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Adoption of children looked after by the local authority

References

AA: Adoption Act 1976
AAR: Adoption Agencies Regulations 2005
ACA: Adoption and Children Act 2002
APCR: Arrangement for Placement of Children Regulations, 1991
ASSR: Adoption Support Services Regulations 2005
CA: Children Act 1989
FLR: Family Law Reports
FP(A)R: Family Proceedings (Amendment) Rules 2005

Introduction

Adoption aims to provide a new family for children who cannot, for whatever reason, live with their own families. Whatever the circumstances, if there is a plan for your child to be adopted, this is likely to be an extremely traumatic time for you and it is important you understand what decisions can be made, when and by whom.

This advice sheet outlines the legal framework under which adoption agencies and courts make decisions about whether or not a child may be adopted. It also provides information about your rights as parents and relatives within the adoption process and makes suggestions about who else you can contact for further advice and support. All the legal references are listed in the narrow column on the right

There is a separate advice sheet on open adoption, which outlines the steps which parents and other birth relatives can take to try to maintain contact/links with their child when they are adopted.

Contact FRG for advice sheet on open adoption.

What is adoption?

Adoption is a court order which creates a new legal relationship between a child and his/her adoptive family. Adoption permanently ends the legal relationship between the child and his/her birth family. Once an adoption order is made it cannot be revoked.

If your child is made the subject of an adoption order, s/he will become part of the adoptive family and will no longer be related to you or anyone else in your family. This means that in law you will no longer be your child's parent and s/he will no longer be your child. However, if it is considered by the courts to be in your child's best interests, it is still possible for you to receive some information about how s/he is doing after the adoption order is made; and in some cases there can even be some contact arrangements between you and your child.

Whether you agree to your child being adopted or not, it can be a very painful to come to terms with the idea that your child is, or may be, adopted, and you may well want to have some support. As part of the adoption process, the adoption agency must provide a counselling service for parents, so you can ask for this. There are also other organisations you may be able to approach for independent support – (see 'Where can I get further information?' below).

When can a child be adopted?

The plan for your child to be adopted may be something which you have asked the local authority to arrange, or it may be a plan which the local authority puts forward as a result of concerns about your ability to look after your child.

Whatever the circumstances, there are strict legal processes which must be followed by the local authority, the court and the adoption agency before a child may be placed for adoption and before an adoption order can be made. It is very important that you **seek legal advice immediately**. For details of how to find a solicitor (see 'Where can I get more information?' below).

Who is considered to be a 'parent' in the adoption process?

In the adoption process, the term 'parent' only refers to parents who have parental responsibility. This includes:

s.52(6) ACA

- **Mothers** since they have parental responsibility from birth and only lose it if their child is adopted;
- **Fathers** who:
 - Are or have been married to the mother at any time since the child's birth; or

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- Have signed a formal agreement with the mother giving them parental responsibility which has been registered with the Principal Registry in London; or
- Have been granted a parental responsibility order or residence order by the court, or
- Are registered as the father of the child on the birth certificate after 1st December 2003.

If you are a father of a child who may be adopted your rights will be restricted if you do not have parental responsibility for your child. It is therefore very important that you contact a solicitor straight away.

If you are the mother of a child who may be adopted and you want your child's father to be involved in the adoption process, it is important that you give the adoption agency his name and contact details if he isn't living with you, so that he is informed of his rights and offered counselling and support.

When is a child looked after by the local authority?

A child who is placed for adoption will normally be **looked after** by the local authority beforehand¹. This will either be:

- by agreement with the parents in which case the child is in **accommodation** with the local authority and the parents or others with parental responsibility will have agreed the plan; or
- **under a care order** in which case the local authority can override the parents' wishes in most respects about the plans for their child.

Reg 3, ACPR

s.33(3)(b) CA

When a child is **looked after** the local authority must comply with certain statutory duties set out below and they may not place a child for adoption unless either the parents give formal consent to the placement or the court makes a placement order. This is discussed below.

s.18(1) ACA

¹ The only exception to this will be where someone who has already been looking after a child for some time wants to apply to adopt him/her and either the local authority is not involved or does not agree with the proposed adoption. In this situation there are special rules which apply. For further advice contact Family Rights Group advice line or speak to your solicitor.

What happens before a child is placed for adoption?

Unless or until the adoption agency² has the consent of the parents (with parental responsibility) to their child being placed for adoption or a placement order is made, the local authority must comply with the general duties which apply to all children who are looked after by the local authority, for example:

- finding out what the parents and other significant people in the family want for their child,
- making and reviewing plans for the child which will best promote his/her interests, including making a plan for his/her permanent care after 4 months of being in the care system,
- arranging contact with parents and other relatives when children cannot return home, and
- considering whether there are other possible placements for the child in the family network.

For further information on these duties, see FRG advice sheet on making plans for looked after children.

s.22 (4&5) CA

APCR, RCCR & Chapter 2 para 1 AAR Guidance

Sched 2 para 15 and s.34 CA

s.23(6) CA

In addition, once the local authority is considering a plan for adoption, there are additional factors which must be considered about what would be in the child's best interests throughout his/her life before they make any decisions. These include:

- The relationship the child has with his/her parents and other members of his/her family network and the potential benefit to the child of these relationships continuing if that were possible,
- The possibility of anyone else in the child's family being able to provide a safe and caring home for the child if the parents are unable to care, or are prevented by the courts from caring, for the child and
- The wishes of the child's parents and his/her family about the child's future care.

s.1(4)(f) ACA

If you feel you would like to be given a chance to raise your child, or if you cannot care for him/her but you would like to remain in contact with him/her, you need to discuss with your solicitor what evidence you can gather in support of your case. However, if you have been involved in care proceedings it may be that your solicitor advises you that you do not have a realistic chance of

² The term **adoption agency** means the local authority children's services or a voluntary adoption agency, which is authorised to undertake adoption work.. Where the child is looked after, it will be the local authority, in its role as adoption agency, that deals with the adoption plan, although a voluntary agency may also be involved, for example if it has approved the proposed adopters.

having your child home again. If that is the case, it is really important that anyone else in your family, who might be able to provide a safe and caring home for your child, comes forward and participates in the proceedings, because this is effectively the last chance for your family to be considered as carers for your child.

If they want to seek independent advice for themselves they can either contact a solicitor of their own or they can call Family Rights Group advice line

You could also ask the agency to arrange a **Family Group Conference** to enable everyone in your family to consider the options for your child.

What is a Family Group Conference?

A Family Group Conference is a decision-making process in which the whole family makes plans and decisions for children who, because of difficulties in the family, need of a plan that will safeguard and promote their welfare. It offers family members a chance to get together, to discuss how to sort out any problems and make plans for the child. The professionals then consider the family plan to check that the child will be safe and his/her welfare promoted. Professionals are only involved in *part* of the meeting.

The government wants to develop the use of FGCs to help families make good plans for vulnerable children to be safely living with their families. They are now available in many local authorities so it may be a good idea for you to ask the social worker if s/he can make a referral to a FGC service for you to help you make plans for your child who is in the care system.

For further information about this see FRG advice sheet on Family Group Conferences

What steps must be taken in order to place a child for adoption?

If the local authority/adoption agency consider there are no placements within the wider family which will promote a child's safety and well-being and instead they are considering placing a child for adoption, they will need to comply with a number of steps before they can proceed with a plan to place a child for adoption:

1. Counselling and information:

The adoption agency is required to provide **counselling and information** to the child and his/her parent/guardian about the legal procedures and implications of adoption. This should be available to parents and the brothers and sisters of children who

Regs 13 & 14 AAR

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are being adopted.

Parents should have a support worker who is independent of the child's social worker from the moment that adoption is identified as the plan for the child. Parents also have a right to be assessed about their need for adoption support services (see below).

*Para 2.25 guidance,
and NMS 7.4*

If you want counselling, information and/or support you can receive this from the adoption agency but if you prefer to have support from someone independent you may be able to find this by contacting any of the adoption support agencies (see 'Where can I get more information?' below).

Also you should be allocated an independent support worker from when adoption is first mentioned as a possible plan for your child and you can ask to be assessed for the support services you may need, for example to support any contact arrangements.

2. Finding out the birth family's views:

The local authority/adoption agency should also find out the child's and the **parents' wishes and feelings** about:

Reg 14 AAR

- the possibility of a placement for adoption,
- the child's religion and culture and
- contact arrangements between you and other members of the family with your child if s/he is placed for adoption or is adopted

and the views of the **child's father** (where he has no Parental Responsibility), his/her **wider family** and any other person the agency consider relevant regarding the placement and contact arrangements after placement. However a recent case has held that consultation with wider family members could be achieved indirectly in some cases where this was considered to be in the child's best interests.

Reg 14(3) AAR

*Parents –v-
Hampshire CC BAAF
Vol 30, no 4, 2006*

The adoption agency should therefore talk to you and your family about the adoption process and your views about contact arrangements if the adoption goes ahead. It is important that you make your wishes clear from the outset.

The adoption agency should also ask you about how your child should be brought up in terms of religion and culture should s/he go to live with adopters.

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If you are the father of the child but you do not have parental responsibility, the local authority should still find out your views about these things. They should also ask you if you intend to apply for parental responsibility and/or a residence or contact order for your child. If you wish to do this you must seek legal advice urgently.

Details of how to contact a solicitor specialising in child care law and/or Family Rights Group Advice line can be found at the end of this advice sheet.

Once the local authority has gathered this information, they must consider it when making any decision about the adoption of your child, including when matching him/her with prospective adopters.

3. Adoption Panel

Before the local authority can decide to pursue a plan for adoption they must refer the case to an Adoption Panel. The function of the Adoption Panel is to make a number of recommendations, including:

- ❑ whether the child should be placed for adoption ;
- ❑ whether proposed adopters should be approved as prospective adopters; and
- ❑ whether the needs of the child in relation to adoption are matched by the care offered by the proposed adopters.

Reg 18 AAR

Reg 26 AAR

Reg 32 AAR

The adoption panel cannot make any decisions about the plan for your child to be adopted but it can make recommendations about it to the adoption agency.

When making recommendations about whether or not your child should be placed for adoption, the panel must consider all the information and reports provided by the adoption agency about your child and your family and what would be in your child's best interests throughout his/her life including existing and possible future family relationships.

Reg 17 AAR

s.1 ACA; s.1(4)(f) ACA

Where the Panel recommends that a child should be placed for adoption, it may also advise the agency on:

- Any **proposed contact arrangements** (this might include face-to-face, phone, email and letter box contact with relatives such as grandparents, aunts uncles, brothers and sisters and sometimes parents); and

Reg 18(3) AAR

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- Whether or not it should apply for a placement order.

Your child's social worker must provide a report to the adoption panel about your child. He/she must include the birth family's wishes and feelings in this report. It is important that you talk to your child's social worker about your wishes and feelings. You may wish to put what you want to say **in writing** so that the social worker can include this in the report. You could set out your views about what contact arrangements would be beneficial for your child, giving reasons from your child's perspective, so that the Panel can consider this before making any recommendations about your child.

4. The agency decision about an adoption plan:

Once the Panel makes a recommendation about a proposed placement for adoption, the adoption agency must decide whether or not to pursue a plan for adoption of the child. When making this decision they must take account of the Panel recommendations and any advice given regarding contact and placement order(s).

Reg 19 AAR

5. Obtaining authority to place a child for adoption

If the local authority propose to *place* the child for adoption, they can only do so if either:

- i) each of the parents (with parental responsibility) gives formal consent to the placement; or
- ii) the court has made a placement order.

s.19 ACA

s.21 ACA

This means that even if the adoption agency has made a decision to pursue a plan for your child to be adopted, they cannot act on that plan unless either you have given formal consent to the proposed placement in writing or they have been granted a placement order by the court. You would automatically be involved in those proceedings if you were a parent with parental responsibility for your child.

However, if you are a father who does not yet have parental responsibility the placement could go ahead without you being involved so it is really important that you take legal advice immediately about obtaining parental responsibility.

Parental consent to placement for adoption:

Consent to placement for adoption can only be given by a parent who has parental responsibility for the child. s.52(6) ACA

This consent is only valid if it has been witnessed by a CAFCASS officer. s.52(3)ACA

Once such consent is given there are only limited circumstances in which a parent can:

- Withdraw their consent and remove the child from an adoptive placement; and/or ss.31-33 ACA
- Oppose the making of an adoption order at a later date. s.47(5)&(7) ACA

This means that if you (and the other parent, if s/he has parental responsibility) give your consent in writing to the placement for adoption and a CAFCASS officer has witnessed your signature on the consent form, the adoption agency will have the power to place your child for adoption and you may not be able to ask for your child to come back to your care or challenge the adoption later on if you change your mind. ***It is therefore very important that you only sign the consent form after having taken independent legal advice first.***

Details of how to contact a solicitor specialising in child care law and/or Family Rights Group Advice line can be found at the end of this advice sheet.

Note:

- If you are the mother of a new born baby you cannot give this formal consent until your child is over 6 weeks old, although you can enter into informal arrangements about placement of your child with prospective adopters before then. The adoption agency is not 'authorised to place the child' for adoption until your formal consent is given and witnessed by a CAFCASS officer, 42 days or more after the birth. The consent of the father (if he has parental responsibility) would also have to be witnessed by the CAFCASS officer for it to be effective. Reg 19 AAR and paras 65-68 ACA Guidance
- If you are a father without parental responsibility, and the child's mother has given formal consent, then regardless of your views, you will be treated as if you have given formal consent once the child has been placed for adoption. If you are in this situation you need to take urgent legal advice about what steps you can take. s.52(9)(b) ACA

Placement order authorising a placement for adoption:

A placement order authorises the adoption agency to place a child with any prospective adopters as long as they have complied with the duties set out below.

The local authority may not apply for a placement order until the Adoption Panel has considered the proposed plan for the child to be adopted.

*Re: P-B [2006]
EWCA Civ 1016*

A placement order can only be made where the court is satisfied that:

a) **either** the child is subject to a care order or the threshold criteria in s.31 Children Act 1989 have been proved i.e. that: the child is suffering or is likely to suffer significant harm; and that

s.21 ACA

i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or

(ii) the child's being beyond parental control.

Harm in this context means "ill-treatment or the impairment of health or development including for example impairment suffered from seeing or hearing the ill-treatment of another";

or

b) the child has no parent or guardian;

AND

c) **either** each parent with parental responsibility for the child has consented to the child being placed for adoption with any prospective adopters and has not withdrawn that consent,

or

d) the consent of each parent should be dispensed with.

s.52(1) ACA

The grounds for dispensing with the parents consent are either that s/he cannot be found or is incapable of giving consent, or that the child's welfare requires the consent to be dispensed with;

NB: Where the parent gives consent to a placement order or the court decides that his/her consent should be dispensed with, that

s.47 ACA

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parent may not oppose the making of an adoption order at a later stage unless the court gives permission, known as 'leave'. The court will only give leave if there has been a change in circumstances. This is discussed further below

In addition to being satisfied that these two grounds are met, the **court must also apply the welfare principle** when deciding whether or not to make the placement order. This principle states that:

- the welfare of the child **throughout his/her life** is the paramount consideration, and
- the court must consider a checklist of factors set out in the Act which includes
 - the child's wishes, background, age, sex, personal characteristics and needs;
 - any harm the child has suffered or is likely to suffer;
 - the likely effect on the child of ceasing to be a member of his/her original family and becoming a member of his adoptive family;
 - the relationship the child has with his/her relatives (including his/her mother and father) and any other person whom the adoption agency considers relevant; and
 - the likelihood of such relationship continuing and the benefit to the child of it doing so;
 - the ability and willingness of the child's relatives/other person to provide a secure environment in which the child can develop and otherwise meet the child's needs; and
 - the wishes and feelings of the child's relatives/other person.
- The court must also consider all its powers and not make a placement order unless this is in the child's best interests.

s.1 ACA

s.1(2) ACA

s.1(4) ACA

s.1(4)(f) ACA

s.1(6) ACA

ss.26(1) & 27(4) ACA
For further information see advice sheet on open adoption.

s.29 ACA

The **court must consider any contact arrangement** before making a placement order and any existing order for contact ceases to have effect.

When a placement order is made, any existing care order ceases to have effect for the duration of the placement order.

All of this means that a placement order gives the local authority permission to place your child for adoption even if you do not agree. Before making the order, the court will also have considered whether or not you or anyone else in your family can

see or remain in touch with your child whilst s/he is placed with adopters.

The placement order stage is therefore *the* time when real decisions are made about whether or not your child is likely to be adopted. You may still be able to raise arguments against the adoption of your child at a later stage but if a placement order is granted, it sets in motion a chain of events, which is very likely to result in your child being adopted. Therefore if you do not agree with your child being adopted, it is essential that you find a solicitor specialising in child care law to represent you in the proceedings as soon as possible.

6. Matching the child with prospective adopters

Once you have given formal written consent to the placement or the court has made a placement order, the adoption agency must, if it has not already done so, find suitable adopters who match your child's needs. However, it cannot make a final decision about the placement unless your child's case has gone back to the adoption panel for advice on whether the proposed carers will meet your child's needs. This is often called approving the match.

Reg 32 AAR

Reg 33 AAR

It is important that you discuss your views about future contact with your child's social worker. And, given the role of the Adoption Panel in advising on contact, you may want to write to the panel at this stage to say why you think your child will benefit from maintaining links with you or other members of the family, such as grandparents, brothers and sisters etc... Again you may want to copy your letter to the adoption agency which makes the final decision about the placement.

If you cannot agree the contact arrangements that will take place during the placement, you should discuss with your solicitor whether you should apply to court for a new contact order to operate during the placement.

*s.26 & s.27(4) ACA
For further
information see
advice sheet on open
adoption.*

What are the consequences of a parent consenting to an adoption placement or the court making a placement order?

Removal of the child from the adoptive placement:

When a child is *placed for adoption with the formal written*

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consent of the parents, a parent may **not** remove his/her child without giving notice to the adoption agency. If the adoption agency does not consider the child should be returned to his/her parent, it may apply for a placement order to prevent the child being removed.

s.30-36 ACA

If the child is subject to a placement order, the parent may **not** remove the child unless the placement order is revoked.

Consequences of parental consent for adoption proceedings:

If the parents give formal written consent to the placement of their child for adoption, or the court makes a placement order, a parent may not then oppose the making of an adoption order at a later stage unless the court gives permission, known as 'leave'. The court will only give such leave if there has been a ***change in circumstances*** since s/he consented to the adoption placement or a placement order was made.

s.47 ACA

This means that there are two consequences to you consenting to your child being placed for adoption and/or a placement order:

- Your right to subsequently remove your child from the adoptive placement is restricted/removed;
- You may not be able to oppose the making of an adoption order at a later stage.

For further advice on this, contact a solicitor specialising in childcare law or Family Rights Group advice service.

What happens during a placement for adoption?

When a child is placed for adoption by the adoption agency, parental responsibility for the child is held by:

- The prospective adopters (although the local authority has the power to limit how they exercise it),
- The adoption agency, and
- The parents.

s.25 ACA

This means that, unless the adoption agency specifically restricts the things the adopters can decide, the adopters have the right to make all major decisions (other than changing your child's name

s.28 ACA

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or taking your child outside England and Wales for more than one month) without referring back to you or the adoption agency.

As a parent there may be very little you can do in practice to exercise your parental responsibility for two reasons: you are unlikely to know where your child is placed or have any contact with the adopters; and the local authority has the right to limit how you exercise your parental responsibility.

However, your child also remains looked after during the placement for adoption which means that regular reviews are carried out and an independent reviewing officer (IRO) will be responsible for monitoring your child's case and seeing that the plans made are implemented. If you have any concerns about the plans not being put into effect, for example around contact, it is a good idea to contact the IRO to let them know the situation and discuss your concerns.

s.18(3)

When can an adoption order be made?

An adoption order can only be made by the court if it is applied for by someone who meets certain requirements set out below.

1. Who can apply for an adoption order?

The conditions for making the application in respect of a child who has been looked after by the local authority are that:

1. Where the child has been placed with the applicants by an adoption agency (with the parents' consent or under a placement order - see above), the child has lived with them for at least 10 weeks before the application is made.
2. Where the child has not been placed for adoption with the applicants by an adoption agency (following the placement process described above) then, unless the court gives leave:
 - in the case of local authority foster carers who want to adopt the child [without the agreement of the local authority], they can only apply to adopt if the child has been living with them for one year before they make the application; and
 - in any other case (except step-parent cases), the child has been living with the applicants for 3 out of the last 5 years.

s.42(2) ACA

s.42(4) ACA

s.42(5) ACA

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In each of these cases, they must give notice of their intention to adopt to the local authority at least 3 months before making the application.

s.44 ACA

In all cases:

- Applicants must generally be over 21.
- A single person can apply to adopt on their own.
- A couple can apply whether or not they are married or civil partners. However if a person who is married or in a civil partnership wishes to apply for adoption they must apply with their partner unless s/he cannot be found or the couple is permanently separated.

ss.49-51 ACA

2. Who is at the adoption hearing?

The following people will be parties to the proceedings:

- the adopters who are the applicants;
- the adoption agency which is also required to file a report on the suitability of the applicants to adopt;
- parents who have PR; and
- anyone with an existing contact order.

FP(A)R 2005

s.43 ACA

Children will not automatically be parties to proceedings, which means that there will not necessarily be a CAFCASS officer. However they will be joined as parties in some situations, for example where the parent is granted leave to oppose the making of an adoption order (see next section), where the child opposes the adoption order, or where a CAFCASS officer has recommended that it is in the child's best interests to be represented and the court accepts this recommendation.

Relatives are generally not parties, unless they have an existing contact order, so, if for example you want contact after the adoption, you will need to apply for leave to be joined as a party when making your application for contact.

3. What are the grounds for making an adoption order?

There are two issues the court must address when deciding whether to make an adoption order:

i) Parental consent: The court can only make an adoption order

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if the parents who have parental responsibility consent to adoption or the court is satisfied their consent should be dispensed with. In most cases, this issue will have been dealt with before placement. This means that a parent:

- who has consented to a placement for adoption under s.19, or
- who has given advance consent to adoption under s.20, or
- whose child is subject to a placement order

s. 47(2)&(4) ACA

may not oppose the making of an adoption order without the court's leave.

s.47(3)&(5) ACA

The court may only give a parent leave to oppose the making of an adoption order where it is satisfied that there has been a change of circumstances. This might arise where, for example a father has acquired parental responsibility after the child was placed for adoption.

s. 47(7) ACA

[NB: If the mother gives formal consent and the father does not have parental responsibility he will be deemed to have given formal consent to the placement for adoption when the mother consents, even if he later acquires parental responsibility. A father in this situation should take urgent advice about any steps he can take with regard to the child.]

s.52(9) ACA

Where leave is given, the grounds for dispensing with the parents consent are either that s/he cannot be found or is incapable of giving consent, or that the child's welfare requires the consent to be dispensed with.

s.52(1) ACA

If the applicants wish to apply to adopt a child who was **not** placed with them for adoption by an adoption agency, they will have to satisfy the court at the adoption hearing that either the parents with parental responsibility consent to the order being made or that their consent should be dispensed with.

ii) Welfare principle: When deciding whether or not to make an adoption order the court must also apply the welfare principle (described above on page 11) and it must not make an adoption order, as compared with any other kind of order, such as special guardianship, unless this is in the child's best interests (for further discussion on this see section on 'Which order: special guardianship or adoption?' on p.18 below).

s.1 ACA

The court must also consider any contact arrangement before making an adoption order.

s.46(6) ACA

4. What happens if the parents do not consent?

Parents will be parties to the adoption proceedings and will be notified of the hearing date so will have a chance to express their views. However, in cases where a child has been placed for adoption by an adoption agency, it may be difficult to oppose the adoption (see section above).

FP(A)R & s.141 ACA

Any parent, including a father who has acquired parental responsibility after the child was placed, who does not consent to adoption, should take urgent legal advice including about:

- whether they can apply for leave to oppose the making of the adoption order, and/or
- whether they may want make representations to the court about any other possible order such as special guardianship and/or contact arrangements.

Details of how to contact a solicitor specialising in child care law and/or Family Rights group Advice line can be found at the end

What is the effect of an adoption order?

An adoption order severs all legal ties between an adopted child, and his/her birth parent, and creates a legal relationship between the child and the adoptive parents as if s/he were born to them. Once an adoption order has been made it cannot be revoked.

s.67 ACA

Which order: special guardianship or adoption?

It is confusing that the statutory ground for making an adoption order is similar to the ground for making a special guardianship order because in both cases the court must apply the welfare principle i.e. that the child's welfare is the paramount consideration.

This begs the question: how will the court determine which order is most suitable for the child? The answer is that the different features of each order will be considered in the light of the needs of the child in the particular circumstances of the case and the Court of Appeal has confirmed that ***there is no presumption of a particular kind of order in a particular category of case.***

*Re S (Adoption order or special guardianship order)
[2007] 1 FLR 819*

So for example, in the case of a:

- **special guardianship order:** the expectation is that the child will remain with the special guardian until s/he reaches 18 and the special guardian will be able to make almost all decisions about the child without referring back to the parents. S/he will be able to appoint a guardian for your child in the event of his/her death. The parents need permission from the court to apply to revoke the special guardianship order and this permission is dependent on a significant change in circumstances.
- **adoption order:** the child ceases to be a member of his family of origin and becomes legally related to the adoptive family. The adoptive parents become fully responsible for the child in all respects. They have parental responsibility and do not need to refer to anyone else unless a court orders otherwise. The order can never be revoked.

For further information see FRG advice sheets on special guardianship or contact FRG advice line.

Contact may continue between the child and his/her parents and other relatives in either of the above situations if this is in the child's interests.

Are birth family members entitled to support services?

Birth parents should have access to a support worker independent of the child's social worker from the moment that adoption is identified as the plan for the child.

Para 2.25 guidance, and NMS 7.4

Birth parents are entitled to counselling and written information about adoption and related issues. This also involves finding out the parents' views about the plan for the adoption of their child. Counselling should also be available to brothers and sisters of a child who is adopted.

Reg 14 AAR and pp 6-11 Guidance

Reg 4 ASSR

Birth parents, brothers and sisters and other relatives who have an important relationship with the child also have a right to an assessment of their need for support services. This may be particularly relevant in relation to support for contact arrangements, which might include engaging family mediation services to help resolve difficulties or tensions arising over contact or financial support with the costs incurred during visits.

s.4 ACA & Reg 13 ASSR

Reg 3 & 8 ASSR

For further information see FRG advice sheet on open adoption.

Tips for negotiation

It can be very distressing to hear that the local authority is planning to place your child for adoption. You may be so angry and upset that you want to avoid them altogether. However, it is very important for you to stay involved at this stage as you may:

- ❑ Have people in your family or network who could offer to care for your child on a long term basis. If so, ask them to contact the social worker as soon as possible to ask to be assessed as carers. You could also ask the social worker to arrange a Family Group Conference so you can discuss plans for your child within the family.
- ❑ Want to make proposals for alternatives for your child, such as a special guardianship order in favour of their current foster carers.
- ❑ Ensure that the agency has all the correct information about you and your family so that any decisions about your child are made on the correct basis, and that information, (e.g. about health issues) which will be shared with any prospective adopters is as full as possible. You might also be able to help in putting together information for your child, e.g. by contributing to his or her 'life story' book.
- ❑ Be able to make representations to the Adoption Panel. Ask your social worker if you can attend the panel or put your views and feelings in writing or on tape. The agency will be required to report your views to the panel and should offer you the chance to write down what you think. You should also be given a copy of the report (or most of the report) that the agency is going to give to the adoption panel. This is called 'the child's permanence report.'
- ❑ Be able to influence the choice of adopters by saying the kind of person you would like your child to live with and the kind of contact with your family that will best meet your child's needs. Ask them if you can meet the prospective adopters and help with the move.
- ❑ Be able to ask for adopters who agree to continuing contact, but remember that you are more likely to be allowed some form of continuing contact if they are confident that you won't undermine the placement.

You can obtain more information about Family Group Conferences from Family Rights Group

Where can I get more information?

Contact a **solicitor** who specialises in child care law. Ask your local Citizens Advice Bureau to recommend one or contact the Law Society's information line on 0870 606 2555 or search on www.lawsociety.org.uk. If you are on a low wage, or on income support or job seekers allowance, you may be able to get free advice initially under the Legal Help Scheme.

Family Rights Group offers specialist advice to any family member or friend who is involved with social care agencies about the welfare and/or protection of their child. This includes birth parents and relatives of a child who is being adopted.

The advice line is open on Freephone 0808 801 0366 from 10am to 3.30pm Monday to Friday. You can also email us at: advice@frg.org.uk, or write to us at:

The Print House,
18 Ashwin Street, London,
E8 3DL.

In addition you can visit www.frg.org.uk/advice_sheets.html

Post-Adoption Centre supports birth relatives. They offer counselling, advice and information via the Advice Line 020 7284 5879 Mon, Tues, Wed & Fri 10.00am – 1.00pm and Thurs evening 5.30pm – 7.30pm. They also offer:

- individual counselling at PAC
- outreach counselling clinics and
- assistance with negotiating contact arrangements

5 Torriano Mews,
Torriano Avenue, London NW5 2RZ
Tel: 020 7284 0555

After Adoption helps anyone affected by adoption.

They offer counselling, advice and information via their Action line: 0800 0 568 578 Mon, Wed and Thurs 9 am – 6 pm. Tues 9am-8pm, Friday 9am-4pm.

12-14 Chapel Street,
Manchester, M3 7NH.

Tel: 0161 839 4932

Email: information@afteradoption.org.uk

Website; www.afteradoption.org.uk

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