



**Interim
Guidelines
for
determining the eligibility
and
suitability of sole applicants
issued pursuant to
Section 33(7) of the Adoption Act 2010**

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The Adoption Authority's Vision Statement

*We will work to achieve excellence in adoption and adoption related services,
with the best interests of children as our primary consideration*

1. Introduction

The Adoption Authority approved the following guidelines for determining the eligibility and suitability of sole applicants at its meeting of 18 January, 2011.

These guidelines have been developed by the Adoption Authority to guide its decision making when considering whether a sole applicant is eligible and suitable to adopt in accordance with Section 33(1)(a)(iii) of the Adoption Act 2010.

The guidelines were developed by the Adoption Authority under section 33(7) of the Adoption Act 2010.

2. The Law

The legislation governing eligibility to adopt is set out in Section 33 of the Adoption Act 2010. It provides as follows:

Persons eligible for adoption order or recognition of intercountry adoption effected outside State.

33.— (1) (a) The Authority shall not make an adoption order, or recognise an intercountry adoption effected outside the State, unless—

- (i) the applicants are a married couple who are living together,
- (ii) the applicant is the mother or father or a relative of the child, or
- (iii) the applicant, notwithstanding that he or she does not fall within *subparagraph (ii)*, satisfies the Authority that, in the particular circumstances, the adoption is desirable and in the best interests of the child.

(b) Notwithstanding *paragraph (a)*, the Authority may recognise an intercountry adoption effected outside the State on the application of a person referred to in *paragraph (a) or (c) of section 90 (3)*.

(2) Except as provided in *subsection (1)(a)*, the Authority shall not make an adoption order, or recognise an intercountry adoption effected outside the State, for the adoption of a child by more than one person.

(3) Where an applicant for an adoption order is married, or an applicant, other than an applicant who is a person referred to in *paragraph (a) or (c) of section 90 (3)*, for the recognition of an intercountry adoption effected outside the State is married, the Authority shall not make the adoption order, or recognise the intercountry adoption effected outside the State, without the consent of the applicant's spouse, given in the manner determined by the Authority, unless—

(a) the couple are living apart under—

- (i) a decree of judicial separation under

section 3 of the Judicial Separation and Family Law Reform Act 1989 ,

(ii) a decree or order to like effect that was granted under the law of another jurisdiction and that is recognised in the State, or

(iii) a deed of separation,

(b) the spouse has deserted the applicant, or

(c) conduct on the part of the spouse results in the applicant, with just cause, separating from the spouse and living apart from him or her.

(4) The Authority shall not make an adoption order or, except where the applicant is a person referred to in *paragraph (a) or (c) of section 90 (3)*, recognise an intercountry adoption effected outside the State, unless—

(a) the applicant and, if the applicants are a married couple, each of them has attained the age of 21 years, or

(b) the applicants are a married couple and one of them is the mother or father or a relative of the child and either of them has attained the age of 21 years.

(5) Subject to *subsection (6) and section 81* , the Authority shall not make an adoption order unless the applicant or, if the applicants are a married couple living together, each of them, is habitually resident in the State.

(6) *Subsection (5)* does not prevent the Authority, for the purpose of an intercountry adoption effected in the State, from making an adoption order in favour of an applicant who, or, if the applicants are a married couple living together, each of whom, is habitually resident in—

(a) another contracting state,

(b) a state that has a bilateral agreement with the State, or

(c) a state that has an arrangement referred to in *section 81* with the State.

(7) The Authority shall issue policy guidelines

respecting the circumstances in which an adoption order in favour of an applicant referred to in *subsection (1)(a)(iii)* may be made.

Having regard to the particular circumstances of the case, Section 33(1)(a)(3) of the Adoption Act 2010 gives the Adoption Authority its own discretion to grant an order in favour of an applicant who is not married, is not related to the child, and/or is not a widow or widower. The Adoption Authority in using its discretion under Section 33(1)(a)(3) of the Adoption Act 2010 shall regard the welfare of the child as the first and paramount consideration as required by Section 19 of the Adoption Act 2010.

3. Particular Circumstances

The Adoption Authority is required to consider the “particular circumstances” of each application to determine if a sole applicant, applying under Section 33(1)(a)(3) of the Adoption Act 2010 is eligible to adopt a child. In this part of the guidelines the Authority identifies some of the circumstances which it will take into account in determining applications in these cases.

A sole applicant who is married

The Act allows one party in a married couple living together, to apply to adopt as a sole applicant. The statutory requirement for the consent of the spouse of the applicant to the adoption must be met where appropriate.

A sole applicant who is not married and is co-habiting with their partner

Under the Act unmarried couples cannot adopt as a couple. One party may apply to adopt as a sole applicant.

The applicant’s partner must provide the same documentation as the applicant (including medical reports and Garda clearances) attend the preparation group with the applicant and participate fully in the assessment.

A sole applicant who is living alone or with a relative and who is applying to adopt an identified child

The sole applicant in this case does not have the benefit of a mutually contributing and supporting person who is equally committed to meeting the needs of the child. Unlike couples who are married or cohabiting, the sole applicant has sole responsibility for the child from the onset.

The existence of a significant relationship with a child living with or in a substantial relationship with the applicant will be the major consideration in determining the eligibility of sole applicants in this particular circumstance.

The conditions which the Authority will have regard to in determining the eligibility of such sole applicant are as follows:

- the presence of an identified child;
- the quality of the relationship with that child;
- that the child is eligible to be adopted;
- that the child is in the care of the applicant; or
- the existence of an established relationship with the identified child over a significant period of time.

A sole applicant who is living alone or with a relative and who is applying to adopt an un-identified child

The sole applicant in this case does not have the benefit of a mutually contributing and supporting person who is equally committed to meeting the needs of the child. Unlike couples who are married or cohabiting, the sole applicant has sole responsibility for the child from the onset.

4. The Five Standards

Sole applications will only be considered where the applicant can demonstrate that he/she can meet the requirements of the Five Standards set out in Section 34 of the Adoption Act 2010.

In assessing a sole applicant's ability to meet the Five Standards the sole applicant must be able to demonstrate their capacity to take on all the demands and responsibilities of adoptive parenthood.

In this regard, the quality, length and stability of the relationship with the child is central to the assessment.

The application of the Five Standards should take account of a situation where the applicant is a relative of the child.

Where the application is in relation to an unidentified child and a positive recommendation is being made, special attention should be given in the home study to identifying the characteristics of the child suitable for adoption by the particular applicant.

In the case of a co-habiting sole applicant, the partner of such an applicant should be assessed as the significant other in the applicant's life and one who may impinge on the applicant's ability to parent. Such partners will also impact significantly on the welfare and development of the child.

Should the applicant and/or their partner be unwilling to co-operate, an assessment should be carried out and sent to the Adoption Authority with the recommendation of the Local Adoption Committee. This recommendation is based on the paramount rights of the child to be raised in a safe and secure environment.

The following issues are pertinent to the assessment:

- The quality, length and stability of the co-habiting relationship;
- The equal and shared commitment to becoming parents;
- Future plans for the relationship e.g. marriage;
- The implications of only one partner being the legal parent;
- Other commitments/relationships i.e. existing children;
- The implications for the child having only one legal parent.

The criteria set out below are guidance as to how the Five Standards identified in Section 34(b) of the Adoption Act 2010 are to be applied to a sole application so as to demonstrate the particular circumstances of the case, in accordance with Section 33(1)(a)(3) of the Adoption Act 2010.

4.1 The capacity to safeguard the child throughout his / her childhood

Mental and Physical Health

Good health status of all applicants is an important consideration during the assessment. It is particularly important when the applicant will be the sole carer of the adopted child. The parent of the child must have the physical and mental capacity to parent the child to adulthood. This is to ensure as far as possible that the caring roles are not reversed in later childhood or early adolescence.

Problems with physical and/or mental health are of serious concern as the applicant will be the sole carer of the adopted child. There should be a reasonable expectation on the basis of the available evidence that the applicant's physical and mental health enable them to have sufficient energy and vigour to meet the child's needs throughout the years of the child's dependence.

It is widely accepted that the incidence of ill health and disability increase with age and in the case of an older sole applicant there is a risk of the sole applicant becoming disabled or suffering serious ill health early in the child's life. The adopted child may suffer greatly from having the worry and possible care of the adoptive parent in their teenage years when they may have pressing needs of their own in discovering their identity and coming to terms with being adopted. In fact, this is a time when the child will need its parent to be in the best of health emotionally, psychologically and physically to help the child through at a potentially crucial time.

Guardianship Arrangements

Guardianship arrangements take on a special significance for both the adopted child and the guardians in the context of a sole application. Sole applicants should be asked to nominate two sets of guardians for their child who are willing and able to assume care of the child should the need arise. All guardians must be resident in Ireland.

The nominated guardians will be interviewed by the assessing Social Worker and should be able to demonstrate an in depth understanding of the issues involved in Intercountry Adoption. The guardians should be fully committed and involved in the child's life to extent that they will be in a position to support the child through its childhood and take on direct parental duties if required and this is deemed appropriate.

Financial Security

The sole parent will be the only earner, leaving an increased exposure to risk of loss or reduction of income. The applicant must be able to demonstrate that they have the financial resources to allow for significant periods of time away from work to care for the child and adequate resources to meet the needs of the child throughout their development to adulthood.

4.2 Capacity to provide the child with a family life that will promote his/her development and well being and have due regard to the physical, emotional, social, health, educational, cultural, spiritual and other dimensions

Ability to Form Close and Lasting Adult Relationships

The applicant must be able to demonstrate that they have long term friendships and close and intimate relationships with other adults outside the family. Where a sole applicant is in a relationship the assessing Social Worker should determine the impact this relationship will have on the applicant's ability to meet the Five Standards set out in section 34(b) of the Adoption Act 2010. In addition, Garda clearance and child protection clearance should be sought on this person. The applicant must be able to give an account of the reason for their single status so they can demonstrate the ability to establish an appropriate child-parent relationship where the focus is on the needs of the child.

Support Network

The single applicant must be able to demonstrate a strong and available network of friends and family who will be able to help and support them in parenting the adopted child. Having a supportive network also provides evidence of the applicant's ability to form close and lasting adult relationships. The Social Worker should seek assurance of close relationships with friends and family who are geographically close and willing to support the applicant in parenting. Friendly neighbours of casual acquaintance, workplace friendships that do not extend to social contact or family who live a great distance are not sufficient in meeting this expectation.

Child's Sociability

The sole applicant must be able to demonstrate that the child will grow up in a social environment, with peer support and engagement with other children. It is also important that the child will be able to participate in social, educational and recreational activity which is not constrained by having a sole parent.

Sexuality

This issue must be explored in depth even though it may be uncomfortable. The applicant must demonstrate a healthy attitude to sexual relationships and be confident in their own sexuality. They must demonstrate how they will talk to their child about sex and sexuality. The applicant's expectations of and attitude to their child's sexual development should be explored.

Childcare Experience

The applicant ideally should be able to demonstrate significant ongoing contact and qualitative relationships with children and have had experience of the sole care of children. The applicant should have extensive knowledge of childhood development and a good understanding of the challenges children can present to their carer.

Child Care Plan

The sole applicant must demonstrate how they will meet the expectation that they will be personally available in the home to the child to meet the child's needs and support parent-child attachment and bonding during the first year of adoption. If the parent returns to work it is recommended that care of the child is given by a family member or by a child minder in the applicant's home.

Assurance must be given that the child's needs will predominate over work priorities and that the applicant has the support and flexibility at work to be available to the child should the need arise.

They should demonstrate that serious thought has been given to childcare if they are temporarily unable to care for the child because of ill health or absence for family or other reasons. The assessing Social Worker must test any commitments given in this respect. The applicant must submit a written childcare plan which specifies their availability, their plans for the child's care if they return to work and back-up arrangements should unforeseen problems arise.

Referees

There should be a selection of at least 3 referees to reflect the single applicant's social network. They should be in a position to provide evidence of the applicant's ability to provide for the physical, emotional, social and spiritual needs of the child within a healthy social environment. One of the referees must be a couple with children, living together and have significant contact with the sole applicant. At a minimum two of the referees should be interviewed.

4.3 The capacity to provide an environment where the child's original nationality, race, culture language and religion will be valued and appropriately promoted throughout childhood

As with all applicants, the sole applicant must be able to demonstrate how they will meet the requirement of Section 34(b)(v) of the Adoption Act 2010.

4.4 The capacity to recognise and understand the impact of being an adopted child from an overseas country on the development of the child's identity throughout their childhood and beyond.

The sole applicant must demonstrate an understanding of the additional impact of being an adopted child from an overseas country being cared for by a single parent.

4.5 The capacity to recognise the need for and to arrange for appropriate support and intervention from health, social services, educational and other services throughout childhood.

In the case of sole applicants the assessment should consider the capacity of the applicant to maintain a wider support network, available to offer support on an ongoing and regular basis. This is not restricted to practical support. An in depth assessment should be made of the applicant's ability to identify circumstances where additional support is required either by the child or themselves as sole carers and to seek that support.

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15 January 2011