

# Intercountry Adoption

INFORMATION FOR PEOPLE SEEKING  
TO ADOPT A CHILD FROM OVERSEAS





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## Introduction

**This leaflet has been written to provide you with information about Intercountry Adoption and about the service that Aberdeenshire Council Social Work offers to people seeking to adopt a child from overseas. The leaflet takes account of the recent changes in the law relating to Intercountry Adoption. This information is provided in good faith by Aberdeenshire Council, but does not represent legal advice to the reader. Readers may wish to consult their own solicitor for legal advice on Intercountry Adoption.**

### **First Steps - Home Study (Scotland)**

When you have read this leaflet, we can arrange a meeting, if you wish. Please contact us to request this.

Firstly, we need to clarify whether you are eligible to apply. If you are a couple, both of you need to be at least 21 years old, and if you are applying as a single person, again you need to be at least 21 years old. There is no upper age limit. However, if you apply to adopt to a court in Scotland, the Sheriff will consider whether the age gap between parent and child can be considered “normal”. Adopters need to have sufficient health and vigour to bring up a child until at least early adulthood.

Applications can be accepted from couples who are married, in a civil partnership or couples living together who are in an “enduring family relationship”. Applicants can be accepted from single people or from individuals who are married or in a civil partnership in certain circumstances.

You may be able to borrow books from the Social Work Service – please ask.

Suggested books are:

Adopting a Child by Jennifer Lord BAAF 2008

The Adoption Experience: Families Who Give Children a Second Chance by Ann Morris

Adopters on Adoption: Reflections on Parenthood and Children by David Howe

Real Parents, Real Children: Parenting The Adopted Child by Holly Van Gulden and Lisa M Bartels-Rabb

First Steps in Parenting the Child Who Hurts – Tiddlers and Toddlers by Caroline Archer

Next Steps in Parenting the Child Who Hurts - Tykes and Teens by Caroline Archer

The Adopter's Handbook: Information Resources and Services for Adoptive Parents by Amy Neil Salter

A Child's Journey Through Placement by Vera Fahlberg

Helping Children Cope With Separation and Loss by Claudia Jewett

### **If you are considering Inter-Country Adoption**

Inter-Country Adoption: Developments, Trends and Perspectives by Peter Selman

We will ask you to complete a Disclosure Scotland Form, so that we can obtain information about any criminal convictions that you have. If you are applying to adopt from a member country of the Hague Convention, the 2009 Regulations set out specified offences which would make the applicant unsuitable, and if you have any of these convictions we would be unable to proceed with your application. If you have any convictions then it is wise to discuss this with us at an early stage.

If you have any other concerns in your personal circumstances which you feel might affect your application, we suggest that you discuss this at an early stage with us.

It is important to recognise that each country has its own requirements about who can adopt. This may be in relation to age, health or family circumstances for example. You will be able to find information about specific countries on the Scottish Government website and on the Department for Education website (See page 15).

From April 2016 a charge of £6,129.32 will be made for the commissioning of an Independent Social Worker and for the work of the Council in dealing with your application, and we require that this is paid prior to moving forward with your application. The charge is reviewed annually usually in March (please ask us about current costs). You will also have to meet the costs of The Scottish Government travel and any costs relating to the process in the child's country of origin, including other Agency and legal costs. Further costs relating to any post-placement reports or any additional work will also be met by applicants.

### **Preparation**

We ask that all applicants attend an adoption preparation course, and our charges include attending this course. The course offers the opportunity to learn more about adoption, and to help you to consider whether you wish to and are ready to apply to adopt.

You will be invited to join a course attended mostly by people who wish to adopt a child within Scotland, although we can arrange an opportunity to meet with someone who has adopted from overseas.

The training includes the reasons why children become available for adoption; understanding children's growth and development; the impact of difficult early life experiences on the child's ability to develop an attachment to their new family; medical issues; legal issues; the ongoing support and information that adopted children need about birth families; parenting issues; an opportunity to meet with adoptive parents, adopted people, birth parents, and usually someone who has adopted from another country. The focus of the course is preparation for adoptive parenthood. Children adopted from overseas will have been separated from their birth family, and may have been cared for by a number of different people, or perhaps in group care, something that will have impacted on their development. If the child has a different culture, ethnicity and religion from their adoptive parents, this is also a significant issue for prospective adopters to consider. You will have the opportunity to discuss these issues further as part of the home study.

### **The Needs of Children placed from Overseas**

While the children placed from overseas come from a broad range of backgrounds and countries, they will all have had the experience of being separated from the family into which they were born and being cared for by people other than their birth parents. However good this care has been, this will have an impact on the child's development and his or her ability to feel safe and secure. Although information may be available, there may be gaps, something that will create uncertainty for adoptive parents. Some children face health and developmental difficulties and some will need treatment; they are likely to need additional care and attention; for others their early experiences may lead to permanent physical or emotional difficulties.

## **Representation and Complaints**

Whilst it is Aberdeenshire Council's aim to provide a good service, if you have issues regarding representation or a complaint please ask for the leaflet "Have Your Say: Compliments, Comments and Complaints", which is available from all Social Work Offices and on Aberdeenshire Council's website. As Aberdeenshire Council's Fostering and Adoption Service is regulated by The Care Inspectorate in Scotland, you may also make a complaint to The Care Commission in Scotland, Johnston House, Rose Street, Aberdeen AB10 1UD Telephone: 01224 793870

### **The National Care Standards**

The National Care Standards for adoption agencies set out what prospective adopters can expect. Standard 31 is particularly relevant to Inter-country Adoption. These can be found by searching National Care Standards Scotland.

### **Reading Material**

There are a number of books on adoption which you might like to read to develop your knowledge and understanding.

More information can be found on the CoramBAAF website.

If a child is brought into the UK under an interim adoption order the child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. The local authority may be requested by the child's State of origin to provide update reports on the child during the probationary period. If a report is required by a Scottish court, Social Work will provide this.

## Further Sources of information

Further information on Intercountry Adoption can be obtained from the following sources:

Aberdeenshire Council Adoption Team Manger Tel: 01467 626489

Scottish Government, Children, Young People and Social Care Directorate, Area 2-C(S), Victoria Quay, Edinburgh EH6 6QQ  
Tel: 0131 244 3663. Go to Scottish Government website and type "intercountry adoption" in search box.

The Department for Education website. Go to Department for Education website and type "intercountry adoption" in search box.

**NB** - although this website contains a great deal of useful information, much of the legislation referred to is English rather than Scottish and there are differences)

Intercountry Adoption Centre Tel: 08705 168742  
website: [www.icacentre.org.uk](http://www.icacentre.org.uk)

Leaflet "Intercountry Adoption" published by Coram BAAF Adoption and Fostering.

Overseas Adoption Support and Information Services: Helpline  
Telephone Number: 0870 241 7069  
website: [www.adoptionoverseas.org](http://www.adoptionoverseas.org)

## Legal Advice

Anyone considering adopting a child from overseas is encouraged to consult their own solicitor. Information on local solicitors who may be able to help can be found at [www.lawscot.org.uk](http://www.lawscot.org.uk)

## Applying to Adopt

Following the preparation course, we will provide you with an application form, for you to complete and return to us.

If we consider that you meet the eligibility requirements, then we will open a case record. We will then commission an Independent Social Worker who will prepare a written Home Study Report, setting out all the information which is required by law, stating the country from which you wish to adopt a child, and including an assessment of your suitability to become an adoptive parent. You should be decided on the country you wish to adopt from prior to the Home Study beginning. Whilst we will assist you in any way we can, we are not resourced to undertake research into the requirements of overseas countries and it will be your responsibility to do this.

## Checks

By law, we have to undertake a number of checks and you will be asked to give your written agreement to this. These checks are confidential, but any issues arising from them will be discussed with you. These checks include:

- **Medical Checks** You will be asked to consent to medical information being given by your G.P. Our Medical Adviser will write to your G.P. asking him/her to undertake a full medical examination. You will be asked to meet the costs of this examination. Medical matters are dealt with by Aberdeenshire's Medical Adviser, who will give advice to the Independent Social Worker and to the Permanence Panel. It should be noted that where you or any member of your house hold smokes we will not be able to recommend that a child under 5 years or a child of any age with a respiratory disorder be placed with you. We expect that any one who smokes should have stopped for at least 6 months before they can be considered for a child under 5 years or a child of any age with a respiratory disorder. Having health

issues will not necessarily mean that we cannot proceed with your application, but we are seeking to ensure that the child is placed in a family who will likely have health and vigour to parent them at least into early adulthood.

- **Social Work Records** You will be asked to agree to checks being made of Social Work records in Aberdeenshire and local authorities where you have previously lived.
- **References** You will be asked to provide the names and addresses of up to six personal referees (not members of your family) who know you well, individually and, where relevant, as a couple.
- **An Employer's Reference**
- **Health and Safety check of your home**
- **Any other checks** relevant to your situation

Additionally there are countries that have further requirements and you should make yourselves aware of such requirements. For example some countries require a psychological assessment which our medical checks would not cover and so you will have to arrange this yourself, if required, including meeting the cost of this.

The assessment should generally be completed within 6 months from the date that we receive your application. It will involve a number of meetings with your Social Worker. You will be expected to contribute to the Home Study Report, both verbally and in writing. In common with most other Agencies, Aberdeenshire Council use the BAAF Form F3 as a basis for the Report. It will include information on your personal and family history, your current circumstances, your family and support network, and your reasons for adoption and for wishing to adopt a child from overseas. Your Social Worker will give you information about how the assessment is progressing and you can ask for this at any point.

The child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. This requires a minimum of 3 monthly visits by the supervising Social Worker. Social Work will then provide a report for the court, but we ask you to discuss with us and your solicitor when you intend to lodge your adoption petition in court, so that the court report can be prepared around that time.

The adoption order cannot be *made* until the child has been in your care for 12 months. However, you must notify Social Work on your return to Aberdeenshire with the child, and you can *apply* to the court for an adoption order as soon as the child enters the UK. However it would be a good idea to discuss the timing of your application to court with us, your solicitor and perhaps the Sheriff Clerk at the court. (**NB** it is a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency.)

## Interim Adoption Orders

An interim adoption order is an order granting parental rights and responsibilities in the child's State of origin that is not a full order under the adoption law of that country. Interim orders are only relevant to Convention and designated list adoptions, as any type of adoption order made in non-Convention non-Designated countries are not recognised by UK law anyway.

The interim order will allow the child to leave their State of origin accompanied by the prospective adopter(s). There may be conditions attached to the interim order before a full order is automatically granted, including for example a specified period of time that the child must reside with the prospective adopter(s) before the full order can be made.

However you must notify Aberdeenshire Council of the expected date the child will enter the UK accompanied by yourself.

## **Non-Convention and Non-Designated Adoptions**

### **Adoption from Designated Countries**

The Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013, list the countries where if adoptions are made in that country, they are, like Hague Convention Adoptions, recognised within Scotland and the UK. A list of these countries can be found on the Scottish Government website, in the Intercountry Adoption Section under “types of Intercountry Adoption”.

When a child is adopted from a country whose adoption practice is not recognised under UK law and whose country of origin has not ratified the Hague Convention, this is known as a non-Convention non-Designated adoption.

Prospective adoptive parents will have to apply to a Scottish court for a full adoption order to be made in respect of the child when the child comes to the UK. They will need to do this even if they have obtained an adoption order in the child’s country. Adopters must notify Aberdeenshire Council within 14 days of the child’s entry to the UK.

If the adoptive parents are British citizens, the granting of an adoption order by a British court should automatically confer British citizenship on the child. Before applying to a Court here, you must notify Aberdeenshire Council Social Work in writing of your intention to apply to adopt. You should write to The Head of Social Work (Child Care), Woodhill House, Westburn Road, Aberdeen, AB16 5GB. A Social Worker will be required to visit your home, to satisfy ourselves as to the child’s welfare and provide supervision, until an Adoption Order is made.

If the Social Worker has any concerns during the assessment, these will be shared openly with you and if there is any doubt about whether the application should proceed, advice will be sought from the Permanence Panel.

Sometimes applicants are clear from the start about which country they wish to adopt from, but their circumstances can change. Other applicants are not clear. It is your responsibility to fully research before coming to a decision. The Social Worker will discuss with you the country you wish to adopt from and the reasons for this. It is important that you have reached a decision about which country you wish to adopt from, and the age and gender of the child when the home study commences.

## **Attending the Panel**

Aberdeenshire Council is required by law to have a Permanence Panel. Aberdeenshire’s Permanence Panel consists of approximately 12 members with a wide range of knowledge and experience in relation to adoption and children separated from their families and includes a Chairperson, a Medical Adviser, and a Legal Adviser and may include a Foster Carer/ Adoptive Parent. The Panel meets every 3 weeks on a Thursday usually.

When the Home Study Report has been completed, an appointment for your application to be considered by Aberdeenshire Council’s Permanence Panel will be made, and we will notify you of this date. We will give you a copy of the Home Study report (excluding any information from third parties given in confidence), and will invite you to send any observations in writing on the Report to the Chair of the Permanence Panel within 14 days, beginning with the date on which we notified you.

Attending the Panel is not part of the assessment process. For the first part of the Panel meeting, the Permanence Panel and your Social Worker meet to identify any matters from the Home Study Report which need further discussion or clarification. You will then join the meeting to discuss any matters that have been identified, to talk to your application and ask any questions of the Panel. The Panel will then consider the application further and will reach a recommendation. The Chair of the Panel will give you the recommendation of the Panel.

All matters dealt with the Panel are confidential. The Permanence Panel will consider your application, and will make a recommendation to the Agency Decision Maker (ADM) as to whether you are suitable to be an adoptive parent.

## **Adoption Agency Decision**

The Agency Decision Maker will receive the Home Study Report, any written observations that you have made and the Minute of the Meeting of the Permanence Panel. The ADM will make a decision on your suitability to be an adoptive parent within 14 days of the Panel Meeting. They will write to you to notify you of his decision within 7 days. The decision will include the country from which you are approved to adopt, the number of children and the age and gender of the child/ren.

If the ADM decides that you are not suitable to be an adoptive parent, he will notify you in writing within 7 days, and will give you reasons, along with the recommendations of the Permanence Panel. If you disagree with the decision, you should lodge an appeal with the Director of Housing and Social Work within 28 days, who will make arrangements to have the appeal considered. Aberdeenshire Council can provide a leaflet on Appealing Decisions made by the Social Work Service.

- An adoption can only take place if the adopter has been approved as suitable to become an adopter in the receiving state (i.e. in the adopter's home country) and the receiving country confirms that the child will be allowed to reside permanently in that country.
- All appropriate measures must be taken by the states to prevent improper financial or other gain in connection with adoption and to deter all practices contrary to the objectives of the Convention.
- The state must appoint a central authority and accredit bodies to work as adoption agencies. (The Scottish Government is Scotland's central authority.)
- Adoptions made in countries that have ratified the convention must be recognised by other countries that have ratified the Convention.

## **Types of Adoption from Overseas**

### **Hague Convention Adoptions**

This refers to any adoption made under the Articles of the Hague Convention 1993 between 2 Convention States. Adoption orders made in respect of children from Convention countries are recognised under UK law. The adoption order granted is called a Convention adoption order and there is generally no need for adoptive parents to reapply to a Scottish court for an adoption order, unless an interim adoption order was granted in the child's State of origin, and reapplication for adoption is one of its requirements. A list of those countries who have ratified/acceded to the Hague Convention 1993 can be found via the Scottish Government's website and the Department for Education website (please refer to Scottish Regulations). Children who are the subject of a Convention adoption should receive British nationality automatically, but you should check this with the Home Office.

It is not an offence where a child is brought into the UK for the purpose of adoption by a parent, guardian or relative, i.e. a grandparent, brother, sister, aunt or uncle. The 2009 Regulations add further criminal offences in relation to a child being brought into the U.K. for the purposes of adoption and it is highly recommended that specialist independent legal advice is sought at an early stage. However, it is recommended that in these circumstances legal advice is sought at an early stage on the adoption of the child in this country as well as on whether an adoption application has to be made in this country and how British citizenship would be obtained.

## **The Hague Convention**

The 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption aims to establish safeguards to protect the best interests of the child and to put in place a system of co-operation between countries to prevent the abduction of, the sale of, or traffic in children. The UK signed the Hague Convention in 1994. The 1999 Act and 2003 Regulations referred to above enabled Scotland to ratify the Hague Convention.

The key requirements of the Hague Convention are:

- The child's home country must ensure that the child has been freely given up for adoption and that this has not been induced by payment or compensation of any kind.
- Attempts must be made to place the child in a family in their home country. If this is not possible, it must be confirmed that intercountry adoption is in the child's best interests. This decision must be taken with respect for his or her fundamental rights, as recognised in international law.

## **Review of Approval**

A review of your approval is required if a child has not been placed with you within; 1 year for Hague Convention adoptions and 2 years for Non-Hague convention adoptions (see page 11 for an explanation of the Hague Convention). We can provide information on the process for this review if requested.

## **Following Agency Approval**

We will meet with you to prepare the necessary documentation to be sent to the Scottish Government within 7 days which is a necessary part of the process. It is not uncommon for your documentation to require to be notarised or legally certified and for this you will require the services of a notary public. Some solicitors are also notaries public but not all. It is your responsibility to ensure all the required documents are Notarised and to meet the cost of this.

If you are intending to adopt from a country which is a member of the Hague Convention, and if the Scottish Government are satisfied, they will send to the Central Authority of the State of origin of the child a certificate confirming that you are eligible and have been approved to adopt. The Scottish Government will confirm with Aberdeenshire Council and with you in writing that the certificate and documents have been sent to the Central Authority of the State of origin. The Scottish Government may charge for this service. Details can be found on their website.

If you are intending to adopt from a Designated Country or a country which is neither designated nor a member of the Hague Convention, then it is important to find out what documentation will be needed and this can generally be obtained from the Department for Education website. We will help you to prepare your papers, to be sent to the Scottish Government, and then on to the Department for Education. When you receive information about a child with whom you may be matched, you must discuss the information with Social Work.

Aberdeenshire Council may be asked to provide a view on the suitability of this match. The Agency Decision Maker will provide this view, taking into account a recommendation from the Permanence Panel based on all available information. Information may be sought from our Medical Adviser in relation to the needs of the child. The Medical Adviser can arrange for a medical examination of the child when he / she comes to this country, should you wish this. We would ask you to meet the cost of this examination.

## **Adopting from a Country which is a Member of the Hague Convention - when a Child becomes available**

When the Scottish Government receive from the Central Authority of the State of origin information about a child whom they have matched with the prospective adoptive parents, the Scottish Government will send this information to Aberdeenshire Council. We will consider and discuss these documents with you. Aberdeenshire Council may be asked to provide a view on the suitability of the match, and the Agency Decision Maker will provide this, taking into account the recommendation of the Permanence Panel. You should visit the child before reaching the decision about whether you would wish to go ahead to adopt this child. You should inform us in writing whether you wish to proceed with the adoption, to enable us to advise the Scottish Government. You should then make arrangements to accompany the child in their move to the UK. The UK Central Authority has to confirm to the central authority in the child's country that the child will be allowed to enter the UK. Prospective adopters may wish to check this with the Scottish Government prior to leaving the UK, and with the British Embassy in the child's country.

Aberdeenshire Council will arrange for a written report of the child's health history and current state of health, so far as is known, to be sent to your GP, together with any particulars of the placement.

## **Post Placement Reports**

Some countries require post placement reports and while Aberdeenshire Council will provide these, we will ask you to meet the cost of preparing the reports. It is the responsibility of prospective adoptive parents to find out the format for these reports and where they should be sent.

## **Support After Adoption**

After your child has been adopted, you have the right to ask for adoption support from Aberdeenshire Council.

## **Legal Background**

Adoption is the legal process where a parent and child relationship is created by court order. In the UK only Local Authorities such as Aberdeenshire Council or registered adoption services can arrange for children to be placed for adoption, and only the Court can grant an Adoption Order.

The Adoption (Intercountry Aspects) Act 1999, the Adoptions with a Foreign Element (Scotland) Regulations 2009 and Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 set out requirements and procedures for intercountry adoption. The 2003 Regulations have now been replaced by the Adoptions with a Foreign Element (Scotland) Regulations 2009. The Act can be viewed at [http://www.opsi.gov.uk/acts/acts1999/ukpga\\_19990018\\_en\\_1](http://www.opsi.gov.uk/acts/acts1999/ukpga_19990018_en_1) The 2009 Regulations can be viewed at [http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi\\_20090182\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi_20090182_en_1). The 2003 Regulations can be viewed at <http://www.opsi.gov.uk/legislation/Scotland/ssi2003/20030019.htm>

One particularly important section of the 1999 Act makes it a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency (e.g. a local authority).

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## Introduction

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## First Steps - Home Study (Scotland)

When you have read this leaflet, we can arrange a meeting, if you wish. Please contact us to request this.

Firstly, we need to clarify whether you are eligible to apply. If you are a couple, both of you need to be at least 21 years old, and if you are applying as a single person, again you need to be at least 21 years old. There is no upper age limit. However, if you apply to adopt to a court in Scotland, the Sheriff will consider whether the age gap between parent and child can be considered “normal”. Adopters need to have sufficient health and vigour to bring up a child until at least early adulthood.

Applications can be accepted from couples who are married, in a civil partnership or couples living together who are in an “enduring family relationship”. Applicants can be accepted from single people or from individuals who are married or in a civil partnership in certain circumstances.

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If you have any other concerns in your personal circumstances which you feel might affect your application, we suggest that you discuss this at an early stage with us.

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From April 2016 a charge of £6,129.32 will be made for the commissioning of an Independent Social Worker and for the work of the Council in dealing with your application, and we require that this is paid prior to moving forward with your application. The charge is reviewed annually usually in March (please ask us about current costs). You will also have to meet the costs of The Scottish Government travel and any costs relating to the process in the child's country of origin, including other Agency and legal costs. Further costs relating to any post-placement reports or any additional work will also be met by applicants.

### **Preparation**

We ask that all applicants attend an adoption preparation course, and our charges include attending this course. The course offers the opportunity to learn more about adoption, and to help you to consider whether you wish to and are ready to apply to adopt.

You will be invited to join a course attended mostly by people who wish to adopt a child within Scotland, although we can arrange an opportunity to meet with someone who has adopted from overseas.

The training includes the reasons why children become available for adoption; understanding children's growth and development; the impact of difficult early life experiences on the child's ability to develop an attachment to their new family; medical issues; legal issues; the ongoing support and information that adopted children need about birth families; parenting issues; an opportunity to meet with adoptive parents, adopted people, birth parents, and usually someone who has adopted from another country. The focus of the course is preparation for adoptive parenthood. Children adopted from overseas will have been separated from their birth family, and may have been cared for by a number of different people, or perhaps in group care, something that will have impacted on their development. If the child has a different culture, ethnicity and religion from their adoptive parents, this is also a significant issue for prospective adopters to consider. You will have the opportunity to discuss these issues further as part of the home study.

## **The Needs of Children placed from Overseas**

While the children placed from overseas come from a broad range of backgrounds and countries, they will all have had the experience of being separated from the family into which they were born and being cared for by people other than their birth parents. However good this care has been, this will have an impact on the child's development and his or her ability to feel safe and secure. Although information may be available, there may be gaps, something that will create uncertainty for adoptive parents. Some children face health and developmental difficulties and some will need treatment; they are likely to need additional care and attention; for others their early experiences may lead to permanent physical or emotional difficulties.

## **Representation and Complaints**

Whilst it is Aberdeenshire Council's aim to provide a good service, if you have issues regarding representation or a complaint please ask for the leaflet "Have Your Say: Compliments, Comments and Complaints", which is available from all Social Work Offices and on Aberdeenshire Council's website. As Aberdeenshire Council's Fostering and Adoption Service is regulated by The Care Inspectorate in Scotland, you may also make a complaint to The Care Commission in Scotland, Johnston House, Rose Street, Aberdeen AB10 1UD Telephone: 01224 793870

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The National Care Standards for adoption agencies set out what prospective adopters can expect. Standard 31 is particularly relevant to Inter-country Adoption. These can be found by searching National Care Standards Scotland.

## **Reading Material**

There are a number of books on adoption which you might like to read to develop your knowledge and understanding.

More information can be found on the CoramBAAF website.

If a child is brought into the UK under an interim adoption order the child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. The local authority may be requested by the child's State of origin to provide update reports on the child during the probationary period. If a report is required by a Scottish court, Social Work will provide this.

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**NB** - although this website contains a great deal of useful information, much of the legislation referred to is English rather than Scottish and there are differences)

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website: [www.icacentre.org.uk](http://www.icacentre.org.uk)

Leaflet "Intercountry Adoption" published by Coram BAAF Adoption and Fostering.

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Telephone Number: 0870 241 7069  
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## Legal Advice

Anyone considering adopting a child from overseas is encouraged to consult their own solicitor. Information on local solicitors who may be able to help can be found at [www.lawscot.org.uk](http://www.lawscot.org.uk)

## Applying to Adopt

Following the preparation course, we will provide you with an application form, for you to complete and return to us.

If we consider that you meet the eligibility requirements, then we will open a case record. We will then commission an Independent Social Worker who will prepare a written Home Study Report, setting out all the information which is required by law, stating the country from which you wish to adopt a child, and including an assessment of your suitability to become an adoptive parent. You should be decided on the country you wish to adopt from prior to the Home Study beginning. Whilst we will assist you in any way we can, we are not resourced to undertake research into the requirements of overseas countries and it will be your responsibility to do this.

## Checks

By law, we have to undertake a number of checks and you will be asked to give your written agreement to this. These checks are confidential, but any issues arising from them will be discussed with you. These checks include:

- **Medical Checks** You will be asked to consent to medical information being given by your G.P. Our Medical Adviser will write to your G.P. asking him/her to undertake a full medical examination. You will be asked to meet the costs of this examination. Medical matters are dealt with by Aberdeenshire's Medical Adviser, who will give advice to the Independent Social Worker and to the Permanence Panel. It should be noted that where you or any member of your house hold smokes we will not be able to recommend that a child under 5 years or a child of any age with a respiratory disorder be placed with you. We expect that any one who smokes should have stopped for at least 6 months before they can be considered for a child under 5 years or a child of any age with a respiratory disorder. Having health

issues will not necessarily mean that we cannot proceed with your application, but we are seeking to ensure that the child is placed in a family who will likely have health and vigour to parent them at least into early adulthood.

- **Social Work Records** You will be asked to agree to checks being made of Social Work records in Aberdeenshire and local authorities where you have previously lived.
- **References** You will be asked to provide the names and addresses of up to six personal referees (not members of your family) who know you well, individually and, where relevant, as a couple.
- **An Employer's Reference**
- **Health and Safety check of your home**
- **Any other checks** relevant to your situation

Additionally there are countries that have further requirements and you should make yourselves aware of such requirements. For example some countries require a psychological assessment which our medical checks would not cover and so you will have to arrange this yourself, if required, including meeting the cost of this.

The assessment should generally be completed within 6 months from the date that we receive your application. It will involve a number of meetings with your Social Worker. You will be expected to contribute to the Home Study Report, both verbally and in writing. In common with most other Agencies, Aberdeenshire Council use the BAAF Form F3 as a basis for the Report. It will include information on your personal and family history, your current circumstances, your family and support network, and your reasons for adoption and for wishing to adopt a child from overseas. Your Social Worker will give you information about how the assessment is progressing and you can ask for this at any point.

The child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. This requires a minimum of 3 monthly visits by the supervising Social Worker. Social Work will then provide a report for the court, but we ask you to discuss with us and your solicitor when you intend to lodge your adoption petition in court, so that the court report can be prepared around that time.

The adoption order cannot be *made* until the child has been in your care for 12 months. However, you must notify Social Work on your return to Aberdeenshire with the child, and you can *apply* to the court for an adoption order as soon as the child enters the UK. However it would be a good idea to discuss the timing of your application to court with us, your solicitor and perhaps the Sheriff Clerk at the court. (**NB** it is a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency.)

## Interim Adoption Orders

An interim adoption order is an order granting parental rights and responsibilities in the child's State of origin that is not a full order under the adoption law of that country. Interim orders are only relevant to Convention and designated list adoptions, as any type of adoption order made in non-Convention non-Designated countries are not recognised by UK law anyway.

The interim order will allow the child to leave their State of origin accompanied by the prospective adopter(s). There may be conditions attached to the interim order before a full order is automatically granted, including for example a specified period of time that the child must reside with the prospective adopter(s) before the full order can be made.

However you must notify Aberdeenshire Council of the expected date the child will enter the UK accompanied by yourself.

## **Non-Convention and Non-Designated Adoptions**

### **Adoption from Designated Countries**

The Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013, list the countries where if adoptions are made in that country, they are, like Hague Convention Adoptions, recognised within Scotland and the UK. A list of these countries can be found on the Scottish Government website, in the Intercountry Adoption Section under “types of Intercountry Adoption”.

When a child is adopted from a country whose adoption practice is not recognised under UK law and whose country of origin has not ratified the Hague Convention, this is known as a non-Convention non-Designated adoption.

Prospective adoptive parents will have to apply to a Scottish court for a full adoption order to be made in respect of the child when the child comes to the UK. They will need to do this even if they have obtained an adoption order in the child’s country. Adopters must notify Aberdeenshire Council within 14 days of the child’s entry to the UK.

If the adoptive parents are British citizens, the granting of an adoption order by a British court should automatically confer British citizenship on the child. Before applying to a Court here, you must notify Aberdeenshire Council Social Work in writing of your intention to apply to adopt. You should write to The Head of Social Work (Child Care), Woodhill House, Westburn Road, Aberdeen, AB16 5GB. A Social Worker will be required to visit your home, to satisfy ourselves as to the child’s welfare and provide supervision, until an Adoption Order is made.

If the Social Worker has any concerns during the assessment, these will be shared openly with you and if there is any doubt about whether the application should proceed, advice will be sought from the Permanence Panel.

Sometimes applicants are clear from the start about which country they wish to adopt from, but their circumstances can change. Other applicants are not clear. It is your responsibility to fully research before coming to a decision. The Social Worker will discuss with you the country you wish to adopt from and the reasons for this. It is important that you have reached a decision about which country you wish to adopt from, and the age and gender of the child when the home study commences.

## **Attending the Panel**

Aberdeenshire Council is required by law to have a Permanence Panel. Aberdeenshire’s Permanence Panel consists of approximately 12 members with a wide range of knowledge and experience in relation to adoption and children separated from their families and includes a Chairperson, a Medical Adviser, and a Legal Adviser and may include a Foster Carer/ Adoptive Parent. The Panel meets every 3 weeks on a Thursday usually.

When the Home Study Report has been completed, an appointment for your application to be considered by Aberdeenshire Council’s Permanence Panel will be made, and we will notify you of this date. We will give you a copy of the Home Study report (excluding any information from third parties given in confidence), and will invite you to send any observations in writing on the Report to the Chair of the Permanence Panel within 14 days, beginning with the date on which we notified you.

Attending the Panel is not part of the assessment process. For the first part of the Panel meeting, the Permanence Panel and your Social Worker meet to identify any matters from the Home Study Report which need further discussion or clarification. You will then join the meeting to discuss any matters that have been identified, to talk to your application and ask any questions of the Panel. The Panel will then consider the application further and will reach a recommendation. The Chair of the Panel will give you the recommendation of the Panel.

All matters dealt with the Panel are confidential. The Permanence Panel will consider your application, and will make a recommendation to the Agency Decision Maker (ADM) as to whether you are suitable to be an adoptive parent.

## **Adoption Agency Decision**

The Agency Decision Maker will receive the Home Study Report, any written observations that you have made and the Minute of the Meeting of the Permanence Panel. The ADM will make a decision on your suitability to be an adoptive parent within 14 days of the Panel Meeting. They will write to you to notify you of his decision within 7 days. The decision will include the country from which you are approved to adopt, the number of children and the age and gender of the child/ren.

If the ADM decides that you are not suitable to be an adoptive parent, he will notify you in writing within 7 days, and will give you reasons, along with the recommendations of the Permanence Panel. If you disagree with the decision, you should lodge an appeal with the Director of Housing and Social Work within 28 days, who will make arrangements to have the appeal considered. Aberdeenshire Council can provide a leaflet on Appealing Decisions made by the Social Work Service.

- An adoption can only take place if the adopter has been approved as suitable to become an adopter in the receiving state (i.e. in the adopter's home country) and the receiving country confirms that the child will be allowed to reside permanently in that country.
- All appropriate measures must be taken by the states to prevent improper financial or other gain in connection with adoption and to deter all practices contrary to the objectives of the Convention.
- The state must appoint a central authority and accredit bodies to work as adoption agencies. (The Scottish Government is Scotland's central authority.)
- Adoptions made in countries that have ratified the convention must be recognised by other countries that have ratified the Convention.

## **Types of Adoption from Overseas**

### **Hague Convention Adoptions**

This refers to any adoption made under the Articles of the Hague Convention 1993 between 2 Convention States. Adoption orders made in respect of children from Convention countries are recognised under UK law. The adoption order granted is called a Convention adoption order and there is generally no need for adoptive parents to reapply to a Scottish court for an adoption order, unless an interim adoption order was granted in the child's State of origin, and reapplication for adoption is one of its requirements. A list of those countries who have ratified/acceded to the Hague Convention 1993 can be found via the Scottish Government's website and the Department for Education website (please refer to Scottish Regulations). Children who are the subject of a Convention adoption should receive British nationality automatically, but you should check this with the Home Office.

It is not an offence where a child is brought into the UK for the purpose of adoption by a parent, guardian or relative, i.e. a grandparent, brother, sister, aunt or uncle. The 2009 Regulations add further criminal offences in relation to a child being brought into the U.K. for the purposes of adoption and it is highly recommended that specialist independent legal advice is sought at an early stage. However, it is recommended that in these circumstances legal advice is sought at an early stage on the adoption of the child in this country as well as on whether an adoption application has to be made in this country and how British citizenship would be obtained.

## The Hague Convention

The 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption aims to establish safeguards to protect the best interests of the child and to put in place a system of co-operation between countries to prevent the abduction of, the sale of, or traffic in children. The UK signed the Hague Convention in 1994. The 1999 Act and 2003 Regulations referred to above enabled Scotland to ratify the Hague Convention.

The key requirements of the Hague Convention are:

- The child's home country must ensure that the child has been freely given up for adoption and that this has not been induced by payment or compensation of any kind.
- Attempts must be made to place the child in a family in their home country. If this is not possible, it must be confirmed that intercountry adoption is in the child's best interests. This decision must be taken with respect for his or her fundamental rights, as recognised in international law.

## Review of Approval

A review of your approval is required if a child has not been placed with you within; 1 year for Hague Convention adoptions and 2 years for Non-Hague convention adoptions (see page 11 for an explanation of the Hague Convention). We can provide information on the process for this review if requested.

## Following Agency Approval

We will meet with you to prepare the necessary documentation to be sent to the Scottish Government within 7 days which is a necessary part of the process. It is not uncommon for your documentation to require to be notarised or legally certified and for this you will require the services of a notary public. Some solicitors are also notaries public but not all. It is your responsibility to ensure all the required documents are Notarised and to meet the cost of this.

If you are intending to adopt from a country which is a member of the Hague Convention, and if the Scottish Government are satisfied, they will send to the Central Authority of the State of origin of the child a certificate confirming that you are eligible and have been approved to adopt. The Scottish Government will confirm with Aberdeenshire Council and with you in writing that the certificate and documents have been sent to the Central Authority of the State of origin. The Scottish Government may charge for this service. Details can be found on their website.

If you are intending to adopt from a Designated Country or a country which is neither designated nor a member of the Hague Convention, then it is important to find out what documentation will be needed and this can generally be obtained from the Department for Education website. We will help you to prepare your papers, to be sent to the Scottish Government, and then on to the Department for Education. When you receive information about a child with whom you may be matched, you must discuss the information with Social Work.

Aberdeenshire Council may be asked to provide a view on the suitability of this match. The Agency Decision Maker will provide this view, taking into account a recommendation from the Permanence Panel based on all available information. Information may be sought from our Medical Adviser in relation to the needs of the child. The Medical Adviser can arrange for a medical examination of the child when he / she comes to this country, should you wish this. We would ask you to meet the cost of this examination.

## **Adopting from a Country which is a Member of the Hague Convention - when a Child becomes available**

When the Scottish Government receive from the Central Authority of the State of origin information about a child whom they have matched with the prospective adoptive parents, the Scottish Government will send this information to Aberdeenshire Council. We will consider and discuss these documents with you. Aberdeenshire Council may be asked to provide a view on the suitability of the match, and the Agency Decision Maker will provide this, taking into account the recommendation of the Permanence Panel. You should visit the child before reaching the decision about whether you would wish to go ahead to adopt this child. You should inform us in writing whether you wish to proceed with the adoption, to enable us to advise the Scottish Government. You should then make arrangements to accompany the child in their move to the UK. The UK Central Authority has to confirm to the central authority in the child's country that the child will be allowed to enter the UK. Prospective adopters may wish to check this with the Scottish Government prior to leaving the UK, and with the British Embassy in the child's country.

Aberdeenshire Council will arrange for a written report of the child's health history and current state of health, so far as is known, to be sent to your GP, together with any particulars of the placement.

## **Post Placement Reports**

Some countries require post placement reports and while Aberdeenshire Council will provide these, we will ask you to meet the cost of preparing the reports. It is the responsibility of prospective adoptive parents to find out the format for these reports and where they should be sent.

## **Support After Adoption**

After your child has been adopted, you have the right to ask for adoption support from Aberdeenshire Council.

## **Legal Background**

Adoption is the legal process where a parent and child relationship is created by court order. In the UK only Local Authorities such as Aberdeenshire Council or registered adoption services can arrange for children to be placed for adoption, and only the Court can grant an Adoption Order.

The Adoption (Intercountry Aspects) Act 1999, the Adoptions with a Foreign Element (Scotland) Regulations 2009 and Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 set out requirements and procedures for intercountry adoption. The 2003 Regulations have now been replaced by the Adoptions with a Foreign Element (Scotland) Regulations 2009. The Act can be viewed at [http://www.opsi.gov.uk/acts/acts1999/ukpga\\_19990018\\_en\\_1](http://www.opsi.gov.uk/acts/acts1999/ukpga_19990018_en_1) The 2009 Regulations can be viewed at [http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi\\_20090182\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi_20090182_en_1). The 2003 Regulations can be viewed at <http://www.opsi.gov.uk/legislation/Scotland/ssi2003/20030019.htm>

One particularly important section of the 1999 Act makes it a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency (e.g. a local authority).

# Intercountry Adoption

INFORMATION FOR PEOPLE SEEKING  
TO ADOPT A CHILD FROM OVERSEAS





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## Introduction

**This leaflet has been written to provide you with information about Intercountry Adoption and about the service that Aberdeenshire Council Social Work offers to people seeking to adopt a child from overseas. The leaflet takes account of the recent changes in the law relating to Intercountry Adoption. This information is provided in good faith by Aberdeenshire Council, but does not represent legal advice to the reader. Readers may wish to consult their own solicitor for legal advice on Intercountry Adoption.**

### First Steps - Home Study (Scotland)

When you have read this leaflet, we can arrange a meeting, if you wish. Please contact us to request this.

Firstly, we need to clarify whether you are eligible to apply. If you are a couple, both of you need to be at least 21 years old, and if you are applying as a single person, again you need to be at least 21 years old. There is no upper age limit. However, if you apply to adopt to a court in Scotland, the Sheriff will consider whether the age gap between parent and child can be considered “normal”. Adopters need to have sufficient health and vigour to bring up a child until at least early adulthood.

Applications can be accepted from couples who are married, in a civil partnership or couples living together who are in an “enduring family relationship”. Applicants can be accepted from single people or from individuals who are married or in a civil partnership in certain circumstances.

You may be able to borrow books from the Social Work Service – please ask.

Suggested books are:

Adopting a Child by Jennifer Lord BAAF 2008

The Adoption Experience: Families Who Give Children a Second Chance by Ann Morris

Adopters on Adoption: Reflections on Parenthood and Children by David Howe

Real Parents, Real Children: Parenting The Adopted Child by Holly Van Gulden and Lisa M Bartels-Rabb

First Steps in Parenting the Child Who Hurts – Tiddlers and Toddlers by Caroline Archer

Next Steps in Parenting the Child Who Hurts - Tykes and Teens by Caroline Archer

The Adopter's Handbook: Information Resources and Services for Adoptive Parents by Amy Neil Salter

A Child's Journey Through Placement by Vera Fahlberg

Helping Children Cope With Separation and Loss by Claudia Jewett

### **If you are considering Inter-Country Adoption**

Inter-Country Adoption: Developments, Trends and Perspectives by Peter Selman

We will ask you to complete a Disclosure Scotland Form, so that we can obtain information about any criminal convictions that you have. If you are applying to adopt from a member country of the Hague Convention, the 2009 Regulations set out specified offences which would make the applicant unsuitable, and if you have any of these convictions we would be unable to proceed with your application. If you have any convictions then it is wise to discuss this with us at an early stage.

If you have any other concerns in your personal circumstances which you feel might affect your application, we suggest that you discuss this at an early stage with us.

It is important to recognise that each country has its own requirements about who can adopt. This may be in relation to age, health or family circumstances for example. You will be able to find information about specific countries on the Scottish Government website and on the Department for Education website (See page 15).

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We ask that all applicants attend an adoption preparation course, and our charges include attending this course. The course offers the opportunity to learn more about adoption, and to help you to consider whether you wish to and are ready to apply to adopt.

You will be invited to join a course attended mostly by people who wish to adopt a child within Scotland, although we can arrange an opportunity to meet with someone who has adopted from overseas.

The training includes the reasons why children become available for adoption; understanding children's growth and development; the impact of difficult early life experiences on the child's ability to develop an attachment to their new family; medical issues; legal issues; the ongoing support and information that adopted children need about birth families; parenting issues; an opportunity to meet with adoptive parents, adopted people, birth parents, and usually someone who has adopted from another country. The focus of the course is preparation for adoptive parenthood. Children adopted from overseas will have been separated from their birth family, and may have been cared for by a number of different people, or perhaps in group care, something that will have impacted on their development. If the child has a different culture, ethnicity and religion from their adoptive parents, this is also a significant issue for prospective adopters to consider. You will have the opportunity to discuss these issues further as part of the home study.

### **The Needs of Children placed from Overseas**

While the children placed from overseas come from a broad range of backgrounds and countries, they will all have had the experience of being separated from the family into which they were born and being cared for by people other than their birth parents. However good this care has been, this will have an impact on the child's development and his or her ability to feel safe and secure. Although information may be available, there may be gaps, something that will create uncertainty for adoptive parents. Some children face health and developmental difficulties and some will need treatment; they are likely to need additional care and attention; for others their early experiences may lead to permanent physical or emotional difficulties.

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### **The National Care Standards**

The National Care Standards for adoption agencies set out what prospective adopters can expect. Standard 31 is particularly relevant to Inter-country Adoption. These can be found by searching National Care Standards Scotland.

### **Reading Material**

There are a number of books on adoption which you might like to read to develop your knowledge and understanding.

More information can be found on the CoramBAAF website.

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## Further Sources of information

Further information on Intercountry Adoption can be obtained from the following sources:

Aberdeenshire Council Adoption Team Manger Tel: 01467 626489

Scottish Government, Children, Young People and Social Care Directorate, Area 2-C(S), Victoria Quay, Edinburgh EH6 6QQ  
Tel: 0131 244 3663. Go to Scottish Government website and type "intercountry adoption" in search box.

The Department for Education website. Go to Department for Education website and type "intercountry adoption" in search box.

**NB** - although this website contains a great deal of useful information, much of the legislation referred to is English rather than Scottish and there are differences)

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Leaflet "Intercountry Adoption" published by Coram BAAF Adoption and Fostering.

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Anyone considering adopting a child from overseas is encouraged to consult their own solicitor. Information on local solicitors who may be able to help can be found at [www.lawscot.org.uk](http://www.lawscot.org.uk)

## Applying to Adopt

Following the preparation course, we will provide you with an application form, for you to complete and return to us.

If we consider that you meet the eligibility requirements, then we will open a case record. We will then commission an Independent Social Worker who will prepare a written Home Study Report, setting out all the information which is required by law, stating the country from which you wish to adopt a child, and including an assessment of your suitability to become an adoptive parent. You should be decided on the country you wish to adopt from prior to the Home Study beginning. Whilst we will assist you in any way we can, we are not resourced to undertake research into the requirements of overseas countries and it will be your responsibility to do this.

## Checks

By law, we have to undertake a number of checks and you will be asked to give your written agreement to this. These checks are confidential, but any issues arising from them will be discussed with you. These checks include:

- **Medical Checks** You will be asked to consent to medical information being given by your G.P. Our Medical Adviser will write to your G.P. asking him/her to undertake a full medical examination. You will be asked to meet the costs of this examination. Medical matters are dealt with by Aberdeenshire's Medical Adviser, who will give advice to the Independent Social Worker and to the Permanence Panel. It should be noted that where you or any member of your house hold smokes we will not be able to recommend that a child under 5 years or a child of any age with a respiratory disorder be placed with you. We expect that any one who smokes should have stopped for at least 6 months before they can be considered for a child under 5 years or a child of any age with a respiratory disorder. Having health

issues will not necessarily mean that we cannot proceed with your application, but we are seeking to ensure that the child is placed in a family who will likely have health and vigour to parent them at least into early adulthood.

- **Social Work Records** You will be asked to agree to checks being made of Social Work records in Aberdeenshire and local authorities where you have previously lived.
- **References** You will be asked to provide the names and addresses of up to six personal referees (not members of your family) who know you well, individually and, where relevant, as a couple.
- **An Employer's Reference**
- **Health and Safety check of your home**
- **Any other checks** relevant to your situation

Additionally there are countries that have further requirements and you should make yourselves aware of such requirements. For example some countries require a psychological assessment which our medical checks would not cover and so you will have to arrange this yourself, if required, including meeting the cost of this.

The assessment should generally be completed within 6 months from the date that we receive your application. It will involve a number of meetings with your Social Worker. You will be expected to contribute to the Home Study Report, both verbally and in writing. In common with most other Agencies, Aberdeenshire Council use the BAAF Form F3 as a basis for the Report. It will include information on your personal and family history, your current circumstances, your family and support network, and your reasons for adoption and for wishing to adopt a child from overseas. Your Social Worker will give you information about how the assessment is progressing and you can ask for this at any point.

The child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. This requires a minimum of 3 monthly visits by the supervising Social Worker. Social Work will then provide a report for the court, but we ask you to discuss with us and your solicitor when you intend to lodge your adoption petition in court, so that the court report can be prepared around that time.

The adoption order cannot be *made* until the child has been in your care for 12 months. However, you must notify Social Work on your return to Aberdeenshire with the child, and you can *apply* to the court for an adoption order as soon as the child enters the UK. However it would be a good idea to discuss the timing of your application to court with us, your solicitor and perhaps the Sheriff Clerk at the court. (**NB** it is a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency.)

## Interim Adoption Orders

An interim adoption order is an order granting parental rights and responsibilities in the child's State of origin that is not a full order under the adoption law of that country. Interim orders are only relevant to Convention and designated list adoptions, as any type of adoption order made in non-Convention non-Designated countries are not recognised by UK law anyway.

The interim order will allow the child to leave their State of origin accompanied by the prospective adopter(s). There may be conditions attached to the interim order before a full order is automatically granted, including for example a specified period of time that the child must reside with the prospective adopter(s) before the full order can be made.

However you must notify Aberdeenshire Council of the expected date the child will enter the UK accompanied by yourself.

## **Non-Convention and Non-Designated Adoptions**

### **Adoption from Designated Countries**

The Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013, list the countries where if adoptions are made in that country, they are, like Hague Convention Adoptions, recognised within Scotland and the UK. A list of these countries can be found on the Scottish Government website, in the Intercountry Adoption Section under “types of Intercountry Adoption”.

When a child is adopted from a country whose adoption practice is not recognised under UK law and whose country of origin has not ratified the Hague Convention, this is known as a non-Convention non-Designated adoption.

Prospective adoptive parents will have to apply to a Scottish court for a full adoption order to be made in respect of the child when the child comes to the UK. They will need to do this even if they have obtained an adoption order in the child’s country. Adopters must notify Aberdeenshire Council within 14 days of the child’s entry to the UK.

If the adoptive parents are British citizens, the granting of an adoption order by a British court should automatically confer British citizenship on the child. Before applying to a Court here, you must notify Aberdeenshire Council Social Work in writing of your intention to apply to adopt. You should write to The Head of Social Work (Child Care), Woodhill House, Westburn Road, Aberdeen, AB16 5GB. A Social Worker will be required to visit your home, to satisfy ourselves as to the child’s welfare and provide supervision, until an Adoption Order is made.

If the Social Worker has any concerns during the assessment, these will be shared openly with you and if there is any doubt about whether the application should proceed, advice will be sought from the Permanence Panel.

Sometimes applicants are clear from the start about which country they wish to adopt from, but their circumstances can change. Other applicants are not clear. It is your responsibility to fully research before coming to a decision. The Social Worker will discuss with you the country you wish to adopt from and the reasons for this. It is important that you have reached a decision about which country you wish to adopt from, and the age and gender of the child when the home study commences.

## **Attending the Panel**

Aberdeenshire Council is required by law to have a Permanence Panel. Aberdeenshire’s Permanence Panel consists of approximately 12 members with a wide range of knowledge and experience in relation to adoption and children separated from their families and includes a Chairperson, a Medical Adviser, and a Legal Adviser and may include a Foster Carer/ Adoptive Parent. The Panel meets every 3 weeks on a Thursday usually.

When the Home Study Report has been completed, an appointment for your application to be considered by Aberdeenshire Council’s Permanence Panel will be made, and we will notify you of this date. We will give you a copy of the Home Study report (excluding any information from third parties given in confidence), and will invite you to send any observations in writing on the Report to the Chair of the Permanence Panel within 14 days, beginning with the date on which we notified you.

Attending the Panel is not part of the assessment process. For the first part of the Panel meeting, the Permanence Panel and your Social Worker meet to identify any matters from the Home Study Report which need further discussion or clarification. You will then join the meeting to discuss any matters that have been identified, to talk to your application and ask any questions of the Panel. The Panel will then consider the application further and will reach a recommendation. The Chair of the Panel will give you the recommendation of the Panel.

All matters dealt with the Panel are confidential. The Permanence Panel will consider your application, and will make a recommendation to the Agency Decision Maker (ADM) as to whether you are suitable to be an adoptive parent.

## **Adoption Agency Decision**

The Agency Decision Maker will receive the Home Study Report, any written observations that you have made and the Minute of the Meeting of the Permanence Panel. The ADM will make a decision on your suitability to be an adoptive parent within 14 days of the Panel Meeting. They will write to you to notify you of his decision within 7 days. The decision will include the country from which you are approved to adopt, the number of children and the age and gender of the child/ren.

If the ADM decides that you are not suitable to be an adoptive parent, he will notify you in writing within 7 days, and will give you reasons, along with the recommendations of the Permanence Panel. If you disagree with the decision, you should lodge an appeal with the Director of Housing and Social Work within 28 days, who will make arrangements to have the appeal considered. Aberdeenshire Council can provide a leaflet on Appealing Decisions made by the Social Work Service.

- An adoption can only take place if the adopter has been approved as suitable to become an adopter in the receiving state (i.e. in the adopter's home country) and the receiving country confirms that the child will be allowed to reside permanently in that country.
- All appropriate measures must be taken by the states to prevent improper financial or other gain in connection with adoption and to deter all practices contrary to the objectives of the Convention.
- The state must appoint a central authority and accredit bodies to work as adoption agencies. (The Scottish Government is Scotland's central authority.)
- Adoptions made in countries that have ratified the convention must be recognised by other countries that have ratified the Convention.

## **Types of Adoption from Overseas**

### **Hague Convention Adoptions**

This refers to any adoption made under the Articles of the Hague Convention 1993 between 2 Convention States. Adoption orders made in respect of children from Convention countries are recognised under UK law. The adoption order granted is called a Convention adoption order and there is generally no need for adoptive parents to reapply to a Scottish court for an adoption order, unless an interim adoption order was granted in the child's State of origin, and reapplication for adoption is one of its requirements. A list of those countries who have ratified/acceded to the Hague Convention 1993 can be found via the Scottish Government's website and the Department for Education website (please refer to Scottish Regulations). Children who are the subject of a Convention adoption should receive British nationality automatically, but you should check this with the Home Office.

It is not an offence where a child is brought into the UK for the purpose of adoption by a parent, guardian or relative, i.e. a grandparent, brother, sister, aunt or uncle. The 2009 Regulations add further criminal offences in relation to a child being brought into the U.K. for the purposes of adoption and it is highly recommended that specialist independent legal advice is sought at an early stage. However, it is recommended that in these circumstances legal advice is sought at an early stage on the adoption of the child in this country as well as on whether an adoption application has to be made in this country and how British citizenship would be obtained.

## The Hague Convention

The 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption aims to establish safeguards to protect the best interests of the child and to put in place a system of co-operation between countries to prevent the abduction of, the sale of, or traffic in children. The UK signed the Hague Convention in 1994. The 1999 Act and 2003 Regulations referred to above enabled Scotland to ratify the Hague Convention.

The key requirements of the Hague Convention are:

- The child's home country must ensure that the child has been freely given up for adoption and that this has not been induced by payment or compensation of any kind.
- Attempts must be made to place the child in a family in their home country. If this is not possible, it must be confirmed that intercountry adoption is in the child's best interests. This decision must be taken with respect for his or her fundamental rights, as recognised in international law.

## Review of Approval

A review of your approval is required if a child has not been placed with you within; 1 year for Hague Convention adoptions and 2 years for Non-Hague convention adoptions (see page 11 for an explanation of the Hague Convention). We can provide information on the process for this review if requested.

## Following Agency Approval

We will meet with you to prepare the necessary documentation to be sent to the Scottish Government within 7 days which is a necessary part of the process. It is not uncommon for your documentation to require to be notarised or legally certified and for this you will require the services of a notary public. Some solicitors are also notaries public but not all. It is your responsibility to ensure all the required documents are Notarised and to meet the cost of this.

If you are intending to adopt from a country which is a member of the Hague Convention, and if the Scottish Government are satisfied, they will send to the Central Authority of the State of origin of the child a certificate confirming that you are eligible and have been approved to adopt. The Scottish Government will confirm with Aberdeenshire Council and with you in writing that the certificate and documents have been sent to the Central Authority of the State of origin. The Scottish Government may charge for this service. Details can be found on their website.

If you are intending to adopt from a Designated Country or a country which is neither designated nor a member of the Hague Convention, then it is important to find out what documentation will be needed and this can generally be obtained from the Department for Education website. We will help you to prepare your papers, to be sent to the Scottish Government, and then on to the Department for Education. When you receive information about a child with whom you may be matched, you must discuss the information with Social Work.

Aberdeenshire Council may be asked to provide a view on the suitability of this match. The Agency Decision Maker will provide this view, taking into account a recommendation from the Permanence Panel based on all available information. Information may be sought from our Medical Adviser in relation to the needs of the child. The Medical Adviser can arrange for a medical examination of the child when he / she comes to this country, should you wish this. We would ask you to meet the cost of this examination.

## **Adopting from a Country which is a Member of the Hague Convention - when a Child becomes available**

When the Scottish Government receive from the Central Authority of the State of origin information about a child whom they have matched with the prospective adoptive parents, the Scottish Government will send this information to Aberdeenshire Council. We will consider and discuss these documents with you. Aberdeenshire Council may be asked to provide a view on the suitability of the match, and the Agency Decision Maker will provide this, taking into account the recommendation of the Permanence Panel. You should visit the child before reaching the decision about whether you would wish to go ahead to adopt this child. You should inform us in writing whether you wish to proceed with the adoption, to enable us to advise the Scottish Government. You should then make arrangements to accompany the child in their move to the UK. The UK Central Authority has to confirm to the central authority in the child's country that the child will be allowed to enter the UK. Prospective adopters may wish to check this with the Scottish Government prior to leaving the UK, and with the British Embassy in the child's country.

Aberdeenshire Council will arrange for a written report of the child's health history and current state of health, so far as is known, to be sent to your GP, together with any particulars of the placement.

## **Post Placement Reports**

Some countries require post placement reports and while Aberdeenshire Council will provide these, we will ask you to meet the cost of preparing the reports. It is the responsibility of prospective adoptive parents to find out the format for these reports and where they should be sent.

## **Support After Adoption**

After your child has been adopted, you have the right to ask for adoption support from Aberdeenshire Council.

## **Legal Background**

Adoption is the legal process where a parent and child relationship is created by court order. In the UK only Local Authorities such as Aberdeenshire Council or registered adoption services can arrange for children to be placed for adoption, and only the Court can grant an Adoption Order.

The Adoption (Intercountry Aspects) Act 1999, the Adoptions with a Foreign Element (Scotland) Regulations 2009 and Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 set out requirements and procedures for intercountry adoption. The 2003 Regulations have now been replaced by the Adoptions with a Foreign Element (Scotland) Regulations 2009. The Act can be viewed at [http://www.opsi.gov.uk/acts/acts1999/ukpga\\_19990018\\_en\\_1](http://www.opsi.gov.uk/acts/acts1999/ukpga_19990018_en_1) The 2009 Regulations can be viewed at [http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi\\_20090182\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi_20090182_en_1). The 2003 Regulations can be viewed at <http://www.opsi.gov.uk/legislation/Scotland/ssi2003/20030019.htm>

One particularly important section of the 1999 Act makes it a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency (e.g. a local authority).

# Intercountry Adoption

INFORMATION FOR PEOPLE SEEKING  
TO ADOPT A CHILD FROM OVERSEAS





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## Introduction

**This leaflet has been written to provide you with information about Intercountry Adoption and about the service that Aberdeenshire Council Social Work offers to people seeking to adopt a child from overseas. The leaflet takes account of the recent changes in the law relating to Intercountry Adoption. This information is provided in good faith by Aberdeenshire Council, but does not represent legal advice to the reader. Readers may wish to consult their own solicitor for legal advice on Intercountry Adoption.**

### **First Steps - Home Study (Scotland)**

When you have read this leaflet, we can arrange a meeting, if you wish. Please contact us to request this.

Firstly, we need to clarify whether you are eligible to apply. If you are a couple, both of you need to be at least 21 years old, and if you are applying as a single person, again you need to be at least 21 years old. There is no upper age limit. However, if you apply to adopt to a court in Scotland, the Sheriff will consider whether the age gap between parent and child can be considered “normal”. Adopters need to have sufficient health and vigour to bring up a child until at least early adulthood.

Applications can be accepted from couples who are married, in a civil partnership or couples living together who are in an “enduring family relationship”. Applicants can be accepted from single people or from individuals who are married or in a civil partnership in certain circumstances.

You may be able to borrow books from the Social Work Service – please ask.

Suggested books are:

Adopting a Child by Jennifer Lord BAAF 2008

The Adoption Experience: Families Who Give Children a Second Chance by Ann Morris

Adopters on Adoption: Reflections on Parenthood and Children by David Howe

Real Parents, Real Children: Parenting The Adopted Child by Holly Van Gulden and Lisa M Bartels-Rabb

First Steps in Parenting the Child Who Hurts – Tiddlers and Toddlers by Caroline Archer

Next Steps in Parenting the Child Who Hurts - Tykes and Teens by Caroline Archer

The Adopter's Handbook: Information Resources and Services for Adoptive Parents by Amy Neil Salter

A Child's Journey Through Placement by Vera Fahlberg

Helping Children Cope With Separation and Loss by Claudia Jewett

### **If you are considering Inter-Country Adoption**

Inter-Country Adoption: Developments, Trends and Perspectives by Peter Selman

We will ask you to complete a Disclosure Scotland Form, so that we can obtain information about any criminal convictions that you have. If you are applying to adopt from a member country of the Hague Convention, the 2009 Regulations set out specified offences which would make the applicant unsuitable, and if you have any of these convictions we would be unable to proceed with your application. If you have any convictions then it is wise to discuss this with us at an early stage.

If you have any other concerns in your personal circumstances which you feel might affect your application, we suggest that you discuss this at an early stage with us.

It is important to recognise that each country has its own requirements about who can adopt. This may be in relation to age, health or family circumstances for example. You will be able to find information about specific countries on the Scottish Government website and on the Department for Education website (See page 15).

From April 2016 a charge of £6,129.32 will be made for the commissioning of an Independent Social Worker and for the work of the Council in dealing with your application, and we require that this is paid prior to moving forward with your application. The charge is reviewed annually usually in March (please ask us about current costs). You will also have to meet the costs of The Scottish Government travel and any costs relating to the process in the child's country of origin, including other Agency and legal costs. Further costs relating to any post-placement reports or any additional work will also be met by applicants.

### **Preparation**

We ask that all applicants attend an adoption preparation course, and our charges include attending this course. The course offers the opportunity to learn more about adoption, and to help you to consider whether you wish to and are ready to apply to adopt.

You will be invited to join a course attended mostly by people who wish to adopt a child within Scotland, although we can arrange an opportunity to meet with someone who has adopted from overseas.

The training includes the reasons why children become available for adoption; understanding children's growth and development; the impact of difficult early life experiences on the child's ability to develop an attachment to their new family; medical issues; legal issues; the ongoing support and information that adopted children need about birth families; parenting issues; an opportunity to meet with adoptive parents, adopted people, birth parents, and usually someone who has adopted from another country. The focus of the course is preparation for adoptive parenthood. Children adopted from overseas will have been separated from their birth family, and may have been cared for by a number of different people, or perhaps in group care, something that will have impacted on their development. If the child has a different culture, ethnicity and religion from their adoptive parents, this is also a significant issue for prospective adopters to consider. You will have the opportunity to discuss these issues further as part of the home study.

## **The Needs of Children placed from Overseas**

While the children placed from overseas come from a broad range of backgrounds and countries, they will all have had the experience of being separated from the family into which they were born and being cared for by people other than their birth parents. However good this care has been, this will have an impact on the child's development and his or her ability to feel safe and secure. Although information may be available, there may be gaps, something that will create uncertainty for adoptive parents. Some children face health and developmental difficulties and some will need treatment; they are likely to need additional care and attention; for others their early experiences may lead to permanent physical or emotional difficulties.

## **Representation and Complaints**

Whilst it is Aberdeenshire Council's aim to provide a good service, if you have issues regarding representation or a complaint please ask for the leaflet "Have Your Say: Compliments, Comments and Complaints", which is available from all Social Work Offices and on Aberdeenshire Council's website. As Aberdeenshire Council's Fostering and Adoption Service is regulated by The Care Inspectorate in Scotland, you may also make a complaint to The Care Commission in Scotland, Johnston House, Rose Street, Aberdeen AB10 1UD Telephone: 01224 793870

## **The National Care Standards**

The National Care Standards for adoption agencies set out what prospective adopters can expect. Standard 31 is particularly relevant to Inter-country Adoption. These can be found by searching National Care Standards Scotland.

## **Reading Material**

There are a number of books on adoption which you might like to read to develop your knowledge and understanding.

More information can be found on the CoramBAAF website.

If a child is brought into the UK under an interim adoption order the child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. The local authority may be requested by the child's State of origin to provide update reports on the child during the probationary period. If a report is required by a Scottish court, Social Work will provide this.

## Further Sources of information

Further information on Intercountry Adoption can be obtained from the following sources:

Aberdeenshire Council Adoption Team Manger Tel: 01467 626489

Scottish Government, Children, Young People and Social Care Directorate, Area 2-C(S), Victoria Quay, Edinburgh EH6 6QQ  
Tel: 0131 244 3663. Go to Scottish Government website and type "intercountry adoption" in search box.

The Department for Education website. Go to Department for Education website and type "intercountry adoption" in search box.

**NB** - although this website contains a great deal of useful information, much of the legislation referred to is English rather than Scottish and there are differences)

Intercountry Adoption Centre Tel: 08705 168742  
website: [www.icacentre.org.uk](http://www.icacentre.org.uk)

Leaflet "Intercountry Adoption" published by Coram BAAF Adoption and Fostering.

Overseas Adoption Support and Information Services: Helpline  
Telephone Number: 0870 241 7069  
website: [www.adoptionoverseas.org](http://www.adoptionoverseas.org)

## Legal Advice

Anyone considering adopting a child from overseas is encouraged to consult their own solicitor. Information on local solicitors who may be able to help can be found at [www.lawscot.org.uk](http://www.lawscot.org.uk)

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Additionally there are countries that have further requirements and you should make yourselves aware of such requirements. For example some countries require a psychological assessment which our medical checks would not cover and so you will have to arrange this yourself, if required, including meeting the cost of this.

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However you must notify Aberdeenshire Council of the expected date the child will enter the UK accompanied by yourself.

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When a child is adopted from a country whose adoption practice is not recognised under UK law and whose country of origin has not ratified the Hague Convention, this is known as a non-Convention non-Designated adoption.

Prospective adoptive parents will have to apply to a Scottish court for a full adoption order to be made in respect of the child when the child comes to the UK. They will need to do this even if they have obtained an adoption order in the child’s country. Adopters must notify Aberdeenshire Council within 14 days of the child’s entry to the UK.

If the adoptive parents are British citizens, the granting of an adoption order by a British court should automatically confer British citizenship on the child. Before applying to a Court here, you must notify Aberdeenshire Council Social Work in writing of your intention to apply to adopt. You should write to The Head of Social Work (Child Care), Woodhill House, Westburn Road, Aberdeen, AB16 5GB. A Social Worker will be required to visit your home, to satisfy ourselves as to the child’s welfare and provide supervision, until an Adoption Order is made.

If the Social Worker has any concerns during the assessment, these will be shared openly with you and if there is any doubt about whether the application should proceed, advice will be sought from the Permanence Panel.

Sometimes applicants are clear from the start about which country they wish to adopt from, but their circumstances can change. Other applicants are not clear. It is your responsibility to fully research before coming to a decision. The Social Worker will discuss with you the country you wish to adopt from and the reasons for this. It is important that you have reached a decision about which country you wish to adopt from, and the age and gender of the child when the home study commences.

## **Attending the Panel**

Aberdeenshire Council is required by law to have a Permanence Panel. Aberdeenshire’s Permanence Panel consists of approximately 12 members with a wide range of knowledge and experience in relation to adoption and children separated from their families and includes a Chairperson, a Medical Adviser, and a Legal Adviser and may include a Foster Carer/ Adoptive Parent. The Panel meets every 3 weeks on a Thursday usually.

When the Home Study Report has been completed, an appointment for your application to be considered by Aberdeenshire Council’s Permanence Panel will be made, and we will notify you of this date. We will give you a copy of the Home Study report (excluding any information from third parties given in confidence), and will invite you to send any observations in writing on the Report to the Chair of the Permanence Panel within 14 days, beginning with the date on which we notified you.

Attending the Panel is not part of the assessment process. For the first part of the Panel meeting, the Permanence Panel and your Social Worker meet to identify any matters from the Home Study Report which need further discussion or clarification. You will then join the meeting to discuss any matters that have been identified, to talk to your application and ask any questions of the Panel. The Panel will then consider the application further and will reach a recommendation. The Chair of the Panel will give you the recommendation of the Panel.

All matters dealt with the Panel are confidential. The Permanence Panel will consider your application, and will make a recommendation to the Agency Decision Maker (ADM) as to whether you are suitable to be an adoptive parent.

## **Adoption Agency Decision**

The Agency Decision Maker will receive the Home Study Report, any written observations that you have made and the Minute of the Meeting of the Permanence Panel. The ADM will make a decision on your suitability to be an adoptive parent within 14 days of the Panel Meeting. They will write to you to notify you of his decision within 7 days. The decision will include the country from which you are approved to adopt, the number of children and the age and gender of the child/ren.

If the ADM decides that you are not suitable to be an adoptive parent, he will notify you in writing within 7 days, and will give you reasons, along with the recommendations of the Permanence Panel. If you disagree with the decision, you should lodge an appeal with the Director of Housing and Social Work within 28 days, who will make arrangements to have the appeal considered. Aberdeenshire Council can provide a leaflet on Appealing Decisions made by the Social Work Service.

- An adoption can only take place if the adopter has been approved as suitable to become an adopter in the receiving state (i.e. in the adopter's home country) and the receiving country confirms that the child will be allowed to reside permanently in that country.
- All appropriate measures must be taken by the states to prevent improper financial or other gain in connection with adoption and to deter all practices contrary to the objectives of the Convention.
- The state must appoint a central authority and accredit bodies to work as adoption agencies. (The Scottish Government is Scotland's central authority.)
- Adoptions made in countries that have ratified the convention must be recognised by other countries that have ratified the Convention.

## **Types of Adoption from Overseas**

### **Hague Convention Adoptions**

This refers to any adoption made under the Articles of the Hague Convention 1993 between 2 Convention States. Adoption orders made in respect of children from Convention countries are recognised under UK law. The adoption order granted is called a Convention adoption order and there is generally no need for adoptive parents to reapply to a Scottish court for an adoption order, unless an interim adoption order was granted in the child's State of origin, and reapplication for adoption is one of its requirements. A list of those countries who have ratified/acceded to the Hague Convention 1993 can be found via the Scottish Government's website and the Department for Education website (please refer to Scottish Regulations). Children who are the subject of a Convention adoption should receive British nationality automatically, but you should check this with the Home Office.

It is not an offence where a child is brought into the UK for the purpose of adoption by a parent, guardian or relative, i.e. a grandparent, brother, sister, aunt or uncle. The 2009 Regulations add further criminal offences in relation to a child being brought into the U.K. for the purposes of adoption and it is highly recommended that specialist independent legal advice is sought at an early stage. However, it is recommended that in these circumstances legal advice is sought at an early stage on the adoption of the child in this country as well as on whether an adoption application has to be made in this country and how British citizenship would be obtained.

## **The Hague Convention**

The 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption aims to establish safeguards to protect the best interests of the child and to put in place a system of co-operation between countries to prevent the abduction of, the sale of, or traffic in children. The UK signed the Hague Convention in 1994. The 1999 Act and 2003 Regulations referred to above enabled Scotland to ratify the Hague Convention.

The key requirements of the Hague Convention are:

- The child's home country must ensure that the child has been freely given up for adoption and that this has not been induced by payment or compensation of any kind.
- Attempts must be made to place the child in a family in their home country. If this is not possible, it must be confirmed that intercountry adoption is in the child's best interests. This decision must be taken with respect for his or her fundamental rights, as recognised in international law.

## **Review of Approval**

A review of your approval is required if a child has not been placed with you within; 1 year for Hague Convention adoptions and 2 years for Non-Hague convention adoptions (see page 11 for an explanation of the Hague Convention). We can provide information on the process for this review if requested.

## **Following Agency Approval**

We will meet with you to prepare the necessary documentation to be sent to the Scottish Government within 7 days which is a necessary part of the process. It is not uncommon for your documentation to require to be notarised or legally certified and for this you will require the services of a notary public. Some solicitors are also notaries public but not all. It is your responsibility to ensure all the required documents are Notarised and to meet the cost of this.

If you are intending to adopt from a country which is a member of the Hague Convention, and if the Scottish Government are satisfied, they will send to the Central Authority of the State of origin of the child a certificate confirming that you are eligible and have been approved to adopt. The Scottish Government will confirm with Aberdeenshire Council and with you in writing that the certificate and documents have been sent to the Central Authority of the State of origin. The Scottish Government may charge for this service. Details can be found on their website.

If you are intending to adopt from a Designated Country or a country which is neither designated nor a member of the Hague Convention, then it is important to find out what documentation will be needed and this can generally be obtained from the Department for Education website. We will help you to prepare your papers, to be sent to the Scottish Government, and then on to the Department for Education. When you receive information about a child with whom you may be matched, you must discuss the information with Social Work.

Aberdeenshire Council may be asked to provide a view on the suitability of this match. The Agency Decision Maker will provide this view, taking into account a recommendation from the Permanence Panel based on all available information. Information may be sought from our Medical Adviser in relation to the needs of the child. The Medical Adviser can arrange for a medical examination of the child when he / she comes to this country, should you wish this. We would ask you to meet the cost of this examination.

## **Adopting from a Country which is a Member of the Hague Convention - when a Child becomes available**

When the Scottish Government receive from the Central Authority of the State of origin information about a child whom they have matched with the prospective adoptive parents, the Scottish Government will send this information to Aberdeenshire Council. We will consider and discuss these documents with you. Aberdeenshire Council may be asked to provide a view on the suitability of the match, and the Agency Decision Maker will provide this, taking into account the recommendation of the Permanence Panel. You should visit the child before reaching the decision about whether you would wish to go ahead to adopt this child. You should inform us in writing whether you wish to proceed with the adoption, to enable us to advise the Scottish Government. You should then make arrangements to accompany the child in their move to the UK. The UK Central Authority has to confirm to the central authority in the child's country that the child will be allowed to enter the UK. Prospective adopters may wish to check this with the Scottish Government prior to leaving the UK, and with the British Embassy in the child's country.

Aberdeenshire Council will arrange for a written report of the child's health history and current state of health, so far as is known, to be sent to your GP, together with any particulars of the placement.

## **Post Placement Reports**

Some countries require post placement reports and while Aberdeenshire Council will provide these, we will ask you to meet the cost of preparing the reports. It is the responsibility of prospective adoptive parents to find out the format for these reports and where they should be sent.

## **Support After Adoption**

After your child has been adopted, you have the right to ask for adoption support from Aberdeenshire Council.

## **Legal Background**

Adoption is the legal process where a parent and child relationship is created by court order. In the UK only Local Authorities such as Aberdeenshire Council or registered adoption services can arrange for children to be placed for adoption, and only the Court can grant an Adoption Order.

The Adoption (Intercountry Aspects) Act 1999, the Adoptions with a Foreign Element (Scotland) Regulations 2009 and Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 set out requirements and procedures for intercountry adoption. The 2003 Regulations have now been replaced by the Adoptions with a Foreign Element (Scotland) Regulations 2009. The Act can be viewed at [http://www.opsi.gov.uk/acts/acts1999/ukpga\\_19990018\\_en\\_1](http://www.opsi.gov.uk/acts/acts1999/ukpga_19990018_en_1) The 2009 Regulations can be viewed at [http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi\\_20090182\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi_20090182_en_1). The 2003 Regulations can be viewed at <http://www.opsi.gov.uk/legislation/Scotland/ssi2003/20030019.htm>

One particularly important section of the 1999 Act makes it a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency (e.g. a local authority).

# Intercountry Adoption

INFORMATION FOR PEOPLE SEEKING  
TO ADOPT A CHILD FROM OVERSEAS





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## Introduction

**This leaflet has been written to provide you with information about Intercountry Adoption and about the service that Aberdeenshire Council Social Work offers to people seeking to adopt a child from overseas. The leaflet takes account of the recent changes in the law relating to Intercountry Adoption. This information is provided in good faith by Aberdeenshire Council, but does not represent legal advice to the reader. Readers may wish to consult their own solicitor for legal advice on Intercountry Adoption.**

## First Steps - Home Study (Scotland)

When you have read this leaflet, we can arrange a meeting, if you wish. Please contact us to request this.

Firstly, we need to clarify whether you are eligible to apply. If you are a couple, both of you need to be at least 21 years old, and if you are applying as a single person, again you need to be at least 21 years old. There is no upper age limit. However, if you apply to adopt to a court in Scotland, the Sheriff will consider whether the age gap between parent and child can be considered “normal”. Adopters need to have sufficient health and vigour to bring up a child until at least early adulthood.

Applications can be accepted from couples who are married, in a civil partnership or couples living together who are in an “enduring family relationship”. Applicants can be accepted from single people or from individuals who are married or in a civil partnership in certain circumstances.

You may be able to borrow books from the Social Work Service – please ask.

Suggested books are:

Adopting a Child by Jennifer Lord BAAF 2008

The Adoption Experience: Families Who Give Children a Second Chance by Ann Morris

Adopters on Adoption: Reflections on Parenthood and Children by David Howe

Real Parents, Real Children: Parenting The Adopted Child by Holly Van Gulden and Lisa M Bartels-Rabb

First Steps in Parenting the Child Who Hurts – Tiddlers and Toddlers by Caroline Archer

Next Steps in Parenting the Child Who Hurts - Tykes and Teens by Caroline Archer

The Adopter's Handbook: Information Resources and Services for Adoptive Parents by Amy Neil Salter

A Child's Journey Through Placement by Vera Fahlberg

Helping Children Cope With Separation and Loss by Claudia Jewett

### **If you are considering Inter-Country Adoption**

Inter-Country Adoption: Developments, Trends and Perspectives by Peter Selman

We will ask you to complete a Disclosure Scotland Form, so that we can obtain information about any criminal convictions that you have. If you are applying to adopt from a member country of the Hague Convention, the 2009 Regulations set out specified offences which would make the applicant unsuitable, and if you have any of these convictions we would be unable to proceed with your application. If you have any convictions then it is wise to discuss this with us at an early stage.

If you have any other concerns in your personal circumstances which you feel might affect your application, we suggest that you discuss this at an early stage with us.

It is important to recognise that each country has its own requirements about who can adopt. This may be in relation to age, health or family circumstances for example. You will be able to find information about specific countries on the Scottish Government website and on the Department for Education website (See page 15).

From April 2016 a charge of £6,129.32 will be made for the commissioning of an Independent Social Worker and for the work of the Council in dealing with your application, and we require that this is paid prior to moving forward with your application. The charge is reviewed annually usually in March (please ask us about current costs). You will also have to meet the costs of The Scottish Government travel and any costs relating to the process in the child's country of origin, including other Agency and legal costs. Further costs relating to any post-placement reports or any additional work will also be met by applicants.

### **Preparation**

We ask that all applicants attend an adoption preparation course, and our charges include attending this course. The course offers the opportunity to learn more about adoption, and to help you to consider whether you wish to and are ready to apply to adopt.

You will be invited to join a course attended mostly by people who wish to adopt a child within Scotland, although we can arrange an opportunity to meet with someone who has adopted from overseas.

The training includes the reasons why children become available for adoption; understanding children's growth and development; the impact of difficult early life experiences on the child's ability to develop an attachment to their new family; medical issues; legal issues; the ongoing support and information that adopted children need about birth families; parenting issues; an opportunity to meet with adoptive parents, adopted people, birth parents, and usually someone who has adopted from another country. The focus of the course is preparation for adoptive parenthood. Children adopted from overseas will have been separated from their birth family, and may have been cared for by a number of different people, or perhaps in group care, something that will have impacted on their development. If the child has a different culture, ethnicity and religion from their adoptive parents, this is also a significant issue for prospective adopters to consider. You will have the opportunity to discuss these issues further as part of the home study.

### **The Needs of Children placed from Overseas**

While the children placed from overseas come from a broad range of backgrounds and countries, they will all have had the experience of being separated from the family into which they were born and being cared for by people other than their birth parents. However good this care has been, this will have an impact on the child's development and his or her ability to feel safe and secure. Although information may be available, there may be gaps, something that will create uncertainty for adoptive parents. Some children face health and developmental difficulties and some will need treatment; they are likely to need additional care and attention; for others their early experiences may lead to permanent physical or emotional difficulties.

## **Representation and Complaints**

Whilst it is Aberdeenshire Council's aim to provide a good service, if you have issues regarding representation or a complaint please ask for the leaflet "Have Your Say: Compliments, Comments and Complaints", which is available from all Social Work Offices and on Aberdeenshire Council's website. As Aberdeenshire Council's Fostering and Adoption Service is regulated by The Care Inspectorate in Scotland, you may also make a complaint to The Care Commission in Scotland, Johnston House, Rose Street, Aberdeen AB10 1UD Telephone: 01224 793870

### **The National Care Standards**

The National Care Standards for adoption agencies set out what prospective adopters can expect. Standard 31 is particularly relevant to Inter-country Adoption. These can be found by searching National Care Standards Scotland.

### **Reading Material**

There are a number of books on adoption which you might like to read to develop your knowledge and understanding.

More information can be found on the CoramBAAF website.

If a child is brought into the UK under an interim adoption order the child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. The local authority may be requested by the child's State of origin to provide update reports on the child during the probationary period. If a report is required by a Scottish court, Social Work will provide this.

## Further Sources of information

Further information on Intercountry Adoption can be obtained from the following sources:

Aberdeenshire Council Adoption Team Manger Tel: 01467 626489

Scottish Government, Children, Young People and Social Care Directorate, Area 2-C(S), Victoria Quay, Edinburgh EH6 6QQ  
Tel: 0131 244 3663. Go to Scottish Government website and type "intercountry adoption" in search box.

The Department for Education website. Go to Department for Education website and type "intercountry adoption" in search box.

**NB** - although this website contains a great deal of useful information, much of the legislation referred to is English rather than Scottish and there are differences)

Intercountry Adoption Centre Tel: 08705 168742  
website: [www.icacentre.org.uk](http://www.icacentre.org.uk)

Leaflet "Intercountry Adoption" published by Coram BAAF Adoption and Fostering.

Overseas Adoption Support and Information Services: Helpline  
Telephone Number: 0870 241 7069  
website: [www.adoptionoverseas.org](http://www.adoptionoverseas.org)

## Legal Advice

Anyone considering adopting a child from overseas is encouraged to consult their own solicitor. Information on local solicitors who may be able to help can be found at [www.lawscot.org.uk](http://www.lawscot.org.uk)

## Applying to Adopt

Following the preparation course, we will provide you with an application form, for you to complete and return to us.

If we consider that you meet the eligibility requirements, then we will open a case record. We will then commission an Independent Social Worker who will prepare a written Home Study Report, setting out all the information which is required by law, stating the country from which you wish to adopt a child, and including an assessment of your suitability to become an adoptive parent. You should be decided on the country you wish to adopt from prior to the Home Study beginning. Whilst we will assist you in any way we can, we are not resourced to undertake research into the requirements of overseas countries and it will be your responsibility to do this.

## Checks

By law, we have to undertake a number of checks and you will be asked to give your written agreement to this. These checks are confidential, but any issues arising from them will be discussed with you. These checks include:

- **Medical Checks** You will be asked to consent to medical information being given by your G.P. Our Medical Adviser will write to your G.P. asking him/her to undertake a full medical examination. You will be asked to meet the costs of this examination. Medical matters are dealt with by Aberdeenshire's Medical Adviser, who will give advice to the Independent Social Worker and to the Permanence Panel. It should be noted that where you or any member of your house hold smokes we will not be able to recommend that a child under 5 years or a child of any age with a respiratory disorder be placed with you. We expect that any one who smokes should have stopped for at least 6 months before they can be considered for a child under 5 years or a child of any age with a respiratory disorder. Having health

issues will not necessarily mean that we cannot proceed with your application, but we are seeking to ensure that the child is placed in a family who will likely have health and vigour to parent them at least into early adulthood.

- **Social Work Records** You will be asked to agree to checks being made of Social Work records in Aberdeenshire and local authorities where you have previously lived.
- **References** You will be asked to provide the names and addresses of up to six personal referees (not members of your family) who know you well, individually and, where relevant, as a couple.
- **An Employer's Reference**
- **Health and Safety check of your home**
- **Any other checks** relevant to your situation

Additionally there are countries that have further requirements and you should make yourselves aware of such requirements. For example some countries require a psychological assessment which our medical checks would not cover and so you will have to arrange this yourself, if required, including meeting the cost of this.

The assessment should generally be completed within 6 months from the date that we receive your application. It will involve a number of meetings with your Social Worker. You will be expected to contribute to the Home Study Report, both verbally and in writing. In common with most other Agencies, Aberdeenshire Council use the BAAF Form F3 as a basis for the Report. It will include information on your personal and family history, your current circumstances, your family and support network, and your reasons for adoption and for wishing to adopt a child from overseas. Your Social Worker will give you information about how the assessment is progressing and you can ask for this at any point.

The child is treated as privately fostered, in accordance with the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering) (Scotland) Regulations 1985 until the full adoption order is granted. This requires a minimum of 3 monthly visits by the supervising Social Worker. Social Work will then provide a report for the court, but we ask you to discuss with us and your solicitor when you intend to lodge your adoption petition in court, so that the court report can be prepared around that time.

The adoption order cannot be *made* until the child has been in your care for 12 months. However, you must notify Social Work on your return to Aberdeenshire with the child, and you can *apply* to the court for an adoption order as soon as the child enters the UK. However it would be a good idea to discuss the timing of your application to court with us, your solicitor and perhaps the Sheriff Clerk at the court. (**NB** it is a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency.)

## Interim Adoption Orders

An interim adoption order is an order granting parental rights and responsibilities in the child's State of origin that is not a full order under the adoption law of that country. Interim orders are only relevant to Convention and designated list adoptions, as any type of adoption order made in non-Convention non-Designated countries are not recognised by UK law anyway.

The interim order will allow the child to leave their State of origin accompanied by the prospective adopter(s). There may be conditions attached to the interim order before a full order is automatically granted, including for example a specified period of time that the child must reside with the prospective adopter(s) before the full order can be made.

However you must notify Aberdeenshire Council of the expected date the child will enter the UK accompanied by yourself.

## **Non-Convention and Non-Designated Adoptions**

### **Adoption from Designated Countries**

The Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013, list the countries where if adoptions are made in that country, they are, like Hague Convention Adoptions, recognised within Scotland and the UK. A list of these countries can be found on the Scottish Government website, in the Intercountry Adoption Section under “types of Intercountry Adoption”.

When a child is adopted from a country whose adoption practice is not recognised under UK law and whose country of origin has not ratified the Hague Convention, this is known as a non-Convention non-Designated adoption.

Prospective adoptive parents will have to apply to a Scottish court for a full adoption order to be made in respect of the child when the child comes to the UK. They will need to do this even if they have obtained an adoption order in the child’s country. Adopters must notify Aberdeenshire Council within 14 days of the child’s entry to the UK.

If the adoptive parents are British citizens, the granting of an adoption order by a British court should automatically confer British citizenship on the child. Before applying to a Court here, you must notify Aberdeenshire Council Social Work in writing of your intention to apply to adopt. You should write to The Head of Social Work (Child Care), Woodhill House, Westburn Road, Aberdeen, AB16 5GB. A Social Worker will be required to visit your home, to satisfy ourselves as to the child’s welfare and provide supervision, until an Adoption Order is made.

If the Social Worker has any concerns during the assessment, these will be shared openly with you and if there is any doubt about whether the application should proceed, advice will be sought from the Permanence Panel.

Sometimes applicants are clear from the start about which country they wish to adopt from, but their circumstances can change. Other applicants are not clear. It is your responsibility to fully research before coming to a decision. The Social Worker will discuss with you the country you wish to adopt from and the reasons for this. It is important that you have reached a decision about which country you wish to adopt from, and the age and gender of the child when the home study commences.

## **Attending the Panel**

Aberdeenshire Council is required by law to have a Permanence Panel. Aberdeenshire’s Permanence Panel consists of approximately 12 members with a wide range of knowledge and experience in relation to adoption and children separated from their families and includes a Chairperson, a Medical Adviser, and a Legal Adviser and may include a Foster Carer/ Adoptive Parent. The Panel meets every 3 weeks on a Thursday usually.

When the Home Study Report has been completed, an appointment for your application to be considered by Aberdeenshire Council’s Permanence Panel will be made, and we will notify you of this date. We will give you a copy of the Home Study report (excluding any information from third parties given in confidence), and will invite you to send any observations in writing on the Report to the Chair of the Permanence Panel within 14 days, beginning with the date on which we notified you.

Attending the Panel is not part of the assessment process. For the first part of the Panel meeting, the Permanence Panel and your Social Worker meet to identify any matters from the Home Study Report which need further discussion or clarification. You will then join the meeting to discuss any matters that have been identified, to talk to your application and ask any questions of the Panel. The Panel will then consider the application further and will reach a recommendation. The Chair of the Panel will give you the recommendation of the Panel.

All matters dealt with the Panel are confidential. The Permanence Panel will consider your application, and will make a recommendation to the Agency Decision Maker (ADM) as to whether you are suitable to be an adoptive parent.

## **Adoption Agency Decision**

The Agency Decision Maker will receive the Home Study Report, any written observations that you have made and the Minute of the Meeting of the Permanence Panel. The ADM will make a decision on your suitability to be an adoptive parent within 14 days of the Panel Meeting. They will write to you to notify you of his decision within 7 days. The decision will include the country from which you are approved to adopt, the number of children and the age and gender of the child/ren.

If the ADM decides that you are not suitable to be an adoptive parent, he will notify you in writing within 7 days, and will give you reasons, along with the recommendations of the Permanence Panel. If you disagree with the decision, you should lodge an appeal with the Director of Housing and Social Work within 28 days, who will make arrangements to have the appeal considered. Aberdeenshire Council can provide a leaflet on Appealing Decisions made by the Social Work Service.

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- All appropriate measures must be taken by the states to prevent improper financial or other gain in connection with adoption and to deter all practices contrary to the objectives of the Convention.
- The state must appoint a central authority and accredit bodies to work as adoption agencies. (The Scottish Government is Scotland's central authority.)
- Adoptions made in countries that have ratified the convention must be recognised by other countries that have ratified the Convention.

## **Types of Adoption from Overseas**

### **Hague Convention Adoptions**

This refers to any adoption made under the Articles of the Hague Convention 1993 between 2 Convention States. Adoption orders made in respect of children from Convention countries are recognised under UK law. The adoption order granted is called a Convention adoption order and there is generally no need for adoptive parents to reapply to a Scottish court for an adoption order, unless an interim adoption order was granted in the child's State of origin, and reapplication for adoption is one of its requirements. A list of those countries who have ratified/acceded to the Hague Convention 1993 can be found via the Scottish Government's website and the Department for Education website (please refer to Scottish Regulations). Children who are the subject of a Convention adoption should receive British nationality automatically, but you should check this with the Home Office.

It is not an offence where a child is brought into the UK for the purpose of adoption by a parent, guardian or relative, i.e. a grandparent, brother, sister, aunt or uncle. The 2009 Regulations add further criminal offences in relation to a child being brought into the U.K. for the purposes of adoption and it is highly recommended that specialist independent legal advice is sought at an early stage. However, it is recommended that in these circumstances legal advice is sought at an early stage on the adoption of the child in this country as well as on whether an adoption application has to be made in this country and how British citizenship would be obtained.

## **The Hague Convention**

The 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption aims to establish safeguards to protect the best interests of the child and to put in place a system of co-operation between countries to prevent the abduction of, the sale of, or traffic in children. The UK signed the Hague Convention in 1994. The 1999 Act and 2003 Regulations referred to above enabled Scotland to ratify the Hague Convention.

The key requirements of the Hague Convention are:

- The child's home country must ensure that the child has been freely given up for adoption and that this has not been induced by payment or compensation of any kind.
- Attempts must be made to place the child in a family in their home country. If this is not possible, it must be confirmed that intercountry adoption is in the child's best interests. This decision must be taken with respect for his or her fundamental rights, as recognised in international law.

## **Review of Approval**

A review of your approval is required if a child has not been placed with you within; 1 year for Hague Convention adoptions and 2 years for Non-Hague convention adoptions (see page 11 for an explanation of the Hague Convention). We can provide information on the process for this review if requested.

## **Following Agency Approval**

We will meet with you to prepare the necessary documentation to be sent to the Scottish Government within 7 days which is a necessary part of the process. It is not uncommon for your documentation to require to be notarised or legally certified and for this you will require the services of a notary public. Some solicitors are also notaries public but not all. It is your responsibility to ensure all the required documents are Notarised and to meet the cost of this.

If you are intending to adopt from a country which is a member of the Hague Convention, and if the Scottish Government are satisfied, they will send to the Central Authority of the State of origin of the child a certificate confirming that you are eligible and have been approved to adopt. The Scottish Government will confirm with Aberdeenshire Council and with you in writing that the certificate and documents have been sent to the Central Authority of the State of origin. The Scottish Government may charge for this service. Details can be found on their website.

If you are intending to adopt from a Designated Country or a country which is neither designated nor a member of the Hague Convention, then it is important to find out what documentation will be needed and this can generally be obtained from the Department for Education website. We will help you to prepare your papers, to be sent to the Scottish Government, and then on to the Department for Education. When you receive information about a child with whom you may be matched, you must discuss the information with Social Work.

Aberdeenshire Council may be asked to provide a view on the suitability of this match. The Agency Decision Maker will provide this view, taking into account a recommendation from the Permanence Panel based on all available information. Information may be sought from our Medical Adviser in relation to the needs of the child. The Medical Adviser can arrange for a medical examination of the child when he / she comes to this country, should you wish this. We would ask you to meet the cost of this examination.

## **Adopting from a Country which is a Member of the Hague Convention - when a Child becomes available**

When the Scottish Government receive from the Central Authority of the State of origin information about a child whom they have matched with the prospective adoptive parents, the Scottish Government will send this information to Aberdeenshire Council. We will consider and discuss these documents with you. Aberdeenshire Council may be asked to provide a view on the suitability of the match, and the Agency Decision Maker will provide this, taking into account the recommendation of the Permanence Panel. You should visit the child before reaching the decision about whether you would wish to go ahead to adopt this child. You should inform us in writing whether you wish to proceed with the adoption, to enable us to advise the Scottish Government. You should then make arrangements to accompany the child in their move to the UK. The UK Central Authority has to confirm to the central authority in the child's country that the child will be allowed to enter the UK. Prospective adopters may wish to check this with the Scottish Government prior to leaving the UK, and with the British Embassy in the child's country.

Aberdeenshire Council will arrange for a written report of the child's health history and current state of health, so far as is known, to be sent to your GP, together with any particulars of the placement.

## **Post Placement Reports**

Some countries require post placement reports and while Aberdeenshire Council will provide these, we will ask you to meet the cost of preparing the reports. It is the responsibility of prospective adoptive parents to find out the format for these reports and where they should be sent.

## **Support After Adoption**

After your child has been adopted, you have the right to ask for adoption support from Aberdeenshire Council.

## **Legal Background**

Adoption is the legal process where a parent and child relationship is created by court order. In the UK only Local Authorities such as Aberdeenshire Council or registered adoption services can arrange for children to be placed for adoption, and only the Court can grant an Adoption Order.

The Adoption (Intercountry Aspects) Act 1999, the Adoptions with a Foreign Element (Scotland) Regulations 2009 and Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 set out requirements and procedures for intercountry adoption. The 2003 Regulations have now been replaced by the Adoptions with a Foreign Element (Scotland) Regulations 2009. The Act can be viewed at [http://www.opsi.gov.uk/acts/acts1999/ukpga\\_19990018\\_en\\_1](http://www.opsi.gov.uk/acts/acts1999/ukpga_19990018_en_1) The 2009 Regulations can be viewed at [http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi\\_20090182\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi_20090182_en_1). The 2003 Regulations can be viewed at <http://www.opsi.gov.uk/legislation/Scotland/ssi2003/20030019.htm>

One particularly important section of the 1999 Act makes it a criminal offence, in certain circumstances, for a child to be brought into the UK by someone who has not been approved as a prospective adopter by a UK adoption agency (e.g. a local authority).