

**BRITISH ASSOCIATION FOR ADOPTION & FOSTERING (BAAF)  
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**Response To Consultation On Changes To LSC Family Decision Making  
Guidance**

British Association for Adoption & Fostering (BAAF) is the leading membership organisation concerned with the furtherance of good practice in adoption and fostering in the UK. Its Legal Group, whose Advisory Committee contributed to the formulation of this response, has approximately 500 members drawn from members of the legal profession in both private and local government practice, children's guardians and social workers. We welcome the opportunity to comment on the revisions to the guidance.

**Paragraph 20.13**

Paragraph 4(h) refers to section 84 Adoption and Children Act applications in the context of proceedings in a magistrates' court. Section 84 provides that only the High Court may make orders under this section.

**Paragraph 20.26**

**Placement order proceedings.**

The implication of paragraph 4 is that applications for placement orders which are not heard together with 'Special Children Act Proceedings' will not be covered on a 'non-means, non-merits tested' basis. We entirely fail to see the logic of not extending the same rights to parties to an application which is made separately.

**Paragraph 20.29**

**Adoption applications**

We note that no amendment has been made to paragraph 1. We suggest that this be reconsidered in the light of the Family Procedure (Adoption) Rules 2005 which explicitly allow for parties to attend and "be heard on the question of whether an order should be made" (rule 32) unless they have applied for and been refused leave to oppose the order. Section 46(6) of the Adoption and Children Act 2002 also requires the court to invite the parties' views on contact arrangements. If parents are to attend court in these circumstances, particularly if it is a serial number application where the identity of the applicants is to be kept confidential, it is important that the parents have access to legal representation.

We note that people with section 26 contact orders in their favour (who might include siblings or relatives other than the parents of the child to be adopted) will be parties to adoption order hearings and might also need legal representation

**Step-parent applications**

We are puzzled by the reference to a special guardianship order in the context of step-parent adoptions. Special guardianship is not an alternative to adoption for step-

parents although a parental responsibility order under section 4A of the Children Act 1989 may be.

**Omission**

No mention is made of applications under sections 26 and 27 Adoption and Children Act 2002 for contact or variation of contact orders. Presumably these will be considered public law proceedings since they will only occur in the context of agency (mainly local authority) adoption placements. There will be circumstances where the prospective adopters are not at one with the local authority, and they, as much as parents or other relatives, may need legal representation.

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