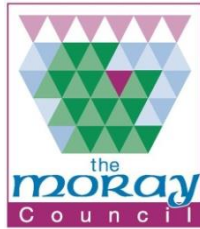


The Moray Council Legal Services



ADOPTION APPLICATIONS

GUIDANCE FOR SOCIAL WORKERS

ON WRITING THE COURT REPORT (Section 17 and Section 19 of The Adoption and Children (Scotland) Act 2007)

May 2011

1. This guidance has been prepared to assist Social Workers who are writing the Court Report which is lodged in Court with the prospective adopter's application for an Adoption Order. A report is required both where the adoption agency has placed the child with the applicants for Adoption (section 17 of the Adoption and Children (Scotland) Act 2007) and where adopters notify us that they wish to adopt a child that we haven't placed with them for adoption (section 19). Section 19 applies to step-parent and relative adoption also. This guidance does not specifically address all the matters that should be in the Court Report for children placed by English/Welsh Adoption agencies or for children who will be adopted abroad (Rules 8(5) to (7)). Specific advice on these matters is available from Legal Services.
2. The Headings and format of the Report are exactly the same, whether it is section 17 or 19. The requirements are set out under headings (a) to (z) of Rule 8(4) of the 2009 Court Rules. Each and every paragraph of the Report must be numbered. The pages should also be numbered.
3. It is important at an early stage to telephone the prospective adopters' solicitor to let him/her know that you are preparing the Report and to agree a realistic timescale for the submission of the Report. Ideally you will agree with the solicitor that he/she will lodge the adoption petition in Court at the same time as you send the report to the Court. If you don't do this there is a risk that the solicitor will go ahead and lodge the petition and the Sheriff will order you to lodge the report within 4 weeks.

Essential Reading:

4.
 - The 2009 Court Rules, Regulation 8(4) – attached. [The full title is Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009];
 - BAAF - Alexandra Plumtree: "Permanence and Adoption for Children – A guide to the Adoption and Children (Scotland) Act 2007";
 - The Form E presented to the Permanence Panel in relation to the child and the LAC Reports/Minutes re. the major decisions on the Child's Plan if the child has been placed for adoption by the Local Authority;
 - National Care Standards for Adoption Agencies.

The Adoption Report:

5. The Adoption Report should have a cover sheet (see attached style sheet) setting out the writer's name, office address, child's name and date of birth, etc. At the top of the next page you could set out the "Family Composition" – i.e. names and addresses (only if appropriate) of the child, birth parents, siblings, and any other significant relatives. Sometimes it is appropriate to give the prospective adopters name and address but sometimes not. If there are reasons to withhold the address of the child or the prospective adopters, simply write "Sheriff Clerk requested to assign a serial number" next to the child's name (as per birth certificate) and confirm with the prospective adopters' solicitor whether you should do the same for the prospective adopters and

whether you should use initials (or just “X”) instead of their name. Alternatively a c/o address could be used – probably the solicitor’s firm’s address. Birth parents may see your Report if they want once it is lodged in Court, and you should remember this when you are drafting the Report.

6. The paragraphs of the report must be individually numbered in the left margin, just like this guidance. Also add page numbers.
7. The Adoption Report must be clear and concise and must explain to the Court why it is best for the child that the Adoption is granted. Remember that the Sheriff is unlikely to know any of the people you refer to in the Report. The Sheriff will not know the background to the case. If there has been Social Work involvement with the child, make sure you explain why this was necessary and the support that has been offered to the child and the birth family and the outcome of our intervention. If a Freeing Order or Permanence Order or Permanence Order with Authority to Adopt has been granted, state this very clearly along with the date the Order was granted and in which Court it was granted.
8. The Report should not be a simple narrative of events taken from a review of the files/LAC Reports, etc. While LAC Reports provide vital information, it is not necessary or appropriate to repeat the detail contained in those Reports. Instead you should:
 - Summarise the main issues and events; and
 - Analyse the impact of the events on the child to evidence why adoption is necessary and best for the child.
9. The Report should not be too long or too detailed. You don’t want the really important points to become lost in a sea of detail.
10. It may be that less information is required about the Social Work intervention in the past if a Freeing Order has been granted. Such cases will be rare. If a Permanence Order with Authority to Adopt has been granted this means that the Sheriff will already have the grounds to make the adoption order, but we do not know what the issues will be in Court. Accordingly full information must still be provided in this Report. The Sheriff will want to be brought right up to date with events that may have occurred following the granting of the Permanence Order with Authority to Adopt. The past issues and support offered by Social Work and why this didn’t result in successful rehabilitation may still be relevant for the adoption case even where there is a Permanence Order with Authority to Adopt. Remember that LAC Reports and Minutes and other documents such as Parenting Assessments and Assessments by Psychologists will be lodged in Court as Productions. Instead of quoting at length from Reports that will be available to the Sheriff as Productions, simply state briefly the point you want to make and refer to the detailed Report by name of author and date.

Setting Out the Report:

11. The Adoption Report should be divided into sections (a) to (z), using the Headings in the 2009 Court Rules. For example, the first Heading will be
“(a) Information about how the needs of the child came to the notice of the authority or agency.”
12. **Section (a)** is the section which will set out for the Sheriff how we first became aware of the child. It may be that we have had a long involvement with the child and the birth family, or we may only have known about the child since receiving the notice of intention to adopt. If we have had long involvement with the child, explain why the child’s birth parents can’t bring the child up and why we decided to pursue an adoption plan.
13. The opening sentence of section (a) should state how the child first came to our attention. It could have been an anonymous phone call or a referral from the Police or the Reporter, etc. On the other hand, it could simply be receipt of the notice of intention to adopt. You will want to refer to the most significant issues, themes and events around any Social Work intervention with the child, in chronological order. However it should not just be a narrative of events taken from your Reports for LAC Reviews and Children’s Hearings. This section must contain an **analysis** of the impact of the events on the child, and how that justified the decisions made by Social Work at the different stages.
14. If the adoption is likely to be opposed (and it can be in one way or another even if there is already a Permanence Order with Authority to Adopt), you will want to provide a good level of detailed information. In such a case section (a) of the Report could be structured using sub-headings (underlined). You could refer first to an explanation of Social Work efforts to maintain the child safely at home. In what way were the birth parents failing to protect the welfare of the child and how did the Social Work Service try to improve the situation? Second, you could explain the reasons the child had to be removed from home. Third, you could comment on the rehabilitation plan – i.e. what we wanted to achieve; what support was offered to the birth parents; why the plan failed; and details of the frequency and, more importantly, the quality of contact for the child. What did the child get out of contact? Was it harmful and unsettling? Fourth, you could refer to the formal end of the rehabilitation plan (presumably a decision of a LAC Review) and describe the alternatives for permanence that were considered for the child. Fifth, you should explain why adoption is considered the best option for the child and explain what adoption offers the child. Again this should have been covered at a LAC Review. Last, narrate the fact that the child’s case was considered by the Permanence Panel and that the Panel made a recommendation on adoption, and that a decision was then made by the Agency Decision Maker.
15. Remember, in an opposed adoption the Sheriff will have copies of all the relevant Reports and Minutes from all the meetings which have considered the child, and it is not necessary to repeat all the events in detail.

16. Section 19 reports will be slightly simpler, because they will be in relation to cases where Social Work hasn't been involved with the child (i.e. non-agency placements). In essence your report has to lead the Sheriff through the story and show that the adoption application is in the best interests of the child. You must give the Sheriff enough information supported by evidence to enable him/her to reach a decision on the adoption application.
17. Remember that although you might be very familiar with the various characters involved in the child's history, the Sheriff will probably never have heard of any of these people. For example, don't assume that the Sheriff will know that Mr and Mrs X are the foster carers – the first time you mention them explain who they are and why they are involved in the child's life. You can refer to the prospective adopters as "the petitioners" or the female/male petitioner rather than using their names, if you prefer. The child's name can be used, but it is best to use the birth/legal name even if the child is now known by the adopter's surname.
18. **Section (b)** is about the family circumstances of the child. It should be a short history of the child's family. Make sure you keep it relevant. The style of this paragraph will depend on the circumstances of the case. If it is likely to be an opposed adoption, you might have to explain, for example, the birth parents' backgrounds and if appropriate link that to the problems suffered by the child that you have outlined in section (a). Try not to repeat what you have already said. Start with the people with parental responsibilities and rights. If the father doesn't have these, say so. Include practical details such as the birth parents' current employment, accommodation, etc. Include details of siblings, and where they live. Are they looked after? Are they on a Supervision Requirement? Have older siblings been adopted already?
19. **Section (c)** is very factual, but only applies to section 17 reports (i.e. cases where an adoption agency placed the child for adoption). Just provide information on the child's physical and mental health (including special needs) and his emotional, behavioural and educational development. Summarise the information from doctors and the health visitor. Nursery or school reports may also provide you with relevant information, as will reports from the foster carers. The Sheriff just wants a summary of this information, you don't need to attribute every comment you make to a particular health professional. Having said that, make sure the information you put in the report is backed up by Reports or letters in your file and make sure that to the best of your knowledge the information you give is factual. It may be that the most useful and concise information is contained in the Medical Adviser's report to the Permanence Panel. If the child wasn't placed for adoption by the adoption agency, just say so and add "therefore this section is not applicable."
20. **Section (d)** must detail your discussion with the birth parents/guardian and if appropriate the child regarding their wishes and the alternatives to adoption. If birth parents will not discuss these matters with you, just say so. You can also provide your own comments – for example if the birth parent objects to adoption but cannot provide a realistic alternative – you can comment on this,

although you may have already done so at section (a). If so there is no need to repeat your comments here. Don't forget to outline the child's wishes, or say if the child is too young to have any. You may want to comment on the child's behaviour if he or she is too young to speak – if you think that tells you something. In a step-parent adoption, the birth parent (i.e. the partner of the applicant) might not want you to contact the other birth parent (the ex-partner). This issue needs to be carefully considered. If you do not contact the other birth parent to get his/her views on the adoption the Sheriff will want to know why. There may be good reasons not to contact the other parent (history of serious violence, for example) but it is best to discuss this issue with the Council's Legal Services before making any final decisions. It is important to be clear with the applicant about what you intend to do regarding contacting the other parent, and to give them notice **before** you make contact with the other parent. If you decide you need to contact the other parent the applicants may decide not to proceed with the adoption, and they should be allowed time to make this decision.

21. **Section (e)** covers the position of other people likely to be involved. These must be people who have a significant relationship with the child. The most common people in this category are grandparents or siblings or perhaps foster carers. If there are people involved with the child and they are not proposed as the permanent carers outline why. Give the Sheriff an indication of what kind of involvement is proposed for the significant people following the adoption. If grandparents or siblings are involved, is contact with them something built into the adoption plan? Was it a significant factor in matching the child with prospective adopters (section 17)? Or is it something the parent and step-parent have considered (section 19)? Remember that only people with parental responsibilities and rights have a legal right to contact with a child. There may be no other significant people in the child's life – if so just say that. Foster Carers often agree to do everything they can to make the move to the prospective adopters as easy for the child as possible – you can state that here.
22. **Section (f)** relates to any search you have had to undertake for parents or guardians. If you have been involved with both parents from day one and there are no guardians, this section will be irrelevant and you should just say that both parents are known to Social Work and there are no guardians – therefore it has not been necessary to carry out a search. If you have had to search for a parent/guardian detail what steps you have taken to find him/her – e.g. if you have a name have you checked CareFirst? If you know they live in another area have you checked with Social Work there?
23. **Section (g)** this is an assessment of suitability. There are a number of elements here, make sure you read the entire heading and answer all the points. In the context of this section it is good practice to ask all applicants, even if it is a section 19 report where the child was not placed for adoption by the agency, to agree to Disclosure Scotland, local authority and medical checks. If the applicants do not agree to these checks you can comment on that here. There is a cost to the applicants (where the child was not placed by the agency) to carry out these checks. These checks are likely to have been

carried out already at Social Work's expense if the child was placed for adoption with the applicants, so it will not usually be necessary to carry them out again.

24. **Section (h)** requires facts.
25. **Section (i)** requires facts.
26. **Section (j)** requires facts, if it is relevant.
27. **Section (k)** is again factual – outline the discussion you have had and whether the applicants understand this.
28. **Section (l)** asks you to state your view, and if you feel it is appropriate you can evidence this by providing financial facts and figures. Remember that if the birth parents oppose adoption they will see this Report, so it may not be appropriate to give too much detail at this stage. You simply need to confirm whether the adopters have the means and standing to maintain and bring up the child suitably.
29. **Section (m)** is factual.
30. **Section (n)** is factual.
31. **Section (o)** is factual.
32. **Section (p)** is factual and you should comment on the applicants' ability to have regard to the child's religious persuasion, racial origin and cultural and linguistic background.
33. **Section (q)** asks for your view, and again you can if appropriate provide the ages of all parties if this helps to evidence how you come to your view.
34. **Section (r)** asks for your view – try and explain briefly why you have come to the view you are expressing here. This is a good opportunity to really sum up why adoption is the best option for the child – remember to end with the words "It is the view of the writer and the agency that adoption is likely to safeguard and promote the welfare of the child throughout his (or her) life."
35. **Section (s)** is factual. If the child is (or was prior to a Permanence Order or Permanence Order with Authority to Adopt) on Supervision, you must confirm that the Agency referred the case to the Children's Hearing and obtained Advice (this is the normal Advice Hearing that happens after the Decision Maker makes a decision on the child's plan).
36. **Section (t)** normally you will just say "not relevant". This is only relevant if the child has been placed by an English or Welsh agency under their 2002 Act. Seek advice from Legal Services if this is relevant.

37. **Section (u)** asks whether there has been a contravention of section 75 of the Adoption and Children (Scotland) Act 2007 in relation to the child. Section 75 makes it an offence for anyone other than an adoption agency to make arrangements for the adoption of a child or to place a child for adoption, unless the prospective adopter or the person with whom the child is placed is a parent of the child, any other relative of the child, or where a parent of the child is a member of a relevant couple, the other member of the relevant couple. Section 75 is attached. You have a duty to check that the proposed adoption comes within the parameters of section 75 and is not made illegally. Having checked this, you should state whether there has been a contravention of section 75 of the Adoption and Children (Scotland) Act 2007 or not.
38. **Section (v)** asks whether there has been a failure to comply with section 76(2) of the Adoption and Children (Scotland) Act 2007 in relation to the child. This section is not entirely clear. It relates to adoption societies which are not registered adoption services. Normally you will just say “not relevant”. If it appears the placement has been made by an adoption society, seek advice from Legal Services.
39. **Section (w)** asks you to comment on any other matters relevant to the operation of section 14 of the Adoption and Children (Scotland) Act 2007. You should start this section by saying “Matters relevant to the operation of s14 of the 2007 Act have been referred to throughout this Report.” After considering this guidance, you will have to decide whether there are any gaps regarding s14, and if so this is your opportunity to fill them. Section 14 is attached and requires the court and The Moray Council as an adoption agency to regard the need to safeguard and promote the welfare of the child throughout the child’s life as the paramount consideration. Both we and the court must *have regard to*:-
- (a) All the circumstances of the case; and
 - (b) Regard the need to safeguard and promote the welfare of the child throughout the child’s life as the paramount consideration;

We must also have regard *so far as is reasonably practicable to*:

- (c) the value of a stable family unit in the child’s development,
- (d) the child’s ascertainable views regarding the decision (taking account of the child’s age and maturity) – a child of 12 years or over is presumed to have a view,
- (e) the child’s religious persuasion, racial origin and cultural and linguistic background, and
- (f) the likely effect on the child, throughout the child’s life, of the making of an adoption order.

When placing the child for adoption, we must also have regard, so far as is reasonably practicable, to:

(g) the views of the parents, guardians and other relatives of the child.
Before making any arrangements for the adoption of a child, we must

(h) consider whether adoption is likely best to meet the needs of the child or whether there is some better practical alternative for the child. If we find that there is a better alternative, we must not make arrangements for the adoption of the child. In other words we must show that we looked at all the options and adoption is the best plan.

These matters will probably have already been covered in other sections of your report, but if there are any outstanding areas of section 14 which have not been covered, you should comment on them here.

Section (x) asks for information about whether the applicant/s are a “relevant couple” or a member of a “relevant couple” in the context of being in an “enduring family relationship” rather than simply married or civil partnered. The best way to deal with this section is just to comment on the applicant/s “status”. If it is a joint application, or an application by one member of a couple, say if they are married or civil partners and leave it there. If they are not, but they live together in an “enduring family relationship” either as if husband and wife or as if civil partners, you need to comment on this. The phrase “enduring family relationship” is used to indicate two people who are in a relationship that is akin to marriage or civil partnership, but the phrase is not defined. You should give a professional view on whether the applicants appear to be in an “enduring family relationship”. The length of the relationship and financial interdependency will be relevant factors in assessing the overall strength of a relationship and the suitability of a couple to adopt, but you may consider that other factors are also relevant. If you have any questions about this contact Legal Services.

40. **Section (y)** applies when the applicants “intend to adopt a child under the law or territory outwith the British Islands”, when the court may make an order vesting parental responsibilities and rights to the child in the prospective adopters. If this applies, the Social Worker should refer to Regulation 50 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 and give the court the information required in Paragraph 7 of the Court Rules 2009. Normally you will just say “not relevant”.
41. **Section (z)** is an opportunity to add any more information if you want to. If there is none, just say so. You may wish to say when Disclosure Scotland, local authority and medical checks were last undertaken and the outcomes of these, if you haven’t already done so at section (g).

The Role of Legal Services:

36. The Council’s solicitors will provide guidance on the writing of the report if you ask. Please make sure you read this Guidance note first, and the “*Essential Reading*” detailed on page one. Once you have drafted the report, you should have it checked in detail by your line manager, and then send or email it to the Principal Solicitor, Litigation and Licensing at Council HQ. To ensure that the

allocated solicitor has sufficient time to check this, please do not leave this to the last minute. Thereafter you should send a signed copy to the adopters' solicitor or direct to the court (discuss this with the solicitor).

37. The Report should be checked by your line manager before it comes to Legal Services. It is also helpful to include page numbers, and to check spelling and grammar! The quality of the Report is very important since it will be the first thing read by the Sheriff and the Solicitor acting for the adopters. It will also form part of the Court process which will be available to the child later in life.
38. If applicable, the Permanence Order with Authority to Adopt must be sent to the adopters' solicitor. The solicitor will also require, if applicable, the adopters' marriage certificate and the child's birth certificate. The adopters will probably be able to get both these certificates, but you can help with the birth certificate if you like, for example if you happen to have a copy in your file. Otherwise the local Registrar can help the adopters to get the birth certificate. There is a fee for obtaining an Extract Birth Certificate and this should probably be paid by the adopters.
39. Once the Adoption Petition and the Social Work Report are in Court, the Sheriff will appoint a Curator *ad litem* and Reporting Officer, who should report to the Court within 28 days. The Curator's duty is to safeguard the interests of the child and to report to the Court on the circumstances of the adoption. He/she must give the Court the child's views, provided the child wishes to give their views to the Curator. The Reporting Officer is required to obtain the agreement of the birth parents, or if they are not consenting, to confirm that to the Court. After the Curator's and Reporting Officer's Reports are received, the Court will fix a hearing. The Curator and Reporting Officer will often be the same person, since in most cases the child and the birth parent will live in the same local authority area. In cases where The Moray Council is providing the s17 or s19 Report and where the Curator/Reporting Officer that is appointed by the Court is a member of the Moray Panel of Curators/Reporting Officers, Moray Council will be responsible for paying the Curator/Reporting Officers fee. Invoices from the Curator/Reporting Officer should be passed to Jennifer Gordon, Placement Services Manager, 6 Moss Street, Elgin for payment. You should check with the adopters that the Curator has visited them and confirm this when passing the Invoice for payment. There are fixed fees payable to the Curator/Reporting Officer, and these are set by Committee. In some cases the birth parent will live outside Moray and if a Reporting Officer from another area is appointed by the Court the local authority that maintains the Panel that the Reporting Officer is on will be responsible for paying his/her fee.
40. As the author of the Adoption Report there is a chance you could be called to court as a witness. This is unlikely in the case of an unopposed adoption, or a step-parent or relative adoption, unless there is a particular issue. If you are called as a witness, you will have the opportunity to meet with a solicitor from Legal Services, who will help you to prepare for this.

41. The Court of Session has slightly different Headings for its Adoption Reports - they are contained in Rule 67.8(4) of the Act of Sederunt (Rules of the Court of Session Amendment No 7) (Adoption and Children (Scotland) Act 2007) 2009. You should seek guidance from the Council's solicitors if you are asked to prepare a report for the Court of Session.

Alistair Stobie
Senior Solicitor
The Moray Council
May 2011

SHERIFFDOM OF [GRAMPIAN HIGHLAND AND ISLANDS AT ELGIN]

REPORT BY

Name,
SOCIAL WORKER,
THE MORAY COUNCIL,
Office address

IN PETITION OF

***Name and address of prospective adopters (or use c/o the address of
the petitioners' solicitor if necessary)***

TO ADOPT THE CHILD
Birth name of child and date of birth
[who resides with the petitioners]

Date

**Act of Sederunt (Sheriff Court Rules Amendment) (Adoption & Children
(Scotland) Act 2007) 2009**

4. A report by a local authority under section 19(2) or an adoption agency under section 17 of the 2007 Act must be in numbered paragraphs and include the following matters:

- (a) information about how the needs of the child came to the notice of the authority or agency;
- (b) the family circumstances of the child;
- (c) where the child was placed for adoption by an adoption agency, a description of the physical and mental health of the child (including any special needs) and his emotional, behavioural and educational development;
- (d) an account of the discussion with the parents or guardians of the child and, if appropriate, with the child about their wishes and the alternatives to adoption;
- (e) the position of other relatives or persons likely to be involved;
- (f) an account of any search for a parent or guardian who cannot be found;
- (g) information about the mutual suitability of the petitioner and the child for the relationship created by adoption and the ability of the petitioner to bring up the child including an assessment of the personality of the petitioner and, where appropriate, that of the child;
- (h) particulars of all members of the household of the petitioner and their relationship to the petitioner;
- (i) a description of the accommodation in the home of the petitioner;
- (j) in a petition by only one member of a relevant couple within the meaning of section 29(3) of the 2007 Act, why the other member of that couple has not joined in the application;
- (k) whether the petitioner understands the nature and effect of an adoption order and in particular that the order, if made, will make the petitioner responsible for the maintenance and upbringing of the child;
- (l) whether the means and standing of the petitioner are such as to enable him to maintain and bring up the child suitably;
- (m) whether the child has any right or interest in property and, if so, what right or interest;
- (n) whether any payment or other reward in consideration of the adoption, other than an approved adoption allowance, has been received or agreed upon;
- (o) what insurance has been offered on the life of the child;
- (p) the religious persuasion, racial origin and cultural and linguistic background of the child and of the petitioner;
- (q) consideration arising from the difference in age between the petitioner and the child if this is more or less than the normal difference in age between parents and children;
- (r) whether adoption is likely to safeguard and promote the welfare of the child throughout his life;
- (s) whether the child is subject to a supervision requirement and, if so, what steps have been taken to comply with section 73(4)(c), (5) and (13) (duration and review of supervision requirement) of the 1995 Act;

- (t) where paragraph (5) applies, the information mentioned in paragraph (6);
- (u) whether there has been a contravention of section 75 of the 2007 Act in relation to the child;
- (v) whether there has been a failure to comply with section 76(2) of the 2007 Act in relation to the child;
- (w) any other matters relevant to the operation of section 14 of the 2007 Act in relation to the application;
- (x) where appropriate, information about whether—
 - (i) in an application under section 29(1) of the 2007 Act, the petitioners are a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act; or
 - (ii) in an application under section 30(1) of the 2007 Act, the petitioner is a member of a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act;
- (y) in the case of a petition under paragraph (2) to which regulation 50 of the 2009 Regulations applies, the details referred to in paragraph (7);
- (z) any other information which may be of assistance to the court.

Adoption and Children (Scotland) Act 2007

s75 Restriction on arranging adoptions and placing children

- (1) Subject to subsection (2), a person other than an adoption agency who—
 - (a) makes arrangements for the adoption of a child, or
 - (b) places a child for adoption,commits an offence.
- (2) Subsection (1) does not apply if the person proposing to adopt the child or, as the case may be, the person with whom the child is placed is—
 - (a) a parent of the child,
 - (b) any other relative of the child, or
 - (c) where a parent of the child is a member of a relevant couple, the other member of the couple.
- (3) A person who receives a child placed in contravention of subsection (1) knowing that the placement is with a view to the person's adopting the child commits an offence.
- (4) A person who takes part in the management or control of a body of persons—
 - (a) which exists wholly or partly for the purpose of making arrangements for the adoption of children, and
 - (b) which is not an adoption agency,commits an offence.
- (5) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 5 on the standard scale or both.
- (6) In any proceedings for an offence under subsection (4), proof of—
 - (a) things done, or
 - (b) words written, spoken or published,by any person taking part in the management or control of the body of persons, or in making arrangements for the adoption of children on behalf of the body, is sufficient evidence of the purpose for which that body exists.
- (7) It is immaterial whether the actions mentioned in paragraphs (a) and (b) of subsection (6) are carried out in the presence of a party to the proceedings.

Adoption and Children (Scotland) Act 2007

s14 Considerations applying to the exercise of powers

- (1) Subsections (2) to (4) apply where a court or adoption agency is coming to a decision relating to the adoption of a child.
- (2) The court or adoption agency must have regard to all the circumstances of the case.
- (3) The court or adoption agency is to regard the need to safeguard and promote the welfare of the child throughout the child's life as the paramount consideration.
- (4) The court or adoption agency must, so far as is reasonably practicable, have regard in particular to—
 - (a) the value of a stable family unit in the child's development,
 - (b) the child's ascertainable views regarding the decision (taking account of the child's age and maturity),
 - (c) the child's religious persuasion, racial origin and cultural and linguistic background, and
 - (d) the likely effect on the child, throughout the child's life, of the making of an adoption order.
- (5) Where an adoption agency is placing a child for adoption it must have regard, so far as is reasonably practicable, to the views of the parents, guardians and other relatives of the child.
- (6) In carrying out the duties imposed on it by subsections (2) to (4) an adoption agency must, before making any arrangements for the adoption of a child, consider whether adoption is likely best to meet the needs of the child or whether there is some better practical alternative for the child.
- (7) If an adoption agency concludes that there is an alternative such as is mentioned in subsection (6), it must not make arrangements for the adoption of the child.
- (8) Without prejudice to the generality of subsection (4)(b), a child who is aged 12 or over is presumed to be of sufficient age and maturity to form a view for the purposes of that subsection.