

patch

Overview of Adoption Breakdown

If you are an adoptive parent reading this article, then you are probably feeling about as bad as you have ever felt in your life. All the dreams you had when you started life with your adopted child (AC), are probably a distant memory and the reality might look something like this - your AC lying constantly; hoarding and stealing food; stealing money and your credit cards; missing episodes, the police bringing your child home at stupid o'clock in the morning, sometimes in handcuffs; you being arrested because of false allegations; child to parent violence; locking away all knives, lighters, alcohol, any jewellery or valuable items that can be sold for the price of a vape; locks on your bedroom doors to keep you and other kids in the house safe; cctv outside your house and inside the communal areas of the house too; pets and other kids being hurt, drug use, grooming and sexual exploitation etc.

This is not an exhaustive list and do not believe anyone when they tell you this is 'normal child/teenage behaviour'! It's not. Do not believe any social worker (SW) when they tell you that it must be your fault and you just need to do a therapeutic parenting course. It's not your fault and you can try and do every course under the sun, but for some of our kids, it just won't work. Do not believe any SW when they tell you that adoptions do not breakdown, they do. It's called 'Breakdown', and there are hundreds of us out there who have disrupted. Is it easy? No. You may not even be quite at that point yet, or you can't face the fact that you are even thinking like this. But the fact that you are reading this means that all is not well, and you are most likely desperate. So, this article is to try to explain the adoption breakdown process, to help you understand what a

Section 20 (s20) is all about, and to prepare you for what might lie ahead if you decide to go down this road.

We are not solicitors however and nothing that is contained in this article should be considered legal advice. Although much of this information will apply to adopters in a breakdown crisis throughout the UK, particularly the details regarding the actions of social services, the legislation in question, s20, is relevant to England only. The devolved nations have slightly different legislation. There are solicitors out there who are familiar with Adoption Breakdown and we would always suggest that anyone in this situation should get good legal advice. The information that follows is an attempt by many of us who have unfortunately lived through a s20 experience, to try to help someone else in the same position by telling you what it's like to go through it, warts and all. Please note however that we said, '*lived through a s20*', because it is possible to get through it, and life can be better, in time.

Woven through this article is Andrea's story. It contains the personal journey and reflections of an adopter who is prepared to share what her family experienced, so that you can be prepared. We know that everyone's situation and story is different, and we know that there is no 'one-size-fits-all' for adoption breakdown. But hopefully, what follows will help you.

What is S20 and how do you request it?

S20 refers to a part of the **Children Act 1989** which reads as follows:

20 Provision of accommodation for children: general.

(1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—

(a) there being no person who has parental responsibility for him;

(b) his being lost or having been abandoned; or

(c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

The legislation can be found here:

<https://www.legislation.gov.uk/ukpga/1989/41/section/20>

It places a duty on a Local authority to accommodate or house a child when or if the parents can no longer care for the child. A child is any young person under the age of 18

years. Social workers often use s20 to take children into care if they are worried for their safety. They will persuade a parent that it might be best if the child went to foster care or some other arrangement for a while, until things settle down in the family. They will point out how s20 means that a parent retains full parental responsibility, and a parent can revoke it at any time. Social workers have been criticised in the past by the courts for mis-using this piece of legislation to take children into care and then not really involving the parent much after the child has left. It is often used by SWs as a pre-cursor to getting either Interim or Full Care Orders. But, if they can get the parent to agree, it's an easier and quicker way forward for the SW in the first instance. They need the parent to consent because s20 is **Voluntary**.

Often Social workers and Local Authorities do not like it though when adoptive parents use this legislation to say that their AC is beyond parental control and they can no longer care for the child therefore they are requesting that the Local Authority accommodates the child, for everyone's safety. The LA authority will refuse and say they don't have to do this, but actually, legally, they do.

Andrea's story

A S20 is where a child is taken into the care of the Local Authority (LA) and the choice has been made by those with Parental Responsibility (PR). The LA have a duty of care to do this, whatever they might say to the contrary.

You can tell the LA through Social Workers (SW) that this is what you feel is the only way forward for your child and remaining family but often they will try to put other plans in place and usually tell you they have no placements available. They will stall and allow you to continue with the situation you're in with no regard for the safety of your other children, or your own as adults. You have to be extremely strong and thick-skinned to continually tell them that this is your choice.

Sometimes, for older children particularly, they will tell the SW they no longer want to live at home, and this can make things easier as the SW will listen to the child more than the parents. Some parents have also refused to have their AC back in the house after missing episodes so the police will usually get the SW to enact a s20. This can be difficult if they turn up at your doorstep, but you can still refuse to let them in. Close the curtains, don't answer the phone. They will also try to get your friends or family to house your AC. This doesn't usually last or end well but everyone's circumstances are different.

A request for a s20 must be in writing. Many adopters get a solicitor to write this letter as it will contain the correct legal language. But if you can't afford a solicitor for the s20, then you can do this yourself. We have provided a suggested template at the end of this

article to help. You can use, or incorporate any of the wording in this template and make it fit your situation before you send it to the local authority via the SW.

What are the complications and what should you do in preparation?

The Local Authority is likely to refuse your request for a s20 initially. They will make it sound like they have the right to do this, but legally they don't. They will say things like 'You haven't met the threshold'. Whilst they usually have internal thresholds to consider, these are not legal thresholds and you need to continually remind them that you have a legal right to request a s20 because you can no longer care for your AC, and they cannot legally refuse. Unfortunately, you have to continue to insist.

Make sure you record notes of conversations with SWs. This can be done in various ways, but you need to reflect your view on each situation.

Make notes of all instances of violence or difficulty with your AC. You will need evidence that they are 'Beyond Parental Control'.

Andrea's story

Complications will be provided by the LA as described above in that they just do not have the placements available. They may offer you packages of support to help with managing your child at home, but in my experience, they are not equipped with dealing with the issues we face on a daily basis.

In preparation, we sought advice from a solicitor well in advance. We spoke to them about what an S20 was and made sure we knew all our rights for when the SW told us they couldn't accommodate our child. We also instructed them to write a letter to the LA so that we had that legal support to back what we were saying. Unfortunately, there will always be the use of the term "abandoned" and "emotional harm" used by the LA to describe what you are planning to do. Of course, they think little of the emotional harm you and your other children are experiencing every day and the long-term effects of these on everyone.

I feel the backing of legal was key for us. Just speaking to people who deal with this professionally, and make you feel like you're not the ones going completely mad to be considering the huge decision you've come to, is a huge support. They empathise and fully understand. It is so comforting to have this.

Be prepared for a firm No from the LA and having to actually set a date and time with where your child will be and that you expect them to collect them and accommodate them. It is the hardest thing in the world to consider, but we felt there was no other choice. We carefully planned where, spoke to those who would be with our son to make sure we had their support and backing, and

instructed the LA of the arrangements. These were also outlined in the letter by the solicitors.

What do LA's do/how do they react?

Andrea's story

The LA will be cold, and completely lacking in empathy or think of supporting you through this horrendous time. Even our Adoption support family worker turned on us despite having worked with us over six years and known the complications we had consistently faced every day.

The day after our son was accommodated, we had a call from a duty SW to check on the safety of our daughter as she had heard from Police that we had abandoned our son the previous day. The only people who could have informed the Police was the LA. We had deliberately gone away for the weekend and this phone call took place in the car on speaker which our daughter heard. We returned home to have a note through the door from social services to check on the welfare of our daughter. Wouldn't it have been lovely to have had that level of support when we asked for it because we felt our daughter wasn't safe living with our son?!

The aftermath was nothing short of torturous. We didn't receive information about how or where our son was. When we did about a week later, lots of the conversation was around reunification which we were not going to agree to. It was a couple of phone calls over the space of six weeks, before we were finally allowed to meet with him at a Children's Centre. It was the worst time of our lives, and a daughter to navigate through it all too.

Andrea is correct. Asking the LA for a s20 is awful. You will feel terrible, desperate, guilty, incredibly sad, and a whole load of other emotions. You will be grieving essentially, and the LA will make you feel worse.

They will also threaten to put other children in the family on Child Protection measures because they will say you are causing 'emotional harm' to your AC so therefore, there is a risk you are harming any other children you may have. They will say that they will have you arrested for abandonment. They will threaten your job, especially if you need a DBS. All of this generally comes to nothing but it's horrendous going through it. It's all designed to frighten you and therefore stop you putting your child back into the system and costing the LA money. They may also say that you will have to be financially assessed in order for them to charge costs to you for the care of your AC. While some

LAs have a policy of trying to re-coup costs, if they do this for an adoptive parent, they should do it for all birth parents where children are removed from their care. So push back if they try this, and it will also generally come to nothing. Many adopters have actually found the police to be quite understanding of the difficulties we face, and they are not interested in arresting a distraught adoptive parent for abandonment. Social workers will try to avoid a breakdown. They also don't care that you are being abused by your child, even if the child is 16 or 17, bigger than you and you have physical injuries. Some SWs have even encouraged couples to split up, especially if one is more in favour of breakdown than the other. They will literally try to 'divide and conquer'.

What things to consider before taking steps?

If your AC is young, look ahead and consider whether you could cope when they reach their teens if nothing changes. It doesn't get better usually; more often than not, it gets worse. You may have been shouting for help for your AC for years by the time you read this article and either it just didn't come, or what did come didn't work. Think about what happens when they turn 18. At this point, Children's Social Services won't be seen for dust! They will tell you to apply to adult services if you need help.

If you have managed to stick it out until their later teen years, again, ask yourself what will happen when they turn 18. Can you keep supporting them beyond that point? Where will they move to or will you have to continue to house them and live with the situation, possibly into your own later years.

Andrea's story

Be prepared to be treated like the lowest of the low. Don't expect it to be any different for you than anyone else, despite being supported by everyone who knows you and what you have tried for your family.

To have reached this point, you will have already considered every other avenue on offer. This will be the last resort for yourselves, the child, and other children in the home. If you know that this is the only way, be strong in knowing that it is the only choice, despite the short-term hell it will bring.

Will it go to court?

Once your AC is on a s20, the LA will decide whether to go to court to get an Interim Care Order and then a Full Care Order. On a s20, parents retain 100% Parental Responsibility (PR), although you could be forgiven for thinking otherwise as SWs will not want to include you in decision making or inform you as to your child's welfare etc. If an older child tells them that they don't want to have any more contact with you as the parent, then they will abide by this and you will hear very little. If a full care order is

granted, then you will share PR with the LA but they will have 51% so they will make all the decisions.

Sometimes, reunification occurs where your AC will return home. Sometimes this is successful, for a while, but sometimes you just end up back where you started.

The LA may try to tell you that they have to move your AC onto a care order because they can't have them staying on a s20 long-term. This is not necessarily the case anymore as a result of recent case law which broadly determined that children can stay on s20 long-term without need for a care order, where the placement and care plan are supported by the children's parents. The relevant case can be found here - Re S (A Child) and Re W (A Child) (s 20 Accommodation)

[2023] EWCA Civ 1 Available at:

<https://caselaw.nationalarchives.gov.uk/ewca/civ/2023/1?fbclid=IwAR0tUGxpJmS9yDcFSchXaQwCAm0NX8FZD77pmnTc7XjC1qH54LbXGdleHYE>

Even if your case goes to court and a Full Care Order is granted, this does not 'un-do' your adoption. Your AC will always be legally your child and will have inheritance rights etc. You should think about getting legal advice with regards to inheritance as the law is different in the devolved nations of the UK.

Andrea's story

As we didn't agree to reunification with our son, things moved to an Interim Care Order and then a Full Care Order. We had a meeting online for the interim one and had a solicitor present, then went to court for the full.

The LA will set a threshold for why the child is going to return to the care system. It can basically blame the parents for not offering what they should have or say the child is beyond parental control. Throughout the process, which took around a year, the LA continued to cite that it was because of our parenting and emotional harm of our son that he was returning to care. After interviews with a Guardian and an Independent Social Worker, they saw through this and were on our side. However, in court, the LA legal team still cited it was our fault and we had to sit and listen to this and couldn't say anything. Tough! However, we had an amazing Judge who also saw through the lies, and said the threshold should be Beyond Parental Control. He praised us for what we had tried to do. Despite this not changing anything, it was a relief in some ways.

What about fees?

You don't have to pay a solicitor to help with the s20, but many do. Part of the reason for this is that the solicitors know what they are doing and can guide you and help you to anticipate what is coming down the line for you in terms of LA behaviour. Some have paid a solicitor and the LA have simply ignored the solicitor in the same way they ignore you. It's a personal and financial choice that only you can make if you find yourself in this position. Fees for a s20 seem to range between £1200 - £1500 at time of writing. If the case goes to court, you will receive legal aid and sometimes each parent will need a separate solicitor.

Andrea's story

We spent £1200 on the initial letter for the Solicitor to support us regarding the S20. Other than that, we received everything through Legal Aid.

What happens afterwards?

You will feel rubbish for quite a while. You will also feel guilty because you actually feel relieved and safe in your own home because your AC is not there. Some people get therapy, some move house and/or job. It will really depend on your circumstances. Your AC will be placed in foster care or residential care or semi-independent living depending on age and what is available, and what is cheapest for the LA. If or when their placement breaks down because even the professionally trained carers looking after them, 24/7 in some cases, can't cope, they will be moved on. However, they generally get the therapeutic input that you have been asking about for years which was refused when you requested it.

There will be Child in Care (CIC) or Looked After Child (LAC) review meetings scheduled which you are entitled to attend, and your feedback should be requested. The meetings will be chaired by an Independent Review Officer (IRO) who is supposed to make sure that the SWs and the LA are performing their statutory duty towards your child. The IROs are employed by the LA however so it's hit and miss whether they actually do what they are supposed to or not.

As your AC gets older, they will be considered 'care-leavers' if they are aged between 16 and 17; they have been looked-after by Children's Services for at least 13 weeks, since the age of 14 (The period of 13 weeks does not need to be all in one go); and they are still being looked-after by Children's Services. Although there are different categories of care-leavers depending on their circumstances, they will generally get help with housing, benefits, education and will have a Personal Assistant to help them until they are 25.

Andrea's story

As an aside.....we are almost 3 years on. Our son is in a therapeutic residential placement with one other child. He receives the constant and demanding all consuming attention he needs which we just could not give him. They have the support of so many services, social workers and funding. All the things we struggled to get. He has what he now needs and deserves.

We see him every fortnight for family time. These hours are like nothing we experienced previously. Generally pleasant as we are no longer the ones instilling the instructions of daily routine which he didn't cope with. We attend six monthly Child in Care meetings so we can air our concerns and make sure things are going well. We attend school meetings and weekly daily reports from his home. We meet with extended family three times a year. There is a way forward for you ...one that allows you and your child to thrive. Would he like to come home? Yes! Is it working now in this way? Yes. If you know you can't continue, this is the only way. No way the dream of family life, but one where everyone can actually live again x

One last message to take away; you did not cause your child to be like this and the place you find yourself in now is not your fault. Our kids were wired differently by the early years trauma they experienced. No matter how much you love and care for them, sometimes it's just not enough to help them, and that's not your fault.

This has been written and compiled by Andrea and Chloe for www.ourpatch.org.uk

S20 suggested template for use if solicitors' fees are prohibitive – to be sent to the LA via the SW. You should get some form of receipt to show you have sent it and they have received it.

Dear Sirs,

Re: Child's name (AC) – D.O.B. xx/xx/xxxx – Request for s.20 accommodation

We are the parents of AC and we are writing to request that AC be accommodated by the Local Authority pursuant to s.20 Children Act 1989. We are unable to parent AC

any further, recognising that s/he is beyond parental control and presents a risk of physical and emotional harm to both us and him/herself.

We wish for the move to be done in a planned way, with the least amount of upset and breakdown caused to AC. We would be agreeable to having a meeting or discussion in the next 7 days, to plan for AC's move. Whilst making this decision is heart-breaking, we are not open to any further discussions on attempting to preserve the placement at current time.

Our decision to seek s20 for AC is made to avoid further conflict in the home and to safeguard AC. We make this decision knowing this is in the best interests of AC and are willing to work with professionals as required.

We are sadly at breaking point and seek that AC be accommodated within 28 days of this letter (end date). Should there be no response or plan in place after (*end date*) to accommodate AC, we will take AC to our local Children's Services office; and notify Police accordingly of this decision (*or leave at school etc, depends on circumstances; police can be emailed*).

It is hoped that matters do not reach this point and discussions can be had to find a solution.

We look forward to hearing from the relevant legal officer as a matter of urgency.

Yours faithfully