



Non-Agency Adoption Policy & Procedure

Policy and Procedure



‘Communication is important, so information should be accessible to everyone. People with sensory communication disabilities may need documents in easy read, large print, audio or Braille formats for example. Others may need face to face communication support through a; British Sign Language Interpreter, deafblind interpreter, lip speaker or note taker (as recommended by the NHS Accessible Information Standard). If someone speaks (or reads) a language that is not English, they will need to have the appropriate language-spoken language interpreter and / or text translator’.



1 Introduction and purpose

1.1 Non agency adoption includes all those categories of adoption where the adoption agency and the Adoption Panel **do not** play a part in the **placement** of the child for **adoption**. These are:

- Partner adoptions (formally known as step-parent adoption);
- Anyone who has had care of the child (for any 3-year period in the past 5 years);
- Local authority foster carer(s) who has had care of the child for a year

The court report must be written by an:

- Employed social worker with at least 3 years post qualifying experienced in childcare social work, including direct experience of adoption work; or
- Supervised by a social worker who does; or
- An independent social worker with this experience under the agreement of the Local Authority
- A student social worker supervised by a social worker with this experience.

1.3 All non-agency adoptions have similar characteristics and there is a basic format comprising referral, consultation, provision of written information, assessment and preparation of the Annex A report for court. Depending, however, on the type of non-agency adoption, there may be **extra elements** included in the process and work.

1.4 For the procedure in relation to children who have been brought into the UK for the purposes of adoption. See Inter-Country Adoptions Policy

2 Legislation and regulation

- 2.1
- Adoption and Children Act 2002;
 - Court Rules (Family Procedure) Adoption 2005;
 - Adoption Support Regulations 2005;
 - The Children's Act 1989;
 - Statutory Instrument 2005 2795 (L22) The Family procedures Adoption Rules;
 - Adoption with a Foreign Element Regulations 2005;
 - Inter Country Adoptions Regulations 2003;
 - Adoptions (Bringing children into the UK) Regulations 2003;
 - Court and Pre-Proceedings Guidance 2014.
 - Statutory Guidance on Adoption 2013

3 Policy

What do we mean by Non-Agency?

3.1 A non-agency placement occurs when the child is not in the care of an agency. In a non-agency placement, the birth parents or legal guardian(s) consent to the adoption, or the Court determines that consent can be dispensed with, and parental responsibility is terminated on the granting of an Adoption Order. Depending on the

type of non-agency placement, the local agency may have identified responsibilities to assist in the completion of the adoption.

3.2

Partner Applications	Adoption by Others
Applications by the partner of the parent of a child, i.e. the parent's spouse, civil partner or unmarried partner (partner adoptions, but sometimes inaccurately, referred to as step-parent adoptions)	Applications by local authority foster carers where the child has not been placed with them for adoption
	Applications by relatives of the child or by private foster carers

S49(4) of the Adoption and Children Act 2002 provides for applications for adoption being made before a child is 18 (An application for an adoption order may only be made if the person to be adopted has not attained the age of 18 years on the date of the application), but that then the order can be made any time before the child's 19th birthday in accordance with s47(9)(An adoption order may not be made in relation to a person who has attained the age of 19 years

4 **Types of Non-Agency Adoption**

Children Brought to the UK from Overseas for Adoption

4.1 Please view the Inter-country Adoptions policy and procedures for children who have been brought into the UK from overseas for the purposes of adoption for more details.

4.2 **Partner Adoptions**

Partner adoption comprises the largest category of non-agency adoptions and it is important that this work is completed thoroughly and not seen as a 'rubber stamping' exercise. Non-agency adoptions are part of our safeguarding role.

4.3 The task of the assessing Social Worker is to ensure that all parties know and are aware of the legal and emotional implications of an Adoption Order, to ascertain the wishes and feelings of the child and the birth parent(s) and to make a recommendation to the court by the furnishing of a report as to whether an Adoption Order should be made in respect of the applicant.

4.4 In considering the [welfare checklist](#) in Section 1 of the Adoption and Children Act 2002 the court has a duty to consider the alternatives to adoption and whether there are options other than adoption which would better serve the child's best interests and life-long welfare. In many cases it may be difficult to see what significant advantage there would be to the child in adoption over one of the alternative options.

4.5 In a Partner adoption application, the Court must consider whether arrangements should be made for allowing any person contact to the child (Adoption and Children Act 2002 Section 46 (6)). Thus, the child's 'other' parent needs to be advised of their right to apply for contact within the adoption proceedings.

4.6 In particular, if the applicants need to ask the court to dispense with the other

parent's consent, the court must be satisfied that the advantage of adoption over any other option in serving the welfare of the child and is sufficient to justify the impact on the other parent's Human Rights (Article 8 Right to Family life with the child).

- 4.7 Under the Adoption and Children Act 2002 a step-parent can apply as a single applicant for an adoption order (Section 51 (2)). A child adopted under Section 51 (2) is to be treated in law as not being the child of any person other than the adopter and the parent who is the other one of a couple with the adopter (Section 67 (3) (a)). These two people will have equal parental status.
- 4.8 This is open not only to a spouse or civil partner of the child's parent but also to someone who is a cohabiting partner of the child's parent in an enduring family relationship (whether in a mixed or same-sex partnership).
- 4.9 Applicants need to bear in mind that an Adoption Order **cannot** be revoked in the event of the marriage or partnership breaking down.
- 4.10 Each applicant must be at least 21 years old (Section 51(2)) and neither applicant nor an adult member of their household has been convicted or cautioned in respect of a specified offence.
- 4.11 The applicant must be married to / in a civil partnership or living with the resident parent in an 'enduring family relationship'.
- 4.12 The child must have lived with a step-parent/Partner applicant for at least 6 months preceding the application is made.
- 4.13 A Partner adoption does not prevent the adopted child from inheriting from any other person including both birth parents or family members, so long as the non-adopting birth and step-family members makes a will which clearly identifies the child by name and not relationship.
- 4.14 **Alternatives to Partner Adoptions**
The motives leading people to consider Partner adoption can include things which can be achieved in other ways and which may be as simple as wanting to change the child's surname or as complex as wanting to provide the child with emotional security.
- 4.15 Appointing the Partner as a testamentary guardian in the parent's will may be simple to achieve and may be sufficient to satisfy parents who are worrying, for example about what would happen to the child in the event of the death of the parent.
- 4.16 A child's name may be changed by Statutory Declaration, by Deed Poll or with leave of the court if parental consent is not forthcoming,
- 4.17 Other alternatives include:
- **Parental Responsibility Agreement.** A Partner parent can acquire Parental

Responsibility by agreement between the Partner parent and the natural parent (or both natural parents if both have parental responsibility). Parental Responsibility Agreement (Amendment) Regulations 2005.

- **Parental Responsibility Order.** If it is not possible to reach agreement, the Partner parent can apply to court for a Parental Responsibility Order.

Parental Responsibility Orders can be ordered to remain in force until the child's 18th birthday and in some circumstances the court may specify that no application to revoke such an order may be made without leave of the court.

- **Section 8 Order** A Partner parent can apply for a Children Act 1989 Section 8 order (e.g. a specific issue order) if they have parental responsibility (obtained as above). Adoption & Children Act 2002 Schedule 3 paragraphs 54-56.
- **Child Arrangements Orders** (CFA 2014, s 12). (Replace Residence and Contact Orders).
- **Special Guardianship Order** Although not recommended instead of partner adoptions due to preferential P.R. S.G.O.'s are an option instead of other non-agency applications.

4.19 Despite the existence of all these alternatives, the court may make an Adoption Order if satisfied that this is the outcome demanded by the child's welfare. The local authority's Annex A report needs to address in detail the issues in Section 1 (4) of the Adoption & Children Act (the welfare checklist) and to be mindful of the need for the court to take account of the Article 8 rights of the other parent.

4.20 **Applications by Local Authority Foster Carers**

Local authority foster carers can apply for an Adoption Order with or without the local authority's consent when they have looked after the child throughout the year preceding the application (Section 42(4) ACA 2002). The decision whether to support foster carers who wish to adopt should be taken in a Review / Permanency Planning meeting. If the decision is to support the application, then adoption by these carers will become part of the Care Plan for the child. If the decision is not to support the application, then this procedure applies, and legal advice should be taken throughout the process. For more information please refer to the [Approved Foster Carers who wish to Adopt Policy](#)

4.21 **Applications by others**

In any other case, where there has been a notification to adopt the condition is the child must have lived with the applicant or, in the case of an application by a couple, with one or both of them for not less than three years (continuous or not) during the five years preceding the application. However, exceptions can apply if in the best interests of the child

5 Process

5.1 Enquiries for Partner Adoptions

All enquiries for Partner adoption will go through the Together4Children Locality Permanency Hubs. For Staffordshire Locality permanency Hub, enquiries will go through First Response.

At the point of enquiry, the following documentation should be sent to the potential adopter;

- [Information pack](#)
- [Detailed Information Form \(applicants will need to fill in and send back to Locality Permanency Hub\)](#)
- [Non-Agency A15 Letter](#) (applicants will need to send this back to Locality Permanency Hub acknowledging receipt of information pack and to request an office visit).

5.2 Once the above information is received a [letter](#) will be sent to the applicant confirming their appointment for an Initial Meeting and Local Authority checks will also be completed by the Locality Permanency Hub admin. The applicant will be given **10 working days** to confirm their appointment. Should they not confirm the appointment, their application will be closed.

6 Initial Office Meeting

6.1 All potential applicants and parent should be offered information and advice on the adoption process and the implications of adoption during an Initial Office Meeting. Applicants are invited into the office to meet with an Adoption Social Worker within the Locality Permanency Hub. In situations whereby the applicant has difficulty getting to the office, alternative arrangements can be made.

6.2 During the Initial Office Meeting the Adoption Social Worker will need to complete a [First Interview form](#) which will further explore the following;

- Explain the legal consequences of adoption;
- Explain the requirement for every parent or person with Parental Responsibility for the child to be consulted;
- Explain the requirement for the consent of each parent with parental responsibility to be forthcoming and that this will be the responsibility of the applicant, and not the local authority to obtain
- Explain to applicant that the Local Authority would need details of all relevant

previous partners and children (even if adult).

- The court will expect evidence of all attempts made to establish the location and views of the absence parent. Only in exceptional cases will the court then give consideration to dispense with consent.
- Explain the court procedure, including the need for an Annex A report;
- Explain the cost involved in making an application to the Court, medicals (if required) and requests for written references.
- Make the applicants aware that a CAFCASS Officer (A Reporting Officer or Children's Guardian) will be appointed by the Court and may wish to interview their child;
- Explore the applicants' motivation for adoption and their understanding of its possible impact on family relationships. This is particularly significant for grandparents, and related family members where a Partner adopts;
- Explain the alternative legal options open to them (see Section 3, Alternatives to Partner Adoption) and the requirement for the court to consider whether an alternative outcome would better serve the child's welfare;
- Explain to the applicants that any affected children will have to be consulted. and that the court will need to be satisfied that the child has an age-appropriate understanding of the meaning of the proceedings and have information about the birth family;
- Once application has been submitted to court it cannot be withdrawn without the agreement of the court
- If proved to be in the interests of the child, the Court will consider dispensing with consent

6.3

The applicants will be given an [A16 Notification of Intent Form](#) to complete and return the Locality Permanency Hub within **10 working days**. Should they not return the completed form, their application will be closed.

7 **Notification of Intention to Adopt**

7.1 When the child was not placed for adoption by an adoption agency (local authority or voluntary) the potential adopters must give notice in writing to the local authority where they live of their intention to apply for an Adoption Order. Notice must be given no more than 2 years and no less than 3 months before the date on which the application to adopt is made (Section 44, ACA 2002).

7.2 If the applicants still wish to proceed, they must notify the local authority in writing of their intention to make an adoption application by completing the A16 Notification of Intent Form. They may wish to instruct a solicitor to make the application on their behalf.

- 7.3 If a potential adopter wishes their identity to be kept confidential in the court proceedings, they must inform the Court when lodging the application. If this is not done, the Court could disclose the name and address of the applicant to the birth parents.

8 Action on Receipt of Notification of Intention to Adopt

- 8.1 Any such notification received in relation to Non-Agency adoptions will be managed by the Locality Permanency Hub. They will arrange for the notification to be acknowledged and the potential adopter will be placed on a waiting list of up to 12 months and allocated to a Social Worker when capacity allows. The allocated worker must fulfil the qualifications and experience criteria set out in section 1 of this document.

- 8.2 Upon receipt of the notification, the local authority will have a duty to supervise the welfare of the child if the child is within the definition of Privately Fostered.

- 8.4 An Adoption Case Record should be opened for the child or each of the children involved.

- 8.5 Adoption and Children Act Section 44(5) requires the local authority to 'arrange for the investigation of the matter' on receipt of notice of intention from the applicant(s) (as opposed to leaving this until a later stage e.g. when the court has issued a notification that the application has been made).

9 Power to Remove the Child

- 9.1 Sections 36 to 40 of the ACA 2002 restrict the power to remove a child from the care of people who have applied to adopt the child or given notice of their intention to do so. This does not prevent the removal of a child with the authority of the court, or by the local authority in the exercise of its powers under any enactment other than Section 20 Children Act 1989. Appropriate action to safeguard a child would therefore not be impeded.

10 Status of the Child

- 10.1 A child who is the subject of an adoption application but who was not placed for adoption by an agency may be a private foster child, in which case the requirements of the Children (Private Arrangements for Fostering) Regulations 2005 and the Disqualification from Caring for Children Regulations 2002 will apply and require the Local Authority to undertake its duty to supervise the welfare of the child - see below for more details.

11 Local Authority duty to supervise a child



- 11.1 On receipt of a notification in relation to a child who comes within the definition of a Privately Fostered Child, the allocated social worker must supervise the child until an Adoption Order is made in accordance with the local authority's Private Fostering Procedures, except that, where the child is already known to the local authority (for example where the potential applicant is the child's foster carer). The requirements under the Private Fostering Regulations as to the initial visit to the placement will not apply. Visits should be within 1 week of notification of intention to adopt, then at intervals of not more than 6 weeks for the first year of placement and thereafter at intervals of not more than 3 months until an Adoption Order is made
- 11.2 Unless the applicant is a step-parent or close relative, the child will continue to have the status of a Privately Fostered child until an Adoption Order is made or otherwise until the placement ends.
- 11.3 The aim of the supervision is to:
- Ensure the child is well cared for and in receipt of appropriate health and education services;
 - Support the potential adopter(s) and help them focus on the task of integrating the child into their family and of providing the child with full information about his or her background and birth family.
- 11.4 Even where the child does not fall within the definition of a Privately Fostered child, the allocated social worker should still visit the applicants and the child at home for the purposes of gathering information for their Court report. All visits should be recorded, including whether the child was seen and if so, whether the child was seen alone. Until the Adoption Order has been granted the allocated social worker should continue to maintain contact with the family and ensure the child is visited at intervals.

12 **Compiling the Annex A Report**

- 12.1 The prescribed information to be included can be found in the Annex A Report, this is to be launched against the child's name on the Case Management System of the Locality Permanency Hub.

13 **Medical Reports**

- 13.1 In the case of Non Agency applications who are not partner applications. The allocated social worker should advise the potential adopters of the need for them to provide medical reports completed by a medical practitioner no more than **3 months** before the application must be submitted to the court on themselves and the child to accompany their adoption application. The social worker should send all available medical information to the Medical Adviser for comment. In the case of partner adoptions, medicals are generally not required, the exception being where there are some significant health needs.
- 13.2 If medical examinations are required, the allocated social worker will provide the applicants with the relevant BAAF medical forms for completion. Upon receipt, the completed medical forms should be passed to the Medical Adviser for comment. These comments should then be included in the Court report
- 13.3 The Annex A Report format asks for a summary, written by the agency's Medical Adviser, of the child's and each applicant's health history and current state of health and any need for health care which is anticipated, and date of the most recent medical examination. The court rules indicate that this is not required in Partner adoptions, but it is required in all other cases.

14. Checks and References

- 14.1 The Social Worker should arrange for a Criminal Records check to be undertaken on the applicant(s) and any member of the household aged 18 or over when the assessment has been allocated.
- 14.2 Local authority records should be checked for all addresses where the applicants have lived in the past five years within their Local Authority area and any other local authority. Checks should include probation and the health trust, and records held by the adoption service.
- 14.3 **Personal References**
Together4Children's approach is that at least 3 references should be sought, including one from a family member who has known the applicant and the parent with Parental Responsibility for at least 2 years. The other two referees should be people who know the applicant and parent well and can comment on parenting of the child. Ex- Partner reference to be completed and contact to be made where required. Where concerns are identified a contact is to be completed by the Social Worker completing the assessment.

15 Other Work in Preparation of Annex A Report

- The social worker should talk to the potential adopter/s, and will obtain references to support the assessment process and final recommendations of the Local Authority.
- 15.1 The child and potential adopter/s must be seen both together and separately. The child and each applicant and each parent of the child should be seen on their own at

least once. Consider the need for direct work to be undertaken with the child to assist their understanding and prepare them for adoption.

- 15.2 In the case of a dispute or difference of view between the social worker and the applicants or the Guardian, the County Solicitor should be consulted, and consideration be given to whether the local authority should be represented in the proceedings.
- 15.3 Neither the applicant, nor anyone else has an absolute right to see the Annex A report. The court has discretion to give a direction for disclosure (The Family Procedure (Adoption) Rules, Rule 77). It would be good practice for the writer of the report to share with individuals the part of the report relating to them.

16 Parental consent

Any parent or other person with Parental Responsibility for the child must be interviewed in order to obtain their views, advise them of their rights and gather information about them for the Annex A report or for the benefit of the child in later life. A parent who does not hold parental responsibility is not empowered to give or withhold formal consent to the adoption but has a right to be heard and may wish to apply for a Section 8 order or to be given parental responsibility. Advise them to seek legal advice if necessary. Their wishes and feelings about the adoption and about contact should be included in the Annex A report.

- 16.1 The potential adoptive applicants will have to indicate in their adoption application whether or not there is parental consent to the application. If the parents do not consent, it is for the applicants to ask the Court to dispense with the agreement of the parent or parents. The proposed adopter must write a statement of facts to accompany their application. The Court will appoint a Children's Guardian.
- 16.2 The allocated social worker preparing the report should attempt to interview both birth parents in relation to the adoption application and ascertain their views. If the parents do not live within a reasonable travelling distance, the social worker may consider remote interview. The Social Worker may consider other ways of interviewing including telephone or E-mail contact.
- 16.3 The report should address the significance of the role played so far by the birth parents in the child's life and the implications of an Adoption Order for any future parental role.
- 16.4 It may delay the final hearing if sufficient efforts have not been made to trace absent parents. The court may make further attempts to trace via the Department for Work and Pensions or other statutory bodies. The court will normally set a date for a directions hearing within 4 weeks of receiving the application. If it appears that the Local Authority's report cannot be completed by the time specified by the court, the Court must be informed as soon as possible and asked to agree a later date for the report's submission.

17 Child's views and wishes

- 17.1 The carers need to know from the initial contact that the child needs to be informed of the application to adopt. The social worker should speak to the child to ascertain his or her wishes and feelings in relation to the adoption and report on these to the Court. Where the child is not aware of the adoption application, the social worker should discuss with the potential adopters the best way to address this so that the child's views can be obtained.
- 17.2 The discussion with the child should address any confusion on the part of the child in relation to the implications of an Adoption Order, for example where the potential adoptive applicant is a relative.

18. The Applicants

- 18.1 The report will need to comment on the strength and duration of any new family relationships, particularly in the case of an adoption application by a step parent/partner of a birth parent. Where there is limited evidence of the strength and stability of the relationship, the applicants should be advised to consider deferring the application until there is more evidence of stability.
- 18.2 The parent who is the partner of the applicant in a step-parent case must also be asked to formally give consent (Adoption and Children Act Section 47).

19 Adoption Support

- 19.1 Other than an application by a step-parent/partner of a birth parent, the allocated social worker should consider the likely need of the child and potential adoptive family for any adoption support to which they may be entitled. See adoption support policy
- 19.2 If, in the course of the assessment, the applicants decide not to proceed, they must inform the local authority of their decision and write to the court withdrawing their application.

20 Dispute

- 20.1 In the case of a dispute or difference of view between the social worker and the applicants or the Guardian, the Local Authority Solicitor should be consulted, and consideration be given to whether the local authority should be represented in the proceedings.

21 The Adoption Hearing

- 21.1 The applicants must make their application to the court and pay the fee. The social worker will then have to complete the Annex A report and file it with the relevant court
- 21.2 The social worker must attend the Court hearing and may be questioned about the

contents of the report and the work done with the family.

22 If an Adoption Order is not granted or there is delay

22.1 Potential applicants should be asked to clarify their intention if there is a delay and no adoption application is lodged. If this is not forthcoming, the allocated social worker involved should write to the potential applicants indicating that unless confirmation is provided of an intention to adopt, it will be assumed that the notification is withdrawn. In any event, after 2 years the notification will lapse.

22.2 Retain the child's records subject to normal retention period.