

Adoption by a step-parent

It is an established part of modern family life that children often live with one of their natural parents and that parent's husband or wife. A parent who is married to the mother or father of a child but who is not that child's biological mother or father are referred to as step-parents.

The impact on the workings of a blended family is not always clear and the rights and responsibilities of a step-parent looking after a child from their spouse's previous relationship can be misunderstood.

A step-parent can acquire Parental Responsibility (PR) which entitles them to have a say in major decisions about a child, such as what religion they should practice, what school they should attend and the giving or withholding of medical treatment. Although a PR Agreement can be entered or an Order of the Family Court obtained, the focus of this article is in relation to obtaining an order for adoption of the child.

When an adoption order is made, in these circumstances, it will give PR to the adopter and extinguish the PR that any person, other than his or her spouse, had for the adopted child. The PR of the natural parent (the partner of the adopter) will, therefore, be unaffected by the making of an order. A child adopted is now treated as if they had been born as the child of the adopter.

This type of adoption is distinguished from, for example, an adoption order made following the involvement of a local authority, as in those cases all family ties are severed between the child and both parents.

To apply for an adoption order, a step-parent must be over 21, have lived in the UK or been resident for a year and be the partner (spouse or civil partner) of the parent whose child they wish to adopt.

A step-parent must give the appropriate local authority not less than 3 months written notice of their intention to apply to adopt the child. Once received, the local authority must arrange for an investigation of the application and consider the suitability of the step-parent and submit a report to the Court.

The child's welfare is always the paramount consideration and the Court will consider welfare factors such as the child's wishes and feelings and the likely effect throughout the child's life of any order being made.

The Court cannot make a step-parent adoption unless it is with the consent of each parent with PR or the Court dispenses with the consent of anyone who is allowed or deemed by law to object.

The Court cannot dispense with the consent of any parent unless it is satisfied that the parent cannot be found, they lack capacity (within the meaning of the Mental Capacity Act 2005) to give consent or the child's welfare requires the consent to be dispensed with.

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If the Court is invited to dispense with the consent of a parent, it will consider the child's welfare throughout their life and the degree of interference of an order being made with the child and the non-consenting parent's rights. The application by a step-parent may be seen to be a proportionate measure if the non-consenting parent had not had care of the child, had only had infrequent or no contact or there was a particularly well established family unit in the home of the step-parent which had existed for a significant period of time.

The daily functioning of a family, where there is a child from a previous relationship, should be carefully considered and advice sought on the options available to provide clarification on what decision can and can't be made by the non-biological (step) parent.

If you would like assistance in adoption by a step-parent, call our family team on 0191 388 1778.