



Royal Court of Jersey  
Family Division

# Adoption Guide

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[www.gov.je/familycourt](http://www.gov.je/familycourt)

**The leaflet gives general information about who may apply to adopt a child, the information the Court will need, and how the Court will process your application.**

This leaflet is intended as a guide only. It does not give advice about deciding whether to adopt a child. It is not a full statement of the law, nor does it deal with all the decisions about adoption the Courts may make under the Adoption (Jersey) Law 1961.

**To obtain legal advice you should consult a lawyer. Court staff are NOT allowed to offer legal advice or advise you about your different legal options. It is for you to complete the forms and if you have difficulty in doing so you must obtain legal advice.**

This leaflet does not deal with the adoption of children from overseas. If you are thinking of adopting a child whose permanent home is outside the UK, the Channel Islands or the Isle of Man, you should get initial advice from Fostering Adoption Jersey at the Children Service telephone number 443970. If a child has already been adopted from overseas it is now possible to apply to the Court for a declaration by the Court that the adoption is an overseas adoption.

A step-parent should consider whether or not to apply for a residence order, which will give him or her parental responsibility, rather than making an application for an adoption order. To obtain legal advice about this, you should consult a lawyer.

### **Welfare of the child**

The court will need to find out the wishes and feelings of the child about the adoption, and give consideration to his/her wishes, having regard to the child's age and understanding.

A child of 14 and over is considered to have sufficient understanding, and must give his/her agreement in writing to the adoption or the agreement has to be

evidenced in writing, unless the Court considers the child is incapable of giving agreement.

### **Who can apply for an adoption order?**

- A person may apply to adopt a child provided that at the time the application is made the person is domiciled in the British Isles and:-
  - a) is the mother or father of the child; or
  - b) is a relative of the child, and has attained the age of 20 years; or
  - c) is not a relative and has attained the age of 25 years.
  
- 2 persons jointly, one of whom is domiciled in the British Isles provided the 2 persons are:-
  - a) married to each other
  - b) in a civil partnership with each other; or
  - c) living as partners in an enduring family relationship – whether the same or different genders-  
but this does not include 2 related persons e.g. parent, grandparent, sister, brother, aunt or uncle  
and relationship means of full or half blood, or in the case of an adopted person such a relationship would exist except for the adoption, and  
includes the relationship of a child with his or her adoptive or former adoptive parents, but does not include any other adoptive relationships.

A married couple or a civil partnership couple may jointly apply to adopt a child provided that, at the time the application is made at least one of the spouses or civil partners is domiciled in the British Isles and:-

- a) if either of the applicants is the mother or father of the child; or in the case of one of the applicants:-
- b) is a relative of the child, and has attained the age of 20 years, and the other of them has attained the age of 20 years;

- or
- c) if not a relative and has attained the age of 25 years, and the other of them has attained the age of 20 years.

'Domicile' is normally taken to mean the place where you have your permanent home.

If you have any doubt about whether you meet these conditions, you should seek legal advice.

### **Consent of spouse or civil partner applying to adopt or asking the Court to dispense with consent**

Where a person applies to adopt on his or her own, the Court has to be satisfied that his or her spouse or civil partner agrees to the making of an adoption order; the agreement to be in writing or evidenced in writing.

However, the Court can be asked to dispense with the agreement of the spouse or civil partner on one of the following grounds:-

- (a) the spouse or civil partner cannot be found;
- (b) the spouse or civil partner is incapable of giving agreement;
- (c) the spouse or civil partner is unreasonably withholding agreement; or
- (d) the welfare of the child, as the paramount consideration, justifies the making of the order without the agreement of the spouse or civil partner.

### **Does the child have to live with the applicants before they can apply for an adoption order?**

An adoption order will not be made unless the child has at all times during the preceding 3 months (not counting any time before he or she reached the age of 6 weeks) had his or her home with the applicant (or, in the case of an application by spouses, or both partners of a civil partnership, one of the applicants). In addition, unless the applicant or one of the applicants is a parent of the child, an adoption order will not be made unless the applicant has, at least 3 months before the date

of the order, given notice in writing to The Team Manager, Fostering and Adoption Jersey, at Le Bas Centre, St Saviour's Road, St Helier JE2 4RP, of his or her intention to apply for an adoption order in respect of the child.

### **What forms and documents will the Court need?**

The forms are set out in Schedule I of the [Adoption Rules 1962](#) and can be found within Adoption section on [www.gov.je/familycourt](http://www.gov.je/familycourt).

### **The Court will need you to provide:-**

- an application in Form 1 and 3 copies;
- the birth certificate for the child or, if the child has previously been adopted, a certified copy of the entry in the Adopted Children Register;
- if the applicants are married, a certified copy of the marriage certificate or in a civil partnership, a certificate of civil partnership;
- unless the applicant or one of the applicants is the mother or father of the child, separate medical reports on the applicant/s health. (Form 3 may be used);
- unless the applicant or one of the applicants is the mother or father of the child, a medical report on the child (Form 4 may be used);

The applicants will also have to provide the following, depending on circumstances:-

- if the child has been placed for adoption or freed for adoption by a Court, a certified copy of the placement order or freeing order;
- if the Court is being asked to dispense with the consent of any parent or guardian to the adoption, a sworn statement of the facts the applicant(s) are relying on in support of the request; and three copies;
- if your husband, or wife has died, or civil partner has died, a certified copy of the death certificate;
- if you are divorced, a copy of any decree absolute or decree of nullity of marriage or if a civil partnership has been dissolved, a copy of the order of dissolution; or if annulled a nullity order;

- Form 6 Consent to adoption form(s). If executed before the start of the proceedings, it needs to be filed with the Form 1 application Form. Rule 6 of the Rules sets out how Form 6 must be attested;
- if you were a party to any proceedings relating to the child, a copy of a final order, and copy of a maintenance order or agreement, if any;
- a copy of any final order relating to a full, half or step brother or sister of the child;
- the agreement of your spouse or civil partner to the making of an adoption order. Form 5A;
- if applying to adopt without the consent of your spouse or civil partner, you must say so on Form 1 and specify which of the 4 grounds applies to you. You must supply your original marriage/civil partnership certificate. You should provide a sworn statement of the facts you rely on together with documentary evidence in support, such as a decree of judicial separation, or medical evidence of physical incapability or a lack of capacity.  
If at a later stage of the proceedings you want to ask the Court to dispense with consent, you must make a written request and set out reasons for the request and a sworn statement of facts;
- the agreement of the child aged 14 or over. Form 5.

**What if the child's parents or guardian does not consent to the adoption?**

No adoption order can be made unless:-

- a) the child is free for adoption by virtue of a Court order made in Jersey or by order of a Court in any other part of the British Islands; or
- (b) the Court is satisfied that:-
  - (i) each parent or guardian has freely, and with full understanding of what is involved unconditionally agrees to the making of order, but any agreement given by the mother is ineffective if given within 6 weeks of the child's birth; or
  - (ii) the parent or guardian's agreement to the making of the adoption order should be dispensed with on a ground set out below.

The Court must be satisfied that a birth father who does not have parental responsibility has no intention of:

- (i) seeking a parental responsibility order or
- (ii) seeking a residence order within the next 6 months, or if he did make any such applications, they would be likely to be refused or
- (iii) requesting registration as the child's father in the register of births under Article 56 of the Marriage and Civil Status (Jersey) Law 2001.

If the child's birth parents or guardian have not consented to the adoption and you are asking the Court to dispense with their consent, the Court will need to be satisfied that the parent or guardian:-

- (a) cannot be found or is incapable of giving agreement;**
- (b) is withholding his or her agreement unreasonably;**
- (c) has persistently failed without reasonable cause to exercise his or her rights, duties, obligations and liabilities as a parent or guardian in respect of the child;**
- (d) has abandoned or neglected the child;**
- (e) has persistently ill-treated the child, but this does not apply unless because of the ill-treatment or for other reasons, the rehabilitation of the child within the household of the parent, or guardian is unlikely;**
- (f) has seriously ill-treated the child;**
- (g) is incapable of caring for the child or is of such habits or mode of life as to be unfit to have the care of the child.**

**The application form must set out which of these conditions above you consider applies.**

#### **What if the applicant wishes his or her identity to remain confidential?**

If the applicant does not want his or her identity to be made known to the parent(s) or guardian(s) of the child the Court may issue a 'serial number' for the application.

### **What will happen after the application is filed with the Court?**

Every case is different and the Court's decision about the next steps will depend on the details of the application.

### **What is the job of the children's guardian ad litem**

The Court will ask for a guardian ad litem to be appointed. The application will be sent to the guardian ad litem. The guardian ad litem has the duty of safeguarding the interests of the child. The guardian ad litem carries out any necessary investigations and provides a report to the Court. This can take some months. As a matter of practice the guardian ad litem will not recommend an adoption unless a step-parent has been married to the parent for at least a year.

The guardian ad litem may at any time make an interim report to the Court if directions are needed on any particular matter.

### **Final hearing**

If the guardian ad litem's report recommends that the adoption should take place, a date will be set for a short private hearing at the Royal Court.

The proposed adoptive parents will need to attend the hearing, together with the child.

If the adoption is contested, there will be a separate hearing to consider whether the adoption should take place.

### **The Final Order**

Before making an adoption order the Court needs to be satisfied:-

- a) that every person whose consent is necessary and whose consent is not dispensed with, has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of any parent understands that the effect of the adoption order will be permanently to extinguish his or her parental responsibility for the child;
- b) that the order if made will be for the welfare of the child; and



- c) that the applicant has not received or agreed to receive, and that no person has made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the Court may sanction.

### **Court Fee**

A fee is payable for adoption applications, although the financial circumstances of the applicant(s) may mean that no fee is payable. There is a Court fee per child payable in the form of receipt on the filing of the application(s).

### **See also extra information sheet relating to the type of adoption application being made**

- Adoption – freed for adoption by court order
- Adoption – joint parents/step-parent
- Adoption – non parent adoption and child not freed for adoption by court order