



Access to Birth Records for Adoption Pre-Commencement 2005

Policy and Procedure

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‘Communication is important, so information should be accessible to everyone. People with sensory communication disabilities may need documents in easy read, large print, audio or Braille formats for example. Others may need face to face communication support through a British Sign Language Interpreter, deafblind interpreter, lip speaker or note taker (as recommended by the NHS Accessible Information Standard). If someone speaks (or reads) a language that is not English, they will need to have the appropriate language-spoken language interpreter and / or text translator’.

Purpose

- 1.1 This policy addresses the procedures for adopted adults who wish to have access to birth records and information from their adoption records in adoptions that took place before 30th December 2005.
- 1.2 It also addresses the procedures for adopted adults and birth relatives who wish to find out about an adoption and may wish to trace and establish contact with their birth relatives through the provision of intermediary services (introduced by the Adoption and Children Act 2002) in adoptions that took place before 30 December 2005.
- 1.3 In all cases the applicant and the person with whom contact is sought must be aged 18 or over.

2 Underpinning Legislation and Guidance.

- 2.1 The following underpin this policy:
 - The Adoption and Children Act 2002 (s98 as amended)
 - Adoption Statutory Guidance
 - Adoption: Access to information and intermediary services
 - Adoption: National Minimum Standard
 - The Adopted Children and Adoption Contact Registers Regulations 2005 SI 2005 No.924
 - The Adoption Agencies Regulations 2005 SI 2005 No.389
 - The Adoption Information and Intermediary Services (Pre-commencement Adoptions) Regulations 2005 SI 2005 No.890
 - The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Wales) (Amendment) Regulations 2005 SI 2005 No. 3293 (W.253)
 - Equality Act 2010

3 Values

- 3.1 We recognise that adoption is a life-long process for all those involved, adopted adults and birth and adopted relatives. After receiving a service, adopted adults and their relatives may need to return in the future for further advice and support.
- 3.2 We aim to provide services to adopted adults which will enhance their understanding of the circumstances surrounding their adoption and support them in seeking contact with members of their birth family.
- 3.3 In providing a service to adopted adults and their relatives, we will consider the welfare of all parties involved and the implications of decisions and actions for everyone involved.
- 3.4 We will seek to work in partnership with all parties involved, taking account of their views and wishes in decision-making.



- 3.5 We will be mindful of data protection law and handle all sensitive and confidential information with care.
- 3.6 Together4Children complies with the requirements of the Equality Act 2010 and principles contained within the individual Local Authorities Equality and Diversity Policy within the Partnership.
- 3.7 We are mindful that adopted adults continue to have their adoptive identity safeguarded under the legislation and continue to be able to decline to be involved in contact or communication with birth family if this is their wish.
- 3.8 These services are managed and co-ordinated by Together4Children's Adoption and Permanency Support Teams.
- 3.9 Communication is important, so information should be accessible to everyone. People with sensory communication disabilities may need documents in Easy Read, large print, audio or Braille formats for example. Others may need face to face communication support through a; British Sign Language Interpreter, deafblind interpreter, lip speaker or notetaker (as recommended by the NHS Accessible Information Standard). If someone speaks (or reads) a language that is not English, they will need to have the appropriate language spoken language interpreter and / or text translator'. For more information please refer to the individual Locality Hub's 'Working with Interpreters and Translators' Policy

4 Policy Statement

- 4.1 The aim of this policy is to provide adopted adults who were adopted **pre 30th December 2005** with information that will enable them to access their birth records and to access information from their adoption records. For those adopted adults that go on to trace their birth relatives Together4Children will provide an intermediary service upon request.
- 4.2 An intermediary service is a service provided for the purposes of assisting adopted persons to obtain information about their adoption, and facilitating contact between such persons and their birth relatives
- 4.3 Together4Children does not provide a tracing service but does provide information about agencies that do. The cost of tracing is the responsibility of the adopted adult.
- 4.4 Together4Children provide a limited service for the adult birth relatives of adopted adults. We will check the archives to establish whether the records for the adopted adult are held with an individual Local Authority within the Partnership. If records are held, we will check to establish whether the adopted adult has accessed their records and whether they have indicated a view about contact. The adult birth relative will be invited to place a letter on the file of the adopted person should they wish.
- 4.6 We will provide birth relatives of adopted adults with written information and details of Adoption Support Agencies that offer an intermediary service. Service users will be

responsible for the cost of this service. An intermediary is the role played by an agency when a request is received from an adopted adult or their birth relative to approach the other party.

4.7 Proof of identity will be required prior to any work commencing. All persons are required to provide photographic identification, proof of age and address e.g. passport and driving licence. A person transitioning from one gender to another is likely to have or be in the process of obtaining photographic identification as mentioned. If they haven't yet obtained it the following can be accepted:

- Statutory Declaration of name and Gender change
- Other documents such as Council tax bill, bank statements etc. that suggest that a change of gender has occurred through common usage

4.8 Within this policy reference to the **appropriate adoption agency** means the agency which placed the child for adoption, which holds the relevant information concerning that adoption, and which received the notice of intention to adopt. This may be the agency where the adopted adult currently resides or an outside agency.

4.9 Within this policy reference to **identifying information** means information from the agency's case records that is not otherwise in the public domain, which taken alone, or combined with other information held by the applicant, enables the subject to be identified or traced.

5 Procedures

5.1 Adopted adults who live within the Partnership's region are able to access their information through Together4Children. Once the request is received, either directly or via the General Register Office, the adopted adult will receive written acknowledgement and information from the Adoption Support Team as to the process and current waiting time for an initial consultation **within 10 working days**.

5.2 Those adopted adults who live outside of Partnership's region but whose records are held by an individual Local Authority within the Partnership will be advised to contact their own local authority, Regional Adoption Agency, or a registered adoption service that provides these services. The adopted person can choose to travel to the individual local authority within the Partnership to receive their information if they prefer but, in these circumstances, Together4Children will not be able to provide them with an intermediary service should they go on to trace birth family members.

5.3 Where Together4Children are not able to provide a service to the adopted adult, information and contact details will be provided for agencies that may be able to assist.

5.4 When a request for access to birth records and or adoption records is received Together4Children will consider the following factors and may give consideration to prioritising the request:



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- If the person was adopted before 12th November 1975.
- If the person has health concerns and wishes to try and contact a birth relative in order to find out or share information.
- If the person has already traced a birth relative or been contacted on behalf of a birth relative.
- If age is a factor for the adopted person or their relative.
- If the person has only just found out that they are adopted.
- Any other identified specific individual needs of the adopted person.

5.5 Whether providing an Intermediary Service itself, or through another Intermediary Agency, Together4Children require the following tasks to be undertaken by an Adoption Social Worker (supported, where appropriate and under supervision, by an Adoption Support Practitioner).

- Preparatory work with the applicant, checking identification, establishing what information they already hold, whether they have taken any steps to trace the subject and/or what expectations they have in relation to:
 - Obtaining information from such sources as the Courts, and/or Registrar General.
 - Tracing and contacting individuals using that information.
 - Acting as an intermediary to facilitate contact between the applicant and the subject.
 - Provision of support and advice and signposting to appropriate counselling

5.6 The Locality hub providing services within the area in which the adopted adult lives, will be responsible for obtaining and sharing records with the adopted adult.

5.7 Together4Children will co-operate with other registered adoption and adoption support agencies where appropriate, particularly in relation to provision of intermediary services.

5.8 Together4Children notes that any other organisation acting as an Intermediary Agency must obtain and have regard to the views of the 'appropriate adoption agency'.

5.9 The appropriate adoption agency will exercise discretion in deciding what information can be shared. In some circumstances, such as when potentially safeguarding issues are identified, the Agency may decide to undertake a risk assessment before sharing information.

5.9 Identifying information in reference to any birth family member will not be shared with the applicant unless the person gives their consent.

5.10 This stipulation does not apply to identifying information which the applicant may already hold, or to information obtainable from public records.

5.11 The Together4Children Adoption Social Worker may share identifying information where it is established that the subject has died or is incapable of giving informed consent. In



such circumstances the Adoption Social Worker will have regard to the following:

- The matters referred to above.
- The views of the deceased person's next of kin and any other family members it considers appropriate to approach.
- The views of relatives, by marriage, civil partnership or blood, of a person incapable of giving informed consent, and those of any authority appointed to act for the person.

- 5.13 When otherwise seeking the consent of the subject, the Adoption Social Worker will take all necessary steps (through the provision of information, counselling and advice) to ensure that the person is enabled to make an informed decision.
- 5.14 An adopted adult who expresses a wish for no contact with all or some birth relatives will be advised to record their wishes, formally, on the Adoption Contact Register maintained by the Registrar General.
- 5.15 An adopted adult will also be advised that they can register their wishes in writing with the appropriate adoption agency.
- 5.16 Together4Children notes that the adopted adult has a 'right of veto' concerning not only contact from a birth relative but also from an Intermediary Agency acting on a relative's behalf.
- 5.17 The veto can be qualified so that it refers only to certain relatives or certain circumstances. An **absolute veto** prevents **any** approach. A **qualified veto** allows an Intermediary Agency to approach the adopted adult on behalf of specific birth relatives, or in specified circumstances
- 5.18 The appropriate adoption agency will keep a record of absolute and qualified vetoes held (recorded on the relevant Case Management System).
- 5.19 The appropriate adoption agency will seek to satisfy itself that:
- The person wishing to register any veto is in truth, the adopted adult.
 - The veto is an 'informed veto', with the adopted adult fully aware of all the implications, especially in respect of an 'absolute veto'.
 - The adopted adult understands their right to amend or withdraw the veto at any time and the process for this.
 - Any need for counselling on this matter has been considered
- 5.20 The appropriate adoption agency will place a written record of the veto on the adoption file.

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- 5.21 Together4Children notes that there is no 'veto' facility available to a birth relative, but that such a person can record a wish for 'no contact' on the Adoption Contact Register maintained by the Registrar General.
- 5.22 Together4Children notes that, while an Intermediary Agency is precluded from progressing a birth relative's application, if reference to the Agency's case file reveals the adopted adult's absolute veto, the Agency itself may still approach the adopted adult if it considers the circumstances sufficiently exceptional.
- 5.23 Together4Children further notes the possibility of Court action by a birth relative in exceptional cases concerning the disclosure of identifying information held by the Registrar General.
- 5.24 Where Together4Children is approached to provide an Intermediary Service by a birth relative who has independently established the identity and/or location of the adopted adult (for whom the Agency holds a case file and on which is recorded a veto), we will approach the adopted adult.
- 5.25 The general advice is that this would be preferable to leaving the adopted adult open to a direct approach from the birth relative.
- 5.26 Where Together4Children are unable to obtain the subject's consent to disclosure of identifying information, it may exercise its discretion to provide non-identifying information to the applicant.
- 5.27 Together4Children will supply written information about the availability and value of counselling for the process of tracing, information exchange and possible reunion, to both the applicant and the subject. This will include information about agencies offering such a service and any costs involved.
- 5.28 Together4Children recognises that in some cases of complex need, applicants and/or subjects may be referred for an assessment for adoption support services.
- 5.29 Where Together4Children engage an external Adoption Support Agency (ASA) for services, we will confirm that it is registered to provide counselling services and that the staff have the necessary skills and experience.
- 5.30 The same verification process will apply to any arrangement made with an overseas counselling provider.
- 5.31 Together4Children notes the regulatory guidance concerning arrangements with agencies based in Scotland and in Northern Ireland.
- 5.32 Where a Locality Hub (acting as an Intermediary Agency) receives an application for assistance in making contact between an adopted adult and a birth relative, and where the Locality Hub is in the local authority that is the appropriate adoption agency, the Adoption Social Worker will take the following steps:



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- As far as is practicable, verify the identity of the applicant.
- Confirm the applicant's age.
- Satisfy itself that any person acting on behalf of the applicant has the authority to do so.
- Where the applicant presents as a birth relative, that the person is related to the adopted adult.

The Locality Hub will provide an Intermediary Service for an Adopted Adult in relation contacting birth family members when a request has been made to do so. This is if the adopted adult lives with the locality hub area. The Intermediary service will not extend to tracing birth family members. If applicants are not able to do the tracing themselves then they will likely need to pay for a tracing service.

The Locality Hub will provide birth relatives with similar information regarding agencies that can help them with tracing. An Intermediary Service to birth relatives is not provided in normal circumstances. Birth relatives would have to go to a registered agency for which there is usually a cost implication, however if they have been able to find the adopted person contact with the adopted person can be made on their behalf.

- 5.33 The Locality Hub social worker will ensure that verification of identity is undertaken before any information is shared.
- 5.34 The Locality Hub Adoption Social Worker will check the adoption case file case file for any veto which may have been recorded, or any other indication of the subject's wishes, which may assist in forming a view on the application, prior to beginning the counselling and tracing process.
- 5.35 Where Together4Children are responding to an approach from a registered Intermediary Agency, it will make the checks on its records as above, in order to pass on the relevant information to the Intermediary Agency.
- 5.36 The Adoption Social Worker may also check with the Registrar General for information which may be held on the Adoption Contact Register.
- 5.37 Together4Children notes the legislative requirement for the Registrar General to comply with a written request for information and that a fee will be charged for this service.
- 5.38 Together4Children, or any other authorised Intermediary Agency, may apply to the Court who made the Adoption Order, for any relevant information which it holds. The Court may apply a charge for any service it provides.
- 5.39 When acting as an Intermediary Agency, Together4Children may disclose information (including identifying information) either:
- Concerning the applicant and the subject when applying to the Registrar General or to a court for information.

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- To the subject to assist in the formulation of his/her informed decision concerning consent to the disclosure of identifying information.
- To any agency engaged for the purpose of providing counselling

5.40 Together4Children notes the requirement to comply with the provisions in respect of safeguarding, identifying information and non-disclosure of the same without consent.