may be made in favour of a person who is not the natural parent or guardian of the child. This would apply until the child is 18.
Special Guardianship Order
- This order would rarely be appropriate for stepparents as the special guardian has parental responsibility above all others, which in the case of a step parent would mean he or she had greater responsibility than the birth parent.

What to do next

Adoption

If you think that Adoption is the way forward for you, contact your local adoption team. If you are serving overseas and do not have property in the UK, you should apply to the court in the last area you lived in (England and Wales only). You need to tell the local authority in that area that you intend to adopt. They will then give you advice.

Parental Responsibility Agreement

If you want a parental responsibility agreement, you need to contact your local family court and ask them to send you the application form C(PRA2) headed "Step-Parent Parental Responsibility Agreement". (You should make it clear that this is a step-parent application as there is a form for an agreement to be made with a birth father). You may also obtain this online through www.direct.gov.uk <<http://www.direct.gov.uk>> follow to form finder.

Not sure what to do?

If you are not sure what to do, get legal advice in the first instance.

You can then talk about your particular circumstances. Your local Citizens Advice Bureau may also have helpful leaflets. If you need a solicitor, make sure that he or she is experienced in Children's law.