



Step Families and Adoption

Adoption
Changes Lives





Step Families and Adoption

If you or your partner has a child from a previous relationship living with you, then you are a step family. In these circumstances, some step parents often feel they would like to legally formalise their position with their step child and obtain parental responsibility. There are a number of ways in which step parents can obtain parental responsibility of which adoption is one alternative.



What is parental responsibility?

Parental responsibility was a term introduced by the Children Act 1989. Parental responsibility is defined 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.”

(The Children Act 1989 S.3 (1)).

Who has parental responsibility?

- a) Parents who are or were married to each other have parental responsibility for the children born to them both. Even if the parents separate or divorce, they will continue to have parental responsibility. Parental responsibility is only lost if the child is adopted.
- b) Where the parents were not married to each other, the mother will automatically have parental responsibility. The father will only have parental responsibility if:
- He and the mother jointly registered the child's birth
(on or after 1st December 2003)
 - He and the mother made a formal agreement to share parental responsibility, or
 - He obtained a court order.

In these circumstances, the father's parental responsibility can only be ended by an adoption order.

So how can a step parent obtain parental responsibility?

There are essentially 3 main ways:

- By a Parental Responsibility Agreement or a Parental Responsibility Order
- By a Residence Order
- By Adoption



Let's look at each in turn:

1) Parental Responsibility Agreement/Parental Responsibility Order

If a step parent is married to or the civil partner of the child's parent, they can obtain parental responsibility for their stepchild by agreement (*if there is no disagreement between all the parties*) or by a court order.

The Step-Parent Parental Responsibility Agreement form can be downloaded from the Courts website: www.hmcourts-service.gov.uk. There are also guidance notes on the website on how to complete the form.

Where there is not agreement, the court can make a Parental Responsibility Order.

With both the agreement and the order, the step parent will share parental responsibility with the child's birth parents. The child can retain a legal relationship with the absent parent and that side of the family.

2) Residence Order

A court can make a Residence Order even if the person involved is not married or does not have a civil partnership with the parent of the child.

This order names the person with whom the child will live and the order gives Parental Responsibility to that person. The order can be made until the child reaches 18.

Again, parental responsibility will be shared with the birth parents.



A Residence Order does not give the step parent the right to:

- Agree to the child's adoption;
- To appoint a guardian after her/his death;
- To change the child's surname;
- To take the child out of the country for more than a month.

3) Adoption

With the Adoption and Children Act 2002, a step parent alone can apply to adopt her/his stepchild.

What are the effects of an adoption order?

- When a step parent adopts their partner's child, the legal relationship between that child and the other birth parent (*and grandparents and other relatives*) is ended.
- The child loses all maintenance and inheritance rights from that side of the family.
- The child's surname can be changed
- The child acquires rights to the estate of the step parent along with any birth children of the step parent.
- The step parent and partner (*a birth parent of the child*) alone will have parental responsibility for the child.



Who can apply?

As a step parent you will need to:

- Be 21 years or more
- You must have resided in the British Isles and have been habitually resident there for at least a year prior to the application.
- You do not need to be married but you do have to have lived together as a family (*with the child*) for at least six months before you apply to adopt.

The child to be adopted must be under 19 and unmarried. The application must have been made before the child's 18th birthday.

Matters to consider:

Because adoption is such a final legal step, you need to think very carefully before beginning an application. Do please speak to the Adoption Team and discuss your circumstances if you would like help and advice.

Depending on the age of the child, your child's wishes and feelings will be very important. The court will need to see that your child has an understanding of the nature and effects of adoption and that they know that they have another birth parent with whom they no longer live. Your child will need to know that they are growing up with a birth parent and a step parent.

You will also need to show that you have made efforts to locate and contact the absent partner. This is in order to give the court an indication of the likely attitude of the absent parent to the proposed adoption.

There will be a court fee for each child in an adoption application. There is the same fee if you apply to Magistrate's Court or the County Court. (*Fee of £170 applies*)

The first step is to contact the local Adoption Service. An Adoption Social Worker will take some basic details about your family circumstances.

This leaflet and other information is then sent to you to help you learn more about the process of adoption. You can also learn about the alternatives to adoption if you are wanting to improve your legal security as a “parent” to a child but adoption is not appropriate.

The next step is to formally notify the Local Authority of your intention to apply for an adoption order. We can provide you with a simple form for this, when you let us know this is your chosen plan.

You must notify the Local Authority of your intention to adopt at least 3 months before you make your application to the court.

When you lodge your application at court, you will need to complete 4 copies of the adoption application form (*available either from the court website or from the Magistrate’s court*); the child’s birth certificate; your marriage certificate or civil partnership registration (*if applicable*) and the court fee per child. Please complete the court form in black ink.

A Social Worker will then undertake a series of visits to you, your partner and to the child (*depending on the child’s age and level of understanding*) to gain information for a full report to Court.

You will be asked to give your consent to a number of statutory checks to be made:

- Disclosure and Barring checks on you and your partner
- Health Authority
- Local Authority
- NSPCC
- Employment



You will also be asked to nominate 3 referees who can give an opinion on you as a prospective adopter. *(One of the referees can be a family member).*

If the absent parent has parental responsibility, the Social Worker will take measures to ascertain her/his views about the proposed adoption. Even where the absent birth parent does not have parental responsibility, the Social Worker may well make efforts to ascertain their views.

Once the court has received all the necessary reports, court dates will be given.

The court will have to consider all the alternatives including the making of an adoption order.

If an adoption order is granted, your stepchild will be your child as if she/he had been born to you.

The child's birth certificate will not be returned to you but you will be sent the short version of the adoption certificate. *(It is always worth considering applying for the full version of the adoption certificate).* You will then need the adoption certificate for e.g. applying for a passport.



Contacting the Adoption Team in North East Lincolnshire

You can contact the Adoption team in the following ways:

By telephone:

325545 to 326292 option 2

By email:

fosteringandadoption@nelincs.gov.uk

Website:

www.nelincs.gov.uk/adoption



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