



Babies at risk of 'adoption by stealth', family charity warns

Mothers may find temporary arrangements turn into permanent adoption under fostering for adoption scheme, with limited access to free legal advice

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Babies whose mothers have voluntarily agreed to them being temporarily looked after by the state are at risk of “adoption by stealth”, a leading family support charity has warned.

According to a freedom of information request by the Family Rights Group, 127 babies under six months old - 111 of them under six weeks old - have been placed with foster carers who are already approved as suitable adopters since fostering for adoption legislation came into force three years ago. It is not clear how many have been permanently adopted.

Previously, under section 20 of the Children Act 1989, the assumption was that parents who voluntarily gave up their children to foster care could immediately reclaim them if they chose to do so. But the addition of the fostering for adoption legislation means that in some cases parents

who may not fully understand the consequences of their decisions could find the fostering arrangement turned into permanent adoption against their will.

Under the fostering for adoption system, the babies' mothers typically have no right to free legal advice to enable them to grasp that they can very easily lose their children forever.

Cathy Ashley, chief executive of Family Rights Group, said that when vulnerable mothers are asked to agree to social services accommodating their children, and placements are then made under the fostering for adoption scheme without the mother having had access to legal advice, it is "deeply unfair and unjust to the mother and the child".

"It is much harder to get a baby back than it is to keep a baby when it's not been removed," she said. "So it can be adoption by stealth."

The freedom of information request to all local authorities in England showed that, when children over six months old are included in the figures, 163 have been accommodated by social services with parental agreement since 2014 under section 20, and subsequently placed with foster carers who have been given the green light to adopt.

However, answers from the 83 local authorities that responded to the charity's FoI questions demonstrated divergent approaches, with 40 councils indicating that they do not use section 20 voluntary accommodation and fostering for adoption together.

In those local authorities that do, Ashley said: "What's really shocking is the number of very young babies who this is happening to very soon after birth. It's not legal to permanently relinquish a baby under six weeks old, but mothers are being asked to sign voluntary arrangements below that age, with their babies then placed with a foster carer who's a potential adopter."

Ashley said it was "deplorable" that with the stakes so high in fostering for adoption cases, there is no automatic right to free legal advice or any independent judicial oversight of whether the statutory "significant harm" threshold for a child's removal has been reached in the first place.

This is in contrast to parents' rights when a local authority issues formal care proceedings: in this situation, they are immediately entitled to free legal advice and representation in court should they contest social services' application to take their child into care.

Section 20 accommodation has recently been the subject of severe judicial criticism with concerns about social workers coercing parents to consent to section 20 voluntary accommodation for their children under the threat of formal care proceedings. Ashley says that she thinks coercion can sometimes come into play, "as it is highly questionable whether a young woman in the immediate post-birth period, without legal advice on the implications of her decision, can give informed consent".

Once a baby is with foster carers who are approved as adopters, it is much harder, she points out, for a mother to get her child back.

"When the case eventually goes to court for an adoption order, you're up against the argument that you shouldn't unsettle the baby from the people they're living with, who - unlike ordinary foster carers - are offering that baby a permanent home. It is undoubtedly far more difficult for a

woman to get her baby back than to contest a care application and keep the child when it hasn't already been removed.”

“I do think there are risks in using section 20 and foster to adopt,” says John Simmonds, director of policy and planning at fostering adoption organisation CoramBAAF.

Fostering for adoption, Simmonds explains, was introduced as a means of reducing delays for children beginning a lifelong relationship with people who would become their parents. But he continues: “It is vital that the birth parents are absolutely clear about any local plan for their child and what it means. They should have access to legal advice to help them with this.”

Family Rights Group says it repeatedly raised concerns with government ministers before the fostering for adoption legislation was passed. Ashley said that “worries about how it would be used in relation to voluntarily accommodated children” were cited.

“The Department for Education (DfE) responded by stating in guidance that fostering for adoption for children under voluntary arrangements is ‘likely to be unusual’ - but our survey reveals it is being used routinely by some local authorities.”

The charity is now calling on the government to ensure that “as an absolute minimum” parents who are asked to sign voluntary accommodation agreements receive access to legal advice equivalent to entitlement when a local authority is considering applying to court for a care order. “We also believe that local authorities should not be using fostering for adoption placements for children accommodated under section 20 without a family court scrutinising the local authority’s case,” said Ashley.

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