

## **ARTICLE FOR CIRENCESTER SCENE**

### **THE LEGAL POSITION OF A STEP-PARENT**

Step-parents do not normally have legal rights in relation to their step-children. Roles in their day to day care can be delegated to them by the child's parent. They are acting as the agent of the parent but it is the parent who holds all the legal rights and responsibilities.

#### **Acquiring Parental Responsibility.**

A step parent can acquire Parental Responsibility by entering into a Parental Responsibility Agreement with everyone who holds Parental Responsibility for the child. If that Agreement is not forthcoming an Application may be made to the Court for such an Order. It will be in the circumstances of each case to be considered whether or not such an Order would be made.

If a Child Arrangements Order is made naming the step parent as a person with whom the child is to live, whether solely or jointly with another, then a step parent will acquire Parental Responsibility for so long as the Child Arrangements Order remains in force.

#### **Step Parent Adoption.**

The legal position for a step parent in relation to the child can be fundamentally altered through an Adoption Order. Such an Order would extinguish Parental Responsibility held by everyone other than the step parent's partner, normally the adoption would be by them jointly. The step parent would obtain Parental Responsibility and would be treated in law as if they were the child's birth parent (Adoption and Children Act 2002 section 67 (1)).

The child's ties with the person who's Parental Responsibility has been discharged as a result of the adoption are likely to be severed. The child's surname could be changed. In the event that the step parent and their partner separate the step parent would remain the child's parent in the eyes of the law and would continue to have all the associated rights and responsibilities, including the responsibility to financially maintain the child.

The pre requisites for an Application to adopt are:

The Applicant must be over 21

The Applicant must be domiciled in the British Isles or being habitually resident in the British Isles for a year prior to the Application

The child must be under 18

The child must have lived with the step parent for at least 6 months consecutive months prior to the Application

The Application must give the appropriate Local Authority at least three months written notice of his Application.

For an Adoption Order to go ahead, it is necessary that each parent consents to the Order or the Court dispenses with that consent. If a parent refuses to consent then the Court will have to be asked to dispense with their consent. This would not be an easy task to persuade the Court that it should happen but in all matters concerning children the child's welfare is of paramount consideration in the case do adoption it is the child's welfare throughout his or her life.

If the natural parent is objecting to the adoption there is a very high bar indeed to convincing a Court that that consent should be dispensed with. The Court would be concerned about the proportionality of the interference in the child and parent's lives.

Here at Alison Fielden & Co Heather Weavill and Steven Barratt have many years' experience in advising parents and step parents regarding their legal rights and responsibilities and appropriate steps for them to take to secure those.

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