



Kent County Council

FOSTER CARERS WISHING TO SECURE PERMANENCE VIA A NON AGENCY ROUTE TO ADOPT A CHILD THEY ARE FOSTERING

Practice Guidance

Kent Fostering Service

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Introduction

This guidance refers to the differences between Agency and Non – Agency Adoption and contains the procedures to be followed when a Foster Carer/s expresses an interest in adopting a child/children who have been placed with them under a long term fostering arrangements.

Agency Adoption

An agency adoption is where the child has been placed with adopters for the purpose of adoption. The child can be placed with them by a local authority or an adoption agency. They usually have the full support of the local authority as they have been through the matching process before the child has been placed with them. They cannot file the adoption application until the child has lived with them for 10 weeks. The local authority will complete a report as to whether the placement is in the best interests of the child. It will also set out any additional support services it feels the adopters need to care for the child(ren) until adulthood, this can include an allowance, therapy etc. The birth parents can seek leave to oppose the adoption order or make an application for contact. Once the adoption order is made adopters will be invited to attend court for an adoption ceremony with the Judge.

Non - Agency Adoption

A child may be the subject of an application to adopt by a foster carer/s even though they were not placed for adoption by an adoption agency or a local authority In a non-agency adoption it will not be necessary to return to court to seek a placement order. A foster carer/s cannot apply to adopt a child they are looking after unless the child has had their home with them at all times during the period of one year preceding the application. The procedure for these applications is set out in The Adoption Agencies Regulations 2005 (AAR).

Under the adoption support provisions of The Adoption and Children Act 2002 and the regulations, it may be necessary to consider the need for adoption support, and at least provide counselling, information and advice. Although foster carers can make an adoption application, once a child has lived with them for the period set out above, the local authority should encourage them to participate in the adoption agency process or other plans for permanency.

Foster Carers wishing to adopt

If adoption is already the plan for the child, and the local authority considers that the foster carer/s may be suitable to be approved as an adoptive parent, the foster carer can be assessed using the fast- track procedure.

If a foster carer/s expresses an interest in adopting a child where adoption was not the plan for example, at a CIC review or home visit, a conversation via either an office or home visit should be arranged to discuss all the options regarding permanence. Further details about Child Arrangement Orders and Special Guardianship Orders as a permanence options for Looked After Children, can be found here **Permanence Planning Guidance** They should also be advised to seek legal advice on the options.

If the local authority considers that adoption may be appropriate after discussions with the foster carer/s and ascertaining the child's and birth parents wishes and feelings, it will need to follow the procedure set out in part 2 of the AAR. This may involve making an application for a placement order.

There will be cases where the local authority is clear that it considers it inappropriate to pursue the foster carers interest in adopting the child. In such a case, it must respond promptly to the foster carer explaining the reasons for its views and ensure that the carer has access to their own independent legal advice. In rare cases, it may be appropriate for foster carers to make their own application for a 'non-agency' adoption. They will need to register their interest, in writing with the Children in Care Team Service Manager.

There is a 'Notification of Intention to Adopt' referral form (appendix A) which should be completed by the foster carers and copies should be shared with the foster carers supervising social worker and the child's/children's Social Worker. This document should be uploaded to Liberi and the child's file. A visit will need to be undertaken by the foster carers supervising social worker and the child's/children's social worker.

The foster carers should be offered information and advice on the adoption process and the implications of adoption, including the following:

- i. Alternatives to adoption;
- ii. The child's/children's need to know that (s)he may be adopted and have information about their birth family;
- iii. That consent of parents with Parental Responsibility will need to be sought
- iv. The role of Cafcass

Paperwork including requests for references, DBS and requests for medicals in respect of the applicants should also be discussed and left with the applicants. The Foster carers should be advised to seek independent legal advice.

If the local authority supports the application, they may agree to pay the cost of this advice, court fees and legal costs to a maximum figure. A standard letter should be

sent to the solicitors instructed by the foster carers setting out the terms of the agreement and the amount to be paid. Invicta Law will assist with this.

Permanency Planning Meeting

It is important that any decision about foster carers adopting the children they are looking after is based on sound consideration of the potential of the carers as adoptive parents and that this will be in the best long-term interests of the child/children. It is also important to consider whether other forms of permanency may be in the child/children's best interests.

The meeting will include the foster carers, their supervising Social Worker, child's/children's social worker, IRO, service managers from Children in Care Team and the fostering team.

An agreement may be drawn up between the foster carers and the social workers to agree dates for assessment visits and any further information or checks that will need to be completed. There should be some discussion about their continued role as foster carers, whether this will continue and the impact upon the child/children in their care.

If non-agency adoption is agreed the applicants will make their own application to court. Under the 'Staying Together' policy, KCC may agree to pay the applicants' legal costs to a maximum figure. This will need to be agreed via funding panels. See **Staying Together Policy**

Child in Care Review

Once the foster carers have advised of their intention to make an application to adopt the child/young person in their care, The LA will need to consider their intentions then an early Child In Care Review may need to be convened as this will constitute a significant change in the child's circumstance/care plan. Following the CIC Review meeting, the Care Plan Part 1 will need to be amended. In the section **Overall aim of the plan** in addition to the **4.6** Permanent placement with foster carers (intended to last until 18, no return home envisaged) add **4.10** Other, adding into the free text box that the foster carer/s wish to adopt the Child/young person via the non-agency adoption pathway.

Medical Information

The child's/children's social worker should obtain the latest health assessment available in respect of the child/children and a neonatal report on the child if under 5 years. Attempts should be made to obtain medical information on the birth parents.

The foster carer/s supervising social worker will provide the foster carer/s with the relevant BAAF medical forms for completion. [Section - Medical Information](#). The completed medical forms and reports on the child/children and birth parents should be sent to the Medical Adviser for comment. The Medical Advisor provides summaries on the health of the child/children, implications for their future care and comments on the health of the prospective adopters and these should be included in the court report.

Other Checks

The foster carers supervising social worker should arrange a Disclosure and Barring Service check on the applicants and any member of the household aged 18 or over. Forms should be left for the foster carer/s to complete as soon as practicable after notification of an intention to adopt is received. Consent should also be obtained for checks to be carried out with probation and the health trust.

Court Request for a Annex A Report

Where a Court receives an adoption application in relation to a non-agency adoptive placement, the Court will give Directions and direct an Annex A report to be filed. The order often requires the local authority to serve the order on the birth parents. Advice and assistance may be required to obtain their last known addresses from the Department of Work and Pensions or to arrange for a process server to serve the birth parents. In such cases legal advice should be sought from Invicta Law.

The court order should be reviewed carefully to ensure all Directions are complied with. If there are any queries legal advice should be sought from Invicta Law.

The child's social worker and the fostering social worker will be responsible for preparing the Report, and for this purpose should gather available information about the child, the child's wishes and feelings, especially older children who may have a clear view, birth parents and on the prospective adopters, from the foster carers supervising social worker.

Where the prospective adopter is a local authority foster carer, and the child is looked after by the local authority, much of this material will already be available. Also, if the foster carer/s is shown a copy of the Annex A report format early on during the assessment, they will be aware of what information will be needed. The preparation of the report is not the same as an assessment of prospective adopters under the AAR, but some of the practice guidance Preparing and Assessing Prospective Adopters may be a helpful resource for the writer of the report. The foster carer/s can be encouraged in appropriate cases to complete some of the information themselves, although it is the responsibility of the social worker writing the report to check this.

Confidentiality

As in agency cases confidentiality is important but in many non-agency cases the identity of the prospective adopter will be known to the birth parent. Nevertheless there will be cases where even though the birth parent is aware of the identity of the prospective adopter there may be good reason for not disclosing information as to the current whereabouts of the child, so care will still be needed in the way the report is set out.

Matters to be Dealt with in the Annex A Report

The social worker/s who writes the report must either have the qualifications and experience as required by the ARR or be supervised by a person with the qualifications and experience as required by the ARR. Reports to the court must be prepared by qualified social workers with at least 3 years' post-qualification experience. This must include direct experience of adoption work either in recruitment, preparation, assessment and support of prospective adoptive parents.

The social worker/s who knows the child best should, wherever possible, prepare the report about the child, or those parts of a report that are about the child. Where the author of the report does not have the requisite qualifications and experience, he or she must have either a qualification in social work or be a social worker in training and must be supervised by a qualified social worker with the necessary experience.

Where the person preparing the report is an independent social worker, they must always be suitably qualified and experienced and be supervised by a member of staff with the suitable qualifications and experience.

Where the Annex A report uses the term 'the adoption agency' this refers to the local authority in non-agency cases, although there are some pieces of information requested that will not be applicable in non-agency cases.

See Below for guidance on completing the Annex A report.

Section A : [The Report and Matters for the Proceedings](#)

Section B: [The Child and the Birth Family](#)

Section C: [The Prospective Adopter of the Child](#)

Section D: [The Placement](#)

Section E: [Recommendations](#)

Birth Parents

The applicants will have to indicate in their adoption application whether 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. In practice this is usually completed by the solicitors representing the foster carer/s. The child's/children's social worker preparing the Annex A report should attempt to interview both birth parents in relation to the adoption application and ascertain their views. Every effort should be made to identify the whereabouts of the absent birth parent including internet searches using identifying information.

The Annex A 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.

Child's Wishes and Feelings

The child's/children's social worker should speak to the child to ascertain his or her wishes and feelings in relation to the adoption. Where the child is not aware of the adoption application, the social worker should discuss with the foster carer/s the best way to address this so that the child's views can be obtained.

The discussion with the child/children should address any confusion on the part of the child in relation to the implications of an adoption order.

The Applicants

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 foster carer which may be quite a short relationship. 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.

In addition, the alternatives to adoption, outlined at the beginning of this document, should be discussed and explored with the applicants.

The Child's/Children's Social Worker should send the court report to their Service Manager for approval, so that it can be filed with the court within the required timescale. A copy of the Annex A report should be uploaded to Liberi.

Adoption Support

The child's/children's social worker should consider the likely need of the child and adoptive family for adoption support. See [Adoption Support Procedure](#)

Adoption Hearing

The Adoption Hearing will usually be listed at the outset. If the Annex A Report has been filed and all consents are filed an adoption order may be made at an initial hearing. The social worker responsible for preparing the report should attend the adoption hearing.

After the Court Process

Once the adoption proceedings are complete, the social worker should complete the child's Adoption Case Record and arrange for its safe storage in the Adoption Archives and update MIU regarding the child's/children's status as 'adopted'. Following the making of an adoption order and the celebration hearing the case will then be closed. See appendix B for Flow Chart - Foster Carers wishing to secure permanence via non-agency adoption.

Appendix A



Notification of
Intention to Adopt f

Appendix B



Flow Chart (final) -
Foster Carers Wishir