

Adoption and Fostering in the UK







Penny Appeal's Adoption and Fostering project

Penny Appeal's Adoption and Fostering service offers a range of interventions to support children who have experienced the care system. In addition to the production of this document, since its inception in early 2016, the service has:

- Recruited adopters and foster carers from across the UK, particularly from British Muslim backgrounds
- Supported and referred applicants to adoption and fostering providers
- Commissioned academic research by the Centre for Trust, Peace and Social Relations at Coventry University
- Provided anti-discriminatory practice training to children's sector professionals
- Presented at over 100 community based events, promoting fostering and adoption

In early 2017, Penny Appeal convened a series of gatherings with renowned Muslim scholars, community leaders and social care sector experts, to produce an Islamic guidance paper on the contemporary practice of adoption and fostering in the UK.

This document is a summary of the guidance paper and maps out the range of issues the paper considers. The full guidance document is available for download from www.pennyappeal.org



Introduction

British Muslim communities are showing an increasing interest in the long term support of unaccompanied asylum seeking and other children in the care system. This is supported by the increasing interest in the work being carried out by Penny Appeal in recruiting Muslim foster carers and adopters.

Furthermore, with over 3,000 Muslim children entering foster care every year, with half of these children spending time living in non-Muslim homes (Jiva, 2015¹), the under representation of Muslim foster carers and adopters is likely to be a hindrance to the care provided to these children.

Anecdotal evidence from professionals, foster carers and adopters has shown that there are many perceived barriers to adoption and fostering for the Muslim community, which in turn negatively impacts the journey of Muslim children in care. These barriers include; cultural and social stigma, lack of knowledge about adoption and fostering, and misconceptions about what the faith teaches about adoption and fostering. In order to clarify confusion around what Islam says about adoption and fostering, two symposia (comprising of over 60 British Muslim scholars and social care sector thought leaders) were held to produce the document “Islamic Guidance on the Contemporary Practice of Adoption and Fostering in the UK”.

The professionals, organisations and care experienced adults who were involved in this work ensured an accurate representation of the realities of adoption and fostering, including detailed discussions around why children come into care and their options for placements.

The guidance is expected to be of interest to all members of the Muslim community, as well as community facing institutions such as Muslim charities and mosques, fostering and adoption agencies, academics and relevant government bodies.

¹Jiva, T. (2015) Unpublished Freedom of Information Returns. Wakefield: Penny Appeal.

Islamic considerations regarding adoption and fostering

Six main themes emerged during the course of the work between the Islamic scholars and sector professionals: The emphasis in Islam on caring for orphans; definitions and terminology of adoption and fostering; preservation of the child's identity; managing familial relationships with a child who is not biologically related; formation of parent-child relationships; and cross-religious placements. The findings are summarised here:

1. The emphasis in Islam on caring for orphans

— The definition of orphan in Islam

The western understanding of the term 'orphan' is a child who has lost both parents through death, or less commonly, has lost one parent. In Islamic terminology, the term *Yatīm* is often translated as 'orphan' and is traditionally used to denote a child who is without the care of their father. More recent applications of the term orphan, by Islamic scholars, has included children who are without appropriate care or supervision. Therefore, where the term 'orphan' is used in this document, it applies to children who are without appropriate parental supervision: This includes children who are placed in care, for example, if they are removed from abusive and neglectful biological parents; and children whose parents are absent (such as unaccompanied asylum seeking children).

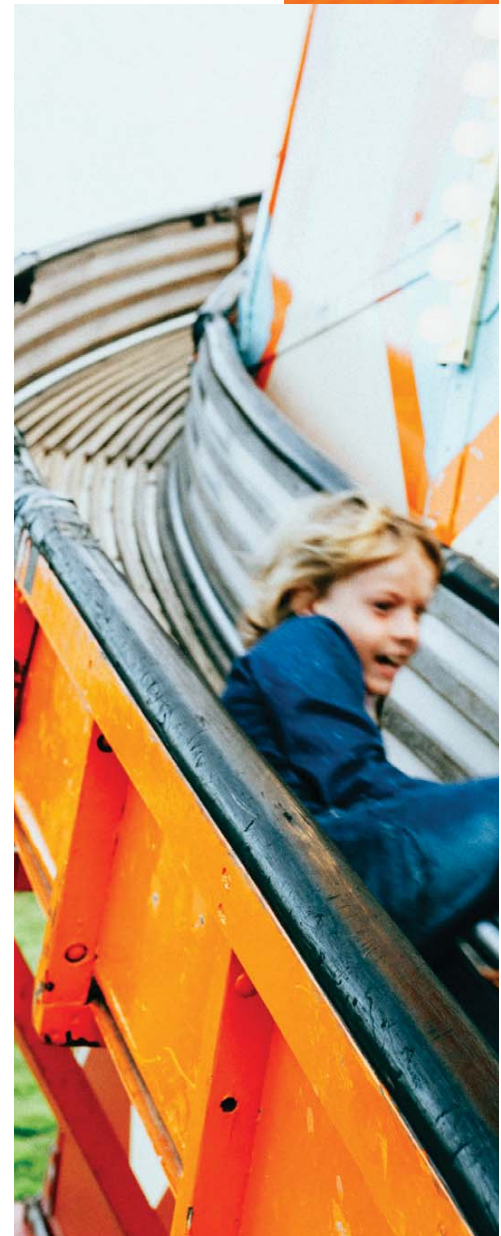
— The status and treatment of the orphan in Islam

Islamic tradition and history is replete with teachings and narrations that strongly encourage the care of vulnerable children and orphans.

The Prophetic tradition asserts:

"I and the person who looks after an orphan and provides for him, will be in Paradise like this," (putting his index and middle fingers together). (Sahih al-Bukhari, 6005)

Indeed, the Prophets Muhammad and Moses (peace and blessings be upon them) were orphans. Furthermore, as an adult, Prophet Muhammad (peace and blessings be upon him) adopted a child. It should not be considered to be a coincidence or accidental that



the Prophet Muhammad (peace and blessings be upon him) was an orphan and that he had gone on to adopt a child; in fact, this should serve to highlight the high status of orphans within Islam.

Islam is filled with teachings and direction to treat orphans well; for example, the Qur'an offers specific advice on how one should interact and live with orphans:

وَيَسْأَلُونَكَ عَنِ الْيَتَامَىٰ قُلْ إِصْلَاحٌ لَّهُمْ خَيْرٌ وَإِنْ تُخَالِطُوهُمْ فَإِخْوَانُكُمْ وَاللَّهُ يَعْلَمُ الْمُفْسِدَ مِنَ الْمُصْلِحِ وَلَوْ شَاءَ اللَّهُ لَأَعْنَتَكُمْ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ

'They ask you about the orphans: say, 'It is good to set things right for them. If you combine their affairs with yours, remember they are your brothers and sisters: God knows those who spoil things and those who improve them. Had He so willed, He could have made you vulnerable too: He is Almighty and Wise.' (Qur'an 2:220)

Furthermore, the Qur'an rebukes those who treat orphans unfairly and without kindness and compassion:

فَأَمَّا الْيَتِيمَ فَلَا تَقْهَرْ

"Therefore, as for the orphan, do not oppress them." (Qur'an 93:9)

Muslim communities therefore have an ethical responsibility to ensure that homeless and parentless children have guardians and families to look after them (Al-Zuhaylī, 2007²). **Care of vulnerable children can thus be considered, according to Islamic Law, a 'communal obligation'**. The underrepresentation of Muslims as foster carers and adopters makes it evident that, as a community, Muslims are failing in their obligation to take care of vulnerable children.

²Al-Zuhayli, Whabah. 2007. Al-Wajīz fī al-Fiqh al-Islāmī, vol 2 (Damascus, 2007), p.347.

2. Definitions and terminology of adoption and fostering

— Adoption and fostering in the UK

The term adoption denotes permanent placement of a child into a family whereby parental responsibility for the child is passed to the adoptive parent(s). Fostering denotes temporary care of a child in a home whereby parental responsibility remains with either the birth parents or the local authority. Neither adoption nor fostering negate the biological link and right for the child to be informed about their lineage.

— The Islamic terminology related to adoption and fostering

Adoption, as practiced in the UK, is mistakenly understood to be the counterpart of the prohibited practice of *Tabannī*. This is not the case. The key difference between the two practices is that *Tabannī* negates the relationship between the child and their biological parents. Adopters in the UK are, however, expected to inform their adopted children about their adoptive status and to give the children age appropriate information about their biological parents. Thus, due to this fundamental difference, it is argued that both adoption (when the child is aware of their adoptive status) and fostering are forms of *Kafālah al-Yatīm* (guaranteeing (or protection) of the orphan), which is highly commendable in Islam.

3. Preservation of the child's identity

— Preservation of the child's surname

The Prophet Muhammad (peace and blessings be upon him) had adopted a child himself. In order to ensure clarity around the adopted son's lineage, a verse in the Qur'an was revealed 'Call them by [the names of] their [biological] fathers' (Qur'an 33:5) – from then on the surname of the Prophet's adopted son was changed back to that of his biological parent.

Because of this, many people have mistakenly come to believe that adoption itself is sinful, confusing the preservation of lineage with the practice in the UK of changing an adopted child's surname. In order to comply with the broadest range of Muslim scholars' opinions, it is preferred that an adoptive parent does not change the surname of the child. However, it is also recognised that, for some children, keeping their biological surname may place them at risk of being located by abusive parents who may pose a risk to the child or the adoptive parents; therefore, in these cases, the surname of the child must be changed. In the instances where a change of surname is necessary, it is imperative that the child nonetheless is given information about their lineage.





Other scholars reason that since women are permitted to change their surnames after marriage, it follows that changing the surname of an adopted child to the surname of the adoptive family is also permissible - so long as the child grows up understanding his or her biological lineage.

— Preserving lineage

As has been discussed in detail in the above sections, when an adopted child is aware of their adoptive status and is given a suitable amount of information about their lineage and heritage, the adoption is also fully compliant with Islamic law.

With regards to fostering, in British law, parental responsibility for children placed into foster care is retained by the biological parents or with the local authority (never by the foster carers). Therefore there is little debate about the issue of lineage from an Islamic perspective.

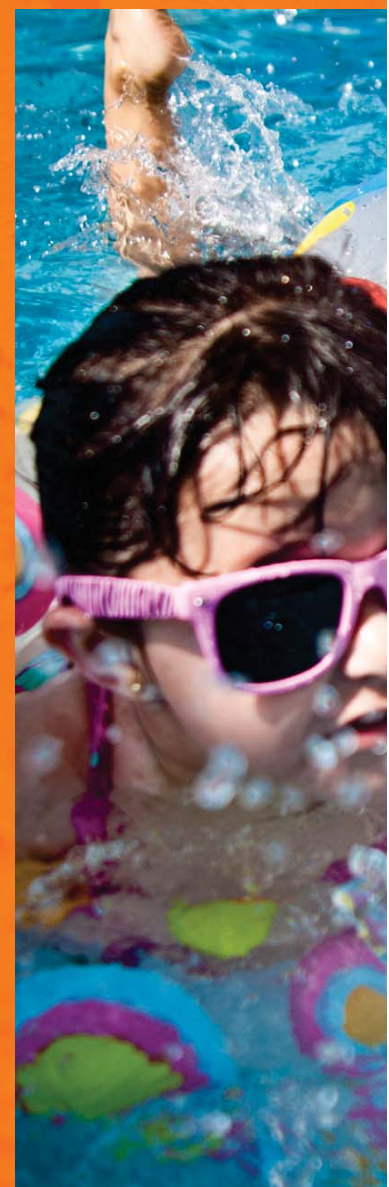
4. Managing familial relationships with a child who is not biologically related

— Hijab and privacy issues

Islam has precise rules with regards to how men and women should interact with each other, most of which pertains to those who have reached the age of puberty whereupon they are considered adults in Islamic law. After this age, a man and woman (who are not closely related) should not be alone together in private. They should also guard their nakedness; this is broadly determined by Islamic law for men as what is between the navel and knees, and for women, as their whole body (including hair) and excluding their hands, face and some jurists also exclude the feet.

Many Muslim foster carers and adopters worry about reconciling Islamic guidance on gender interaction when their adopted or fostered child reaches puberty and is considered an adult. Whilst observing appropriate decorum is considered to be a fundamental aspect of the Muslim faith, Islamic scholars involved in the production of this document have agreed that this should not act as a barrier to fostering or adoption with an approach taken on a case by case basis and in consultation with local scholars acquainted with this topic.

Furthermore, it is recognised that covering of the body is only one component of hijab, and in fact the greater observance of hijab is in terms of behaviour, interactions and intentions. The full document explains how 'safer caring' policies for foster carers ensure a high standard of observance of hijab (in terms of relationships) and that this can also be implemented comfortably with a child who is adopted.



— Marriage between children in care and others within the carers' home

It is impermissible in Islam for there to be sexual interactions outside marriage. The legal age for marriage in the UK is 18 (or 16 with parental consent); therefore, marriage (and any form of sexual relations) with any child in care is unlawful. Furthermore, it is illegal in the UK for an adoptive parent to be married to their adopted child.

From the Islamic perspective, where a process of milk-nursing (or physiological bonding) has occurred, the child is considered to be a member of the family in the same way as a birth child; therefore, marriage between close family members is not permitted.

In the case where milk-suckling has not occurred and there is an absence of any physiological link between the adopted child and the adoptive parents (see Section 5), it is technically within the boundaries of Islamic law, for an adopted child to marry their adoptive siblings. However, this may be considered socially inappropriate.

— Requirement of the guardian's consent for women to marry

There is a strong emphasis in Islamic tradition that women who wish to marry need the blessings and approval of their legal guardian (Walī), who is typically their birth father. However, for women who have grown up in foster care, or are adopted, scholars agree that it is sufficient for the woman to have the consent of an Imam or Islamic scholar to advocate on her behalf and represent her interests. The Imam or scholar can also delegate this authority to the adoptive parents.

— Distribution of inheritance

With regards to bequeathing adopted or fostered children in the parent's will, Islamic laws of inheritance do not include adopted or fostered children by default. Instead, according to Islamic law, adoptive parents may bequeath up to a third of their wealth to non-inheriting parties. In addition to this, adopters and foster carers may wish to gift the child during their lifetime, notably there is no limit to how much can be gifted to family or non-family members during one's lifetime.



5. Formation of parent-child relationships

— Wet-nursing adopted children

Children who are breastfed by anyone other than the biological mother (wet-nurse) or given breast milk by other means (e.g. a few drops can be added to food or formula milk) are conferred a special status, in Islam, as children of the wet-nurse. Wet-nurses have a similar legal relationship to adopted children as they have to birth children according to Islamic teachings. This only applies to children who are wet-nursed before the age of 2 (although a few scholars allow up to the age of 3 years). This proviso is often considered as a way to resolve the issues of hijab and privacy that arise between genders after puberty.

Some adoptive mothers have stimulated milk production via hormonal treatment; stimulating milk production through any way that causes harm to one's body is prohibited in Islam. Thus this should not be done unless one has consulted with an appropriate, qualified doctor. It should also be noted that wet-nursing is only an option for a limited number of adoption placements and it is not a suitable practice for fostering placements.



6. Cross-religious placements

— Looking after non-Muslim children

It is clear from the Islamic tradition that the merits of looking after vulnerable children is, in absolute terms, commendable regardless of the religious background of the child. Therefore, it is important that Muslim communities understand that, according to Islamic teachings, taking care of vulnerable children belonging to non-Muslim backgrounds is not only permissible, but in fact, is a praiseworthy endeavour.

Furthermore, it is important to note that one is not allowed, both legally or religiously, to force one's own religion on a child. As God states in the Qur'an:

“There is no compulsion in religion.” (Quran, 2:256)

Adoptive and foster parents are encouraged to teach the child about the religion and culture of the child's heritage; as it is expected that the same support is given to Muslim children placed in non-Muslim homes.

If an older child makes their own personal choice to embrace the religion of their adoptive or fostering parents, without being compelled by them, then their choice should be respected.

— Non-Muslim adopters and foster carers looking after Muslim children

Approximately 1,500 Muslim children live with non-Muslim foster carers every year (Jiva, 2015³). Muslim foster carers and adopters are preferred to care for Muslim children, as they would be best placed to meet the cultural, religious and identity needs of the children. Unfortunately, this is largely unavailable due to lack of registered Muslim foster carers or adopters.

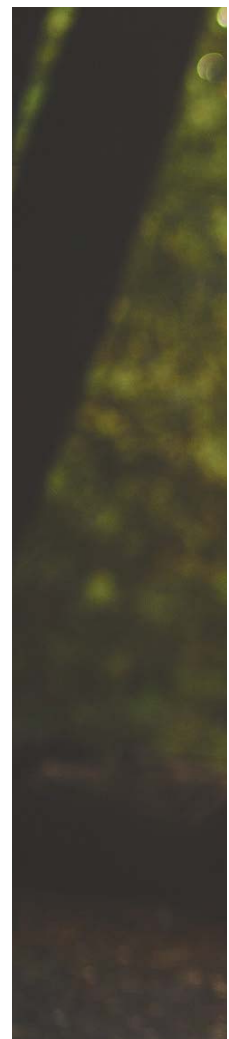
Social work practice and law expects non-Muslim carers to meet the religious and cultural needs of Muslim children in care; however, there is a severe shortage in religious literacy and cultural awareness training for non-Muslim carers. This shortage impedes the ability of non-Muslim carers to fully meet the needs of the Muslim children in their care. It is vital that the appropriate support is made available and easily accessible for these carers.

³Jiva, T. (2015) Unpublished Freedom of Information Returns. Wakefield: Penny Appeal.

Recommendations for Muslim communities and their leaders

The following recommendations are made for the consideration of Muslim scholars and community groups:

1. If you are able to, become adopters or foster carers, in the tradition of our Prophet Muhammad (peace and blessings be upon him), to act as role models to our communities.
2. Join the collaboration of scholars who will continue to work together to develop this guidance. Involvement may be via local working groups or remotely.
3. Hold regular Friday sermons on the topic of adoption and fostering.
4. Invite sector professionals and/or Islamic scholars who are involved in this work to your mosques and local community centres.
5. Direct local foster carers and adopters to local and national fostering, adoption and/or independent advisory services, including those set up by Penny Appeal.
6. Disseminate this guidance to your contacts and communities.
7. Form local working groups between Islamic leaders and the local authority, to discuss the needs of Muslim children who are currently or were previously in care.
8. Provide access to education and community support for Muslim children in care (or who have left care), in order to mitigate the risk of the child growing up feeling rejected, isolated and/or confused in their faith or cultural identity.
9. Support professional and experienced social care training providers (such as Penny Appeal), who educate children's sector professionals in how to work with Muslim children and families.
10. Ensure Muslim children in care, their adoptive or foster parents, and professionals who work with them, feel welcome and supported in your mosques and community centres, regardless of their gender, race, religion, culture or any other demographics.



Conclusion

There exists multiple misconceptions and perceived barriers for prospective Muslim adoptive and foster parents. Some of these barriers are related to stigma and cultural beliefs, whereas other barriers are misunderstandings about the teachings of the faith. The paper has comprehensively clarified commonly misunderstood topics regarding faith teachings and has made it clear that caring for orphans and vulnerable children in the Islamic tradition is a praiseworthy endeavour and, in some situations, a necessity. The guidance paper has provided viable solutions for prospective carers, Muslim communities and care providers.

Where there are questions remaining or topics which have not been addressed here, they will be explored in future working groups. The working groups will include sector professionals and Islamic scholars, who will continue to lead on the research, development and outcomes for this subject. The working groups will be facilitated by Penny Appeal and as such any enquiries or requests to join this work will be managed via Penny Appeal.



About Penny Appeal

Penny Appeal is a multi-award-winning international and domestic humanitarian charity founded and based in Wakefield, West Yorkshire. With over 200 staff across the UK and hundreds more across the world, Penny Appeal works in over 30 crisis-hit countries providing sustainable life-saving relief as well as working across the UK offering a range of welfare solutions for those most in need.

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