

ADOPTION AND CHILDREN ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Adoption

Chapter 3 - Placement for Adoption and Adoption Orders

Section 22: Applications for placement orders

84. *Section 22* sets out when a local authority must apply for a placement order. An authority must apply for a placement order when the child is placed for adoption or is accommodated by a local authority, they are satisfied that the child ought to be placed for adoption, the parent does not consent to placement for adoption and either the child has no parent or guardian or the authority consider the threshold criteria in section 31(2) of the Children Act 1989 are met (*subsection (1)*). This might occur for example where the parent has withdrawn consent to placement for adoption but the authority remains of the view the child should be adopted.
85. Where an application is pending on which a care order under the Children Act 1989 might be made, or the child is subject to a care order but the parent does not consent to the placement of a child for adoption, and the local authority are satisfied that the child should be placed for adoption, they must apply to the court for a placement order (*subsection (2)*). If the child is subject to a care order and the parent or guardian is prepared to consent to the placement of the child for adoption, the authority have a discretion as to whether to apply for a placement order (*subsection (3)*). Alternatively, they could decide to place the child with parental consent under *section 19*.
86. *Subsection (4)* provides that where an application for a placement order is pending, the child is a looked after child for the purposes of the Children Act 1989 until the application is determined. If a placement order is made the child continues to count as looked after by virtue of *section 18(3)*. *Subsection (6)* enables the court where the application for a placement order is pending and no interim care order has been made to give directions for the child to undergo medical, psychiatric or other assessment.
87. The application for a placement order is to be made by the appropriate local authority as defined in *subsection (7)*.