

Pathways to adoption

Fiona Lyon sets out the process for adopting both within the UK & overseas

IN BRIEF

► The current procedure for adopting a child; eligibility criteria and the three-stage process to obtain agency approval.

► Differing requirements and points to be aware of when considering adopting from another country.

Legal adoption has evolved in society in order to protect children. It is a way in which people can become parents, but the safety of the child comes first and foremost for all professionals working in this field. This concept was not always reflected in the relevant legislation.

The current law

The relevant legislation is the Adoption and Children Act 2002 (ACA 2002) and it was brought in to increase the numbers of people coming forward to adopt by providing a more supportive framework. ACA 2002 updated the existing law and brought it in line with the Children Act 1989.

This simplified the process, and ensured that the best interests of the child were addressed early on and that their welfare was treated as being paramount. A new adoption welfare checklist was introduced, which included looking at the long-term implications of adoption. It is now possible to dispense with parental consent to a child's placement with alternative carers if the child's welfare dictates. The local authority is under a positive duty to promote adoption to give 'looked after' children a chance of a permanent home.

How do children come to be adopted?

This is usually in the context of care proceedings, where a placement order is made by the local authority. The parents do not provide their consent in this scenario and it is often done against their will. The child will usually be at significant risk of neglect and abuse in order for removal to be in their best interests.

The alternative is that a child is placed for adoption with the consent of the parents, or a private application is made (ie by a step-parent). This will not usually be predicated by court proceedings.

Who can apply to adopt?

There are some misconceptions around who can adopt a child, but in fact adoptive parents come from all walks of life. As long as the applicant is over 21, has a spare room and is habitually resident in the UK for a year prior to the application, they will be considered. The following are potentially eligible: single applicants; married couples; civil partners; individuals in enduring family relationships (ie cohabitants and unmarried couples); and parents who already have children.

The expectation is that if the adopter(s) have tried to conceive via IVF or surrogacy, a period of six months should be allowed to elapse between the IVF treatment and the initial meeting. This is because adoption is a very different concept to having your own biological child.

There is no expectation that applicants will be homeowners, but they must have suitable accommodation for a child. There is also no minimum income threshold, but the applicant should be financially stable.

Candidates should consider that problems often arise *after* a child is born, meaning that babies are not always available. Adoption agencies therefore often want to hear from applicants who would be interested in adopting the following:

- toddlers, over fours and siblings;
- children with disabilities, or children born of parents with mental health and/or addiction issues;
- black/ethnic minority heritage or dual heritage applicants who want to adopt a child with the same heritage (as a child or young person's religious and cultural identity plays a huge part in their development); or
- people with skills to adopt transracially.

The three stages of adoption agency approval

There are three stages that applicants must go through in order to be approved to adopt by an agency. The agency acts as the 'means' to place a child with the prospective parents.

Stage 1: initial visits & checks

The applicant must register their interest with an agency. For example, Barnardo's

(www.barnardos.org.uk) is probably the most well-known.

The agency will require references and will conduct criminal record checks. Not all convictions will preclude adopters, although offences against a child absolutely will. The applicant will also have to provide a medical report to ensure they are healthy enough to take on a child. It is worth noting that priority will not be given to adopters who smoke.

As part of this process, the adopters will be invited to attend a preparation group with other would-be adopters. At this meeting, the adopters will learn parenting skills and are given the opportunity to ask questions of experienced adopters.

Stage 2: training & assessment

If the adopters wish to proceed to stage 2, they will work with a social worker to prepare an assessment plan. Further training will also be given by the agency on supporting the child. The adopters will have home visits from a social worker who will want to understand the child's new world—this will include, but is not limited to: finances, religion, ethnicity, support network, health, and family.

Following the visits, a Prospective Adopter's Report (PAR) will be completed and presented to a panel for approval.

Stage 3: panel approval

The panel, which is made up of adoption professionals, independents and adoptive parents, will consider the PAR. The prospective parents will be asked to attend the meeting and will be assessed for suitability. The panel will (or will not) make a recommendation to the agency, and the agency's decision maker will make a final decision.

Matching with your child

Once you have been approved by the agency, the next step is to match with your child. The social worker will begin the search, using their links to local



authorities. It is important to appreciate that the child's needs will be prioritised above those of the adoptive parents; in other words, it will be about which child is most in need at any one time, rather than matching adopters with children according to a certain 'wish-list'.

During this time, further training can be obtained by the prospective parents in readiness for the match. Once a match is found, a social worker's report will be presented to a 'matching panel' who will decide if the child's needs are met and can make a recommendation back to the agency decision maker. A final decision will then be made.

Becoming a family

Once a match is approved, the social worker will support the parents through introductions and getting to know the child. There will then be the moving-in process. After 10 weeks of a placement (if placed by an agency), the parents can make an application for an adoption order to the court. If this is a non-agency placement, and one party is the parent, a minimum of six months is required. If the applicant is a local authority foster parent, they must wait a year to apply (unless reduced upon application).

The birth parents will be automatic parties to the proceedings unless they have given notice not to be informed. Notwithstanding this, they will still be told about a final hearing given the permanent implications of any final order. The adoption order will confer parenthood and parental responsibility on the adoptive parents. This will cut all ties to the birth parents and any existing orders will also be superseded (ie child arrangements, special guardianship). Adoption leave is offered by many employers to facilitate this process.

Adopting from overseas

There is no international consensus on adoption and the process differs even within the UK, with Scotland and Northern Ireland having different procedures. It is critical to check that the proper procedure has been followed, as offences may be committed if children are brought into the UK incorrectly. The UK has ratified the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption 1993: this provides an intercountry framework for adoption, and is aimed at preventing trafficking and protecting children. The signatory country must have a 'central authority' as a point of contact for adoption agencies and to act as the authority on all the relevant information.

A Convention adoption will be more straightforward, and many countries have signed up. The advantage is that it may be possible to obtain the adoption order abroad and, provided it is validly obtained, it will be recognised under UK law. It will therefore not be necessary for the applicants to obtain an additional adoption order in the UK upon return. An adoption order in the UK will be necessary if the child comes from a non-signatory country (eg Bolivia, Kenya, Colombia, Cuba, El Salvador, Ghana etc).

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Restricted countries

The UK has restricted rules on adoption from the following countries: Cambodia; Guatemala; Nepal; Haiti; Ethiopia; and Nigeria. The reasons for this include evidence of the falsification of documents, safeguarding concerns on consent, lack of competent authorities/legal framework to deal with the adoption in the relevant country, child trafficking and corruption issues. All of these issues are contrary to the principles under the Hague Convention. However, it is possible to make an application for an exception to be made, eg where the child may be a relative.

Court procedure

The procedure to adopt internationally is complicated and involves scrutiny from the UK authority and the child's country of origin. All adopters using an agency must be assessed and approved, as explained earlier in the article. The first step is to contact local authority social services or a voluntary adoptive agency which is able to give approval for intercountry adoption.

In the UK, adoptive parents cannot be discriminated against on grounds of sexuality, age, disability, religion, race, marital status or employment. However, there is no international consensus on same-sex or transgender adoptions, and this must be checked. It is also important to confirm whether it will be a 'full'

adoption (ie cutting all ties with the birth parents). If it is not a full adoption it will be a 'simple' adoption which means some ties may remain. English courts only grant full adoptions, but will recognise a simple adoption. It is possible to convert a simple adoption with the consent of the birth parents.

Once the adoptive parent is approved as eligible by the agency, an application will be sent to the Department for Education or relevant UK central authority to check the application meets the eligibility criteria. The fee is means tested, unless the applicant earns less than £25,000 per annum. If successful, a 'Certificate of Eligibility to Adopt' is issued and is sent to the relevant overseas authority. It is advisable to check if it needs to be translated or notarised before sending.

Once matched with a child, the adoptive parents visit the child and confirm they have done so to the agency and want to proceed. They may need to adopt locally in order to leave the country with the child and arrange entry clearance for the child to enter the UK. Specialist immigration advice should be taken on this issue.

Court process

The application for an adoption order is made on Form A59, and the birth certificate will also be submitted (UK or foreign). Additional evidence will be required for international matters such as foreign court documents, the death certificate of birth parents, marriage certificate, immigration documents etc.

A first directions hearing will be listed to check the criteria has been met and to ascertain what further evidence might be needed. The court will timetable the proceedings, which will include directions regarding the disclosure of information to the birth parents. The Children and Family Court Advisory and Support Service (CAFCASS) will be appointed during this process, and a report from the local authority or adoption agency will usually be ordered.

If no further directions hearings are required, a final hearing will be listed for the adoption order to be made. It is worth noting that the court cannot make a Convention adoptive order unless:

- i) the child has lived with the adoptive parents for ten weeks immediately prior to the application; and
- ii) the Home Office has confirmed the child is authorised to enter the country and reside permanently.

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