

Application for a recovery order

Section 41 Adoption and Children Act 2002

Name of court	
Case no./Serial no.	
Date received by the court	
Date issued	

Notes to applicants

- This form is only for use if you are applying for a recovery order under section 41 of the Adoption and Children Act 2002.
- Before filling in this form, please read the guidance notes on completing the form.
- Please complete all parts. If any part does not apply to your application, or you are not sure of the answer, please say so.
- If there is not enough room for your reply to any question, continue on a separate sheet. Please put the child's name, the part and question number at the head of the continuation sheet.
- Please use black ink when filling in the form.

Part 1 About you

a) I am a prospective adopter of the child and wish to keep my identity confidential and apply for a serial number

☐ Yes ☐ No

See Note 1

b) Title

☐ Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other _____

c) My name is

First name(s) in full

Last name

d) My address is (including post code)

e) My telephone number is

See Note 2

See Note 3

f) Are you applying as an officer of an adoption agency or local authority?

☐ Yes ☐ No

If Yes, please give below the name of the adoption agency/local authority and your position within the adoption agency/local authority

Name of adoption agency/ local authority	
Your position within the agency/local authority	

If No, please give below your relationship to the child

See Note 4

g) My solicitor in these proceedings is

Name of solicitor			
Name of firm			
Address (including postcode)			
Telephone no.		Fax no.	
DX no.			
E-mail address			

Part 2 About the child

a) The name of the child is

First name(s) in full

Last name

b) The child is a

☐ Boy

☐ Girl

c) The child was born on

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d) The child's usual address is

e) The child lives with (If you do not know the name of the person with whom the child lives with enter 'Not Known')

See Note 2

f) If the child is or has been the subject of continuing or previous court proceedings please give the details of the case and the court in which the proceedings are taking place or took place

Type of order made (or applied for)	Date of order (or date of next hearing)	Name of court	Case number (or serial number)

Part 3 Reason for application

See Note 5

Please read thoroughly the Guidance Notes for Part 3, which explain the different grounds for applying for a recovery order. Please then tick the box(es) that apply to your application and give full details. It is important to give as much information as possible about the whereabouts of the child, the person or persons who may have this information and the names and addresses of anyone who has removed or not returned the child. In every case give the name and address of the person referred to, their relationship to the child, the circumstances in which the child comes to be with them and any other information you think the court requires.

The child has:

- ☐ been removed by the person or persons whose name(s) and address(es) are given below in contravention of any of the provisions of sections 30 to 40 of the Adoption and Children Act 2002.

or

- ☐ not yet been removed, but there are reasonable grounds to believe that the person or persons whose name(s) and address(es) are given below intend(s) to remove the child in contravention of sections 30 to 40 of the Adoption and Children Act 2002.

or

- ☐ Prospective Adopters (whose details are given below or on form A65) have not returned the child to the adoption agency within 7 days of the agency giving them notice to return the child under section 31(4) or 35(2) of the Act
- ☐ Prospective Adopters(whose details are given below or on form A65) have not returned the child to the adoption agency within 14 days of the agency giving them notice to return the child under section 32(2) of the Act
- ☐ Prospective Adopters (whose details are given below or on form A65) have not returned the child to the local authority on the date set by the court under section 33(2) of the Act
- ☐ Prospective Adopters(whose details are given below or on form A65) have not returned the child to the local authority within the period determined by the Court under section 34(3) of the Act

Part 4 The order and directions applied for

Please indicate the type of order you will be asking the court to make:

- ☐ An order directing the person identified below or any person who is in a position to do so to produce the child to one of the following: (Please tick the box that applies)
- ☐ The person named in the order
- ☐ Any constable
- ☐ Any person authorised to exercise any power under the order by the adoption agency authorised to place the child for adoption

- ☐ An order that one of the following people do remove the child (please tick the box that applies):
- ☐ The person named in the order
- ☐ Any constable
- ☐ Any person authorised to exercise any power under the order by the adoption agency authorised to place the child for adoption.

Please give information below about the whereabouts of the child

- ☐ An order requiring the person(s) identified below to disclose information as to the child's whereabouts to any constable or officer of the court

- ☐ An order authorising a constable to enter into the premises specified below to search for the child (Include your grounds for believing the child to be on the premises.)

Is this application being made without notice being given to another party?

- ☐ Yes ☐ No

If Yes, please state why.

Statement of truth

*[I believe] [The applicant believes] that the facts stated in this application are true.

*I am duly authorised by the applicant to sign this statement.

Print full name

Signed

Date

*[Applicant] [Applicant's solicitor] [Litigation friend]

*delete as appropriate

If you attend the court for a hearing

1. Do you have a disability for which you require special assistance or special facilities?

☐ Yes

☐ No

If Yes, please say what your needs are below
(the court staff will get in touch with you about your requirements)

2. Do you want to use the services of an interpreter?

☐ Yes

☐ No

If Yes, please specify which language
(court staff will get in touch with you about your requirements)

What to do now

Once you have completed and signed this form, you should take or send the form and **three copies** to the court, together with the court fee* and the following documents:

- Copies of any relevant orders i.e. placement orders or contact orders.

If you are attaching any order of the High Court or a county court to your application, it must be a sealed copy of the order (that is, a copy that has been stamped with the seal of the court). If you are attaching an order made by a magistrates' court, it must be a certified copy (a copy certified by the court officer to be a true copy of the original order), or a copy that bears the stamp of the originating court.

- Evidence of the basis on which a child is accommodated or placed
- Evidence as to how any necessary notices, requests or court orders have been served
- If appropriate, a recent photograph of the child which should be dated.
- If the application is being made without notice and it is not possible to obtain documents in advance, you will need to ask the court for directions when you make the application.

*If you are not sure about the court fee payable for your application, or you think that you may be exempt from paying all or part of the fee, you should contact the court for information.

See Note 6

Application for a recovery order (Form A57)

Notes on completing the form

Parts 1 and 2 About the applicant

Note 1

If you are a prospective adopter (that is, you will be making an application to adopt the child) and you do not want your identity to be made known to the parents or guardians of the child you are intending to adopt, the court will issue you with a serial number. Any documents sent to the other parties will show the serial number, not your personal details. If you are required to attend the same court hearing, the court will make arrangements to ensure that your identity is protected. If you already have a serial number issued to you, please ensure that it is entered in Part 2, paragraph f.

Note 2

If you are a prospective adopter see note 1 above. Otherwise, if you do not want your private address, postcode, and telephone number, or the child's address and the name of the person with whom the child lives, to be disclosed to any other party, do not enter them on this application form. Instead you should enter the details on Form A65, which you must file at the court with your application. The information will not then be disclosed to any person, except by order of the court.

Note 3

If you are applying as the authorised officer of a local authority/adoption agency the contact details should be those for the local authority/agency which the court can use.

Note 4

There are no restrictions on who may apply for a recovery order but the court will need a brief indication of how you come to be making the application and how you are related to or connected to the child.

Part 3 Reasons for application and evidence in support

Note 5

If you do not want the names and addresses given in this section to be disclosed to any other party, do not enter them on this application form. Instead you should enter the details on Form A65, which you must file at the court with your application. The information will not then be disclosed to any person, except by order of the court.

Important: If you are the **prospective adopter** and already have a serial number or have asked for one, you should make sure that the reasons for your application do not include any information that could lead to your identity being disclosed.

Any applicant who has withheld their address or telephone number or the child's address or the name of the person with whom the child lives should make sure that they do not include any information which could lead to these being disclosed.

A. The child has been removed or there are reasonable grounds to believe that someone intends to remove the child in contravention of sections 30-40 of the Adoption and Children Act 2002 (sections 30-35 (agency cases) and sections 36-40 (non agency cases)).

The detailed removal provisions are in sections 30-40. The following situations are examples only.

1. Where a child is placed by consent under section 19 of the 2002 Act, only an adoption agency can remove the child (section 30(1)), e.g. a parent cannot remove the child.
2. Where a child is in accommodation provided by the local authority and an application for a placement order has been made, the child may only be removed by a person who has the court's permission, or the local authority (section 30(2)), e.g. a parent can only remove the child with the court's permission.

3. Where a placement order is in force or has been revoked but a child is still with the prospective adopters or in accommodation provided by the local authority, only the local authority may remove the child (section 34(1)), e.g. a parent cannot remove the child.
4. Where a child under six weeks old has been placed for adoption but after 6 weeks the agency does not have authorisation under section 19 of the 2002 Act, only the adoption agency can remove the child from the placement (section 30(1)), e.g. a parent cannot remove the child.
5. Where a step-parent or partner has given notice of intention to apply to adopt and the child has had his or her home with the step-parent/partner for not less than 3 years out of the last 5 the child may be removed only by a person with the court's permission or a local authority or other person in exercise of statutory powers (section 39(2)), e.g. a parent can only remove the child with the court's permission.
6. Where a step-parent or partner has given notice of intention to adopt and the child has had his or her home with the step-parent/partner for less than 3 years, the child may only be removed by the child's parent or guardian, by a person with the court's permission or a local authority or other person in exercise of statutory powers (section 39(3)), e.g. a parent can remove the child.
7. Where local authority foster parents have given notice of intention to apply to adopt and the child has had his or her home with the foster parents for 5 years the child may be removed only by a person with the court's permission or a local authority or other person in exercise of statutory powers (other than under section 20(8) of the Children Act 1989) (section 38(2) and (3)), e.g. a parent can only remove the child with the court's permission.
8. Where local authority foster parents have applied to the court for permission to apply to adopt the child because the child has not had his home with them for a year before the application to adopt (and the permission application has not been dealt with) the child may be removed only by a person with the court's permission or a local authority or other person in exercise of statutory powers (other than under section 20(8) of the Children Act 1989), e.g. a parent can only remove the child with the court's permission.
9. If the child has had his or her home with the foster parents for a year and the foster parents have given notice of intention to adopt, the child may only be removed by a person who has the court's permission, by a local authority or other person in exercise of statutory powers, or a person with parental responsibility for the child who is exercising the power in section 20(8) of the Children Act 1989 (section 38(4) and (5)), e.g. a parent can only remove the child with the court's permission unless he or she has parental responsibility for the child and the foster parents are providing accommodation pursuant to section 20 of the 1989 Act.

B. Prospective adopters have failed to:

1. Return the child to the adoption agency within 7 days of the agency giving them notice to return the child where the child:

- a) is placed for adoption by an adoption agency and is less than six weeks old, or the agency has not been authorised to place the child for adoption and
- b) the child's parent(s) or guardian(s) has/have informed the agency that they want the child to be returned to them, and
- c) there is no pending application for a placement order, and
- d) the child is not subject to a care order (section 31(3) and (4)).

2. Return the child to the adoption agency within 14 days of the agency giving them notice to return the child where the child:

- a) is placed for adoption by an adoption agency under section 19 of the Act and
- b) consent to placement under section 19 has been withdrawn and
- c) there is no pending application for a placement order and

d) the child is not subject to a care order and

e) prior to service of the notice no application for an adoption order, special guardianship order, residence order or for permission to apply for special guardianship or residence, was made to the court and remains to be dealt with.

(Note: if there is such an application the prospective adopters are not required to return the child unless the court orders otherwise (section 32)).

3. Return the child to the local authority on the date set by the court for return of the child where

a) the child is placed for adoption by a local authority under section 19;

b) an application for a placement order has been refused and the parent or guardian has told the local authority that he wants the child returned and

c) the child is not subject to a care order (section 33).

4. Return the child to the local authority within the time set by the court when the court has revoked a placement order and has determined that the child is not to remain with the prospective adopters (section 34(3)).

5. Return the child to the adoption agency within 7 days of the agency giving them notice to return the child where the child:

a) had been placed with prospective adopters by the agency

b) the agency is of the opinion that the child should not remain with them and

c) Prior to service of the notice no application for an adoption order, special guardianship order, residence order or for permission to apply for special guardianship or residence, was made to the court and remains to be dealt with.

(Note: if there is such an application the prospective adopters are not required to return the child unless the court orders otherwise (section 35(2)).

Part 4 the order and directions applied for

Indicate here the type of order you will be asking the court to make. Give as much detail as you can.

Note 6

Special assistance or facilities for disability

If you need special assistance or special facilities for a disability or impairment, please set out your requirement in full. The court staff will need to know, for example, whether you want documents to be supplied in an alternative format, such as Braille or large print. They will also need to know about any specific requirements you may have on the day of the hearing such as wheelchair access, a hearing loop, or a sign language interpreter.

The court staff will get in touch with you about your requirements. It is important that you make the court aware of all your needs. If you do not, the result may be that the hearing has to be adjourned.