

ADOPTION AND CHILDREN ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Adoption

Chapter 3 - Placement for Adoption and Adoption Orders

Section 21: Placement orders

81. *Section 21* defines a placement order. It is an order made by the court authorising a local authority to place a child for adoption with any prospective adopters who may be chosen by the authority (*subsection (1)*). Only local authorities are able to apply for placement orders. *Subsection (2)* provides that the court may not make a placement order unless the child is already subject to a care order or it has the power to make a care order under section 31(2) of the Children Act 1989. In order to be able to make a care order (and therefore a placement order) the court must first be satisfied that the child concerned is suffering, or likely to suffer, significant harm, and that this is attributable to the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give him, or the child is beyond parental control. The only exception to this is where the child has no parent or guardian. In these cases the Children Act 1989 ‘significant harm’ threshold in section 31(2) does not apply. This is to allow local authorities to place orphaned children for adoption.
82. Linking the making of placement orders to these provisions in the Children Act 1989 is intended to deliver on the Government’s undertaking to align adoption law with the Children Act 1989. The same threshold for compulsory intervention in family life is to apply where a local authority seeks authority to place a child for adoption without parental consent as applies where an authority seeks to take a child into care under a care order. In placement order cases, where the court is satisfied that the ‘significant harm’ threshold is met, it will then consider whether a placement order should be made. The *section 1* provisions will apply: the child’s welfare will be the paramount consideration, the court will apply the welfare checklist set out in *section 1(4)*, the court will have to consider its full range of powers, and will only make the order if it is better for the child than not to do so.
83. *Subsection (3)* provides that the court may only make a placement order if it is satisfied that the parent has consented to the child being placed for adoption with any prospective adopters who may be chosen by the agency and has not withdrawn that consent or that the parent’s consent should be dispensed with. The grounds for dispensing with consent are set out in *section 52(1)*. A placement order will continue in force until it is revoked, an adoption order is made in respect of the child or the child marries or reaches 18 (*subsection (4)*).