

A stepparent is a person who marries, enters into a civil partnership, or lives with someone who has a child. A stepparent does not have any legal parental responsibilities and rights towards their stepchild unless they have been granted them by a court (see our leaflet on parental responsibilities and rights). One of the ways that a stepparent can gain legal parental responsibilities and rights towards their stepchild is by adoption, which can give the stepparents the same legal rights over the child as a natural parent. This leaflet outlines the information that it is important to know before you decide to adopt your stepchild.

Adoption Law

The current law states that a parent and stepparent must be married before a stepparent can adopt their stepchild. If you have entered into a civil partnership, or you and your partner are unmarried, you cannot adopt your stepchild.

However, the Scottish Government is due to implement new laws that change this. The Adoption and Children (Scotland) Act 2007 will become law in late 2008 or 2009. The new act will allow a stepparent who is cohabiting with their partner to adopt their stepchild. This includes cohabiting mixed-sex, same-sex couples, or two civil partners.

Once the child is adopted by a stepparent, all legal ties with the child's other natural parent and their extended family are severed. This does not mean that they cannot have contact with each other; it simply means that there is no legal right to contact. The adopted child will also have no inheritance rights or child support from that parent or their extended family.

The success of any adoption application will depend on the individual circumstances of the case. For example, there would be a strong case for an adoption order if the parents separated when the child was very young and the child has had no relationship or contact with the natural parent. On the other hand, the court may feel that adoption is not a good idea if the child has an established relationship with their natural parent and they have remained in contact.

The Adoption Process

To begin the process you must first notify your local authority that you intend to apply for an adoption order. The local authority will appoint a social worker to produce a report for the court. This will involve visits by the social worker who will discuss the application with you and your family.



An application is then submitted to your local sheriff court on a form called a petition, which can be obtained from the Sheriff Clerk. A court cannot grant an adoption order until at least three months after the local authority has been notified, so it is very important that you contact your local authority first. You can complete the petition yourself, or you can ask for help from a solicitor or a Citizen's Advice Bureau. You can receive legal aid for adoption applications if you are eligible.

Stepparent Adoption

Stepfamily Scotland Helpline: 0845 122 8655

www.stepfamilyscotland.org.uk

The court will then appoint an independent person called a **curator ad litem** to report on the stepparent's suitability and whether adoption is in the child's best interests. This report will normally include a detailed report on the other birth parent, whether they agree to the adoption, and some detail on their past attachment and relationship with the child. This report will be sent to the court and be considered alongside the social worker's report.

If the birth parent does not agree to the adoption, then the court has to be asked to dispense with the consent of the parent. This will involve a hearing in front of a sheriff called a 'proof hearing', during which evidence will be presented. If you do become involved in a dispute over consent then it is advisable to use a solicitor.

Is adoption right for my child?

For many parents and stepparents adoption can seem like a very positive step that will provide a secure family identity for their child and help them adjust to their new family. However, adoption can only provide legal security for a child and may not provide the emotional stability that many parents and stepparents expect. Consequently, parents and stepparents should carefully consider the possible negatives of adoption, alongside the positives, and whether emotional stability for their child could be provided in other ways.

Some Advantages

- **All members of the family will share the same surname and will be recognised in law as one family unit.**
- **A stepparent will have the same legal parental responsibilities and rights towards the child as their natural parent.**

- **The adopted child will share the same inheritance rights as the other children from the relationship.**
- **The child will no longer have any legal links with their previous family.**

Some Disadvantages

- **Adoption is an irreversible arrangement that means the adopted child loses inheritance rights, contact rights and financial support from the other birth parent and their family. This may not seem important now, but may be important if financial difficulties arose or both parents in the new stepfamily died while the child was still young.**
- **Although you may want to put the past behind you, your child may not. Children can remain loyal to their absent parent and fantasise about their original family reuniting long after the parents have moved on. Adoption may feel like a rejection or criticism of their original family.**
- **Adopted children can have feelings of loss because their birth parent 'gave them up' to someone else, even if they do not remember them. This can result in feelings of rejection or guilt that the child may find difficult to express.**

To overcome many of these emotional issues, it is important that your child remains aware of their origins, and if there are already established family relationships, that these are maintained and respected after adoption.

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Alternatives to Adoption

You may wish to consider some alternatives to adoption that can provide many of the benefits of adoption, but without the downsides.

- *If a single family name is your key concern, you can change your child's family name without adoption. See our leaflet on how to change a family name.*
- *A stepparent can apply for legal parental responsibilities and rights towards their stepchild through the courts without having to adopt their stepchild. See our leaflet on parental responsibilities and rights for more information.*
- *To ensure your stepchild inherits from you in the event of your death make sure you have a detailed will outlining your wishes and ensuring that you specifically name each of your children and stepchildren.*

Stepfamily Scotland offers support and information to anyone in or related to a stepfamily. If you feel you need some additional support, or just need to talk to someone about some of these issues, then you can call the Stepfamily Scotland Helpline and talk to one of our fully trained helpline workers. They are non-judgemental, will listen, and can help you explore your situation.

Useful Contacts:

British Association of Adoption & Fostering (BAAF)

www.baaf.org.uk

Provide advice and information on all aspects of adoption and fostering. Their website provides lots of useful information and also has the contact details for their Scottish office.

Citizen's Advice Bureau

www.adviceguide.org.uk

The advice guide offers online independent advice and a 'find your local CAB' tool. If you do not have access to the internet you can find the number for your local office in the Yellow Pages.

Scottish Child Law Centre

Legal Adviceline for children: 0800 328 8970

Advice for parents, professionals, or carers: 0131 667 6333. Provides advice on legal issues relating to a young person under 18 years old.

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