

Step-Parent Adoption

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

Historically, step-parent adoption was chosen by people who wanted to take legal steps to provide a stable and secure family environment for step-children, enabling them to share the new family's name and making sure that step-parent's role, rights and responsibilities are recognised in the event of the death or incapacity of the parent.

Nowadays 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.

Step-parent adoption is achieved through the making of an adoption order by a court. The court will base any decision first and foremost on what is best for the child. The court will want to consider the alternatives before concluding that adoption is the right option.

Who Can Apply?

Adoption applications generally may be made by a single person or a couple.

Until 2005 the law required a parent and step-parent to apply jointly as a couple because the making of an adoption order would cut off the child's relationship with his or her original parents.

Since 2006 a step-parent or the unmarried partner of the child's parent can apply on their own to adopt. If an Adoption Order is made it only cuts off the child's legal relationship with his or her 'absent' parent – the one who is not the partner of the new adoptive parent.

An adoption order in favour of a step-parent is only made if:

- The Court decides that this is in the best interests of the child
- Any other parent of the child who has parental responsibility agrees (unless the Court decides that their permission is not necessary)
- The child has been living with the step-parent continuously for the last 6 months or more
- The step-parent is aged 21 or more when the application is made
- The 'child' is aged under 18 when the application is made and has not been married or a civil partner

- The step-parent has been resident in the UK for a year or more
- The court must consider the parent and step-parent to be in an “enduring family relationship”

The Effects of Step-Parent Adoption

- The relationship between the child and the step-parent will be recognised in law.
- The step-parent will acquire **Parental Responsibility** on the same footing as the birth parent with whom they are sharing the child’s care.
- The child may acquire a new family name.
- The child no longer has any legal relationship with his or her other birth parent.
- The loss of a legal tie with one side of the child’s original family affects such things as automatic rights to contact, maintenance and inheritance.
- If the parent and step-parent later become separated or divorced, both partners will have equal rights to the child whilst the child’s original ‘other’ birth parent will have none.
- The making of an adoption order will be recorded in the Adopted Children Register by the Registrar General. An adoption certificate will be issued which replaces the child’s birth certificate. This will show the parent and former step-parent as the parents of the adopted child.
- The child’s entry in the Register of Births will also be marked to show that the child has been adopted
- At 18 any adopted person can apply for details of their original birth registration.

Parents and Parental Responsibility

In considering step-parent adoption it is necessary to understand the legal concept of Parental Responsibility. It refers to the everyday rights and duties involved in being a good parent, including having the right to make decisions or at least to be consulted about matters affecting the child's education, health and welfare.

It is possible to be a child’s parent but not have Parental Responsibility. Someone can also have Parental Responsibility for a child without being the child’s parent.

Mothers

When a baby is born, its mother automatically has Parental Responsibility for the child.

Fathers

If a married couple have a child, the father has Parental Responsibility for the child and still keeps it after separation or divorce.

There has been a change in the law about fathers not married to the child’s mother.

Children whose birth was registered before 1 December 2003: if the father's name appears on the birth certificate, this confirms that he is the father of the child but this does not automatically give him Parental Responsibility.

Children registered after 1 December 2003: the father does automatically have Parental Responsibility if his name appears on the birth certificate.

A birth father can get his name put on the child's birth certificate if the mother agrees, or if a court order is granted.

Getting Parental Responsibility

A child's birth father who does not have Parental Responsibility can obtain it in three ways:

- By marrying the child's mother
- By signing a formal **Parental Responsibility Agreement** with the child's mother
- By obtaining a **Parental Responsibility Order** from a court

Losing Parental Responsibility

It is possible for an unmarried father to lose Parental Responsibility if the mother applies to court. The court will take a number of factors into account including the degree of commitment he has shown to the child and the level of attachment the child has to the father.

Other people

It is possible for someone who is not the child's parent to have Parental Responsibility for the child. Parental Responsibility can be therefore be held by the mother alone or be shared between two or more than two people.

For example, Parental Responsibility can be acquired if:

- A person is appointed as a child's guardian by a court or as the result of a Will (if both parents die)
- If a **Residence Order** is granted by a court – this is an order which says who the child shall live with – that person automatically has Parental Responsibility – this might not be one of the child's parents
- If a Parental Responsibility Order is granted by a court
- If a Parental Responsibility Agreement is made

Alternatives to Step-Parent Adoption

Often a parent who has formed a new relationship will want their partner to have a recognised relationship to the children in the family and particularly to have the right to continue to care for the children in the event of the parent's death.

However, adoption may not always be the best way to provide stability and security for the child.

There are a number of alternatives which may achieve what the parent and step-parent want. These include:

Parental Responsibility Order

An order granted by a Court which gives the step-parent Parental Responsibility. This will not sever the formal links with half of the child's birth family as adoption would.

Parental Responsibility Agreement

This is a formal legal agreement which can be used to give Parental Responsibility to a father who does not have it already, or to a step-parent. It can only be done if each of the parents who has Parental Responsibility agrees.

Parental Responsibility Agreements and Parental Responsibility Orders can only be sought by a step-parent who is married to – or the civil partner of – the parent, not by someone who is just living with the child's parent.

Residence Order

Residence Orders say with whom the child is to have his or her home. That person is given Parental Responsibility by the Residence Order if they do not already have it.

This is a method which allows a step parent to gain responsibilities and rights without severing legal ties to a birth parent as adoption would.

Contact Order

A contact order outlines the type and level of contact a child may or may not have with another person. This can be useful in managing the relationship with absent parents.

Special Guardianship Order

This is another type of order. It is similar to a Residence Order but more secure. Special Guardianship is **not** likely to be a suitable alternative to step-parent adoption because it grants greater parental powers to the special guardian than other holders of parental responsibility.

Changing the Child's Name

A child's name may be changed by *Statutory Declaration* or *Deed Poll* but should be done with the consent of every person with Parental Responsibility, otherwise leave of the court should be obtained if consent is not forthcoming.

Despite the existence of all these alternatives, the court may make an adoption order if satisfied that this is the right outcome for the child.

How to Apply

You should have considered the alternatives to adoption described above before deciding to make an application for an adoption order. You may wish to contact the office of your Local Council's Children's & Families Services for a preliminary discussion or you may wish to consult a solicitor who specialises in children and family law.

Before making your application to the court you must formally notify the local County Council of your intention to apply for an adoption order.

You may make your application to your local **County Court** or **Family Proceedings (Magistrates) Court** using the appropriate form which you can obtain from the court office.

The Court will ask the County Council to appoint a social worker to provide the court with a detailed report on all the circumstances.

The report is called an *Annexe A Report* and 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.