



Access to Information in Post-Commencement Adoptions (Adoptions where the Order is made after 30 December 2005)

Policy and Procedure

‘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’.

1. Purpose



- 1.1 This policy provides guidance in relation to those searching for information in relation to their adoption which took place **after 30 December 2005**.
- 1.2 This policy also gives direction on the suitability of the disclosure of information, which includes protected information.

2. Legislation and Guidance

- 2.1
 - The Adoption and Children Act 2002, Sections 56-55 & S79
 - Adoption Agencies Regulations 2005 (as amended) [AAR]
 - Disclosure of Adoption Information (Post Commencement Adoptions) Regulations 2005 [AIR]
 - DCSF Statutory Guidance on Adoption July 2013, Chapter 11
 - National Minimum Standards (2014)
 - Adoption: Access to Information and Intermediary Services Practice Guidance.
 - Equality Act (2010)
 - General Data Protection Regulation (GDPR) as it applies in the UK, tailored by the Data Protection Act (2018).
- 2.2 The rights of adopted adults under S51 of the 1976 Adoption Act ceased with the implementation of the Adoption and Children Act 2002 on 30 December 2005.

3. Values

- 3.1 Together4Children recognises 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 Together4Children will 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, Together4Children will consider the welfare of all parties involved and the implications of decisions and actions for everyone involved.
- 3.4 Together4Children will seek to work in partnership with all parties involved, taking account of their views and wishes in decision-making.
- 3.5 Together4Children will be mindful of data protection legislation.
- 3.6 Together4Children complies with the requirements of the Equality Act 2010.
- 3.7 Together4Children 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 will be managed and co-ordinated by the Together4Children's Adoption Support Teams.

4. Policy Statement

- 4.1 The policy sets out the service provided by Together4Children Adoption Services for adults who were adopted after **30 December 2005** to enable them to access their birth records and to access information from their adoption records.
- 4.2 For those adopted adults that go on to trace their birth relatives an intermediary service will be provided if requested by the adopted person.
- 4.3 The provision of these services fall within the remit of the Together4Children Partnership's Adoption Support Teams.
- 4.4 Together4Children do not provide a tracing service. Adopted adults who need support to trace their birth relative will be signposted to specialist agencies that do provide this service. The cost of using a tracing service will need to be met by the adopted adult.
- 4.5 Together4Children provide a limited service for the adult birth relatives of adopted adults. The service will check the archives to establish whether the records for the adopted adult are held with Local Authorities within the Together4Children Partnership. Where records are held the service 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 The service 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 any third-party services.
- 4.7 An adopted adult may still apply for the information needed to obtain a copy of his/her original birth certificate, but those adopted **on or after 30 December 2005**, should apply to the 'appropriate adoption agency' (AAA) and not to the Registrar General. However, where an adopted person does not know which agency to approach, s/he may obtain the name of the agency from the [Registrar General](#).
- 4.8 The AAA is normally the agency which placed the person for adoption, or which keeps the information relating to the adoption, or to which notice of intention to adopt was given.

5. General Policy & Procedures

- 5.1 As Local Authorities placing children for adoption, Together4Children Partners note their duties to keep certain information in relation to a person's adoption.
- 5.2 Where a Local Authority within the Together4Children Partnership is approached as the 'appropriate agency' but does not hold the necessary information, they should apply in writing, to the [Registrar General](#) for this information.

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- 5.3 It is the Registrar General's obligation to provide the information requested and the Agency should then pass this on to the adopted adult.
- 5.4 In these circumstances Together4children Adoption Social Worker's will strongly recommend providing this information to adopted adults via supportive counselling sessions, especially where some of the information may be distressing.
- 5.5 An adopted adult has the right to receive information which was shared with his/her adopters during the adoption process, for example, the contents of the Child Permanence Report.
- 5.6 An adopted adult also has the right to receive certain documents from the Court which made the Adoption Order e.g. the application form, the Order itself and reports made for the Court by other agencies.
- 5.7 Adopted adults do not have an absolute right to obtain all information (their Birth Certificate, for example). Where the agency makes a risk-based judgement that information should be withheld, the Agency must apply to the High Court to obtain an order denying access. The circumstances, however, must be exceptional.
- 5.8 Certain provisions apply concerning 'protected information' i.e. identifying information, which is taken alone or with other information, enabling a person to be identified. Identifying information can be wide ranging and includes information about birth parents, siblings, aunts, uncles and grandparents, adoptive parents. Also, former carers, and professionals involved in assessments and social workers.
- 5.9 Together4Children services will comply with the requirements set out in the Regulations concerning information to be held on an adopted person's case record which includes information:
- About, and provided by the birth family.
 - About the adopted person.
 - About, and provided by the adopters.
 - About staff or carers involved in the adoption.
 - About any entry on the Adoption Contact Register, or other information supplied by the General Registrar.
- 5.10 The case record will include some background information, (not regarded as 'protected' because it is non-identifying), which it would be able to share. Background information includes:
- The child's birth history and medical history
 - The child's educational needs and progress
 - Details of hobbies and interests
 - other contextual information.
- Any such disclosure, and details of the information shared, should be recorded.

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- 5.11 The Agency may exercise its discretion over the retention of information or items supplied, which it considers either to be unsuitable for the adopted person, or impractical to keep. This may, for example, include information submitted for Post-box which is deemed unsuitable to forward on.
- 5.12 All non-electronically stored information relating to the adoption case record (or other items relating to the adoption held separately) will be stored securely in lockable cabinets, and/or secure rooms, protected from fire flood damage, and theft. Handwritten items from birth relatives will be retained in this way.
- 5.13 Electronic information and records will be held securely in line with existing Local Authority information governance procedures relating to social work records.
- 5.14 Local Authorities within the Together4children Partnership will have systems in place to record access to records and materials, and disclosure of information.
- 5.15 Ideally information will be provided to adopted adults via face to face meetings. In certain circumstances, however, information may be sent via secure email to the adopted adult once their identity has been checked and a face to face meeting has taken place to share initial information.
- 5.16 It may be more secure to share electronic information via secure email so that the recipient receives it in a way which is easier to retain safely.

6. Procedures to Access Information

- 6.1 Any person involved in an adoption may apply in writing, with reasons, for the disclosure of protected information about an adult or about a child. The Adoption Social Worker's first response will be to verify:
- The identity of the applicant or any person acting on their behalf.
 - That any person so acting is entitled to do so.
- 6.2 Where the disclosure application relates to an adult, the Agency need only proceed if it considers it appropriate to do so. In reaching its decision the Agency will have regard to:
- The welfare of the adopted person.
 - The views of the person the information is about.
 - Any other relevant matters/circumstances, including any existing agreements or any information obtained from the General Registrar concerning an entry in the Adoption Contact Register.

Any views obtained must be recorded on the case management system.

- 6.3 In the absence of any prior agreement, the Agency may engage with an Adoption Support Agency (ASA) to trace and seek the views of the subject, having established that such an organisation is registered for the task and that its staff are suitably skilled.

- 6.4 Full details will be recorded of any information shared with the ASA to enable that agency to carry out the task commissioned.
- 6.5 The Agency is not bound by the views of the person to whom the information relates. Accordingly, it could withhold information if it considered this course of action to be in the adopted person's best interest, even where the subject had agreed to disclosure. The Agency retains the responsibility to make the decision about disclosure even where an ASA has been involved. Where a decision is made not to disclose information, this should be recorded as a Key decision on the case management system.
- 6.5 Where any decision not to proceed with an application for disclosure of information concerning an adult is made; or where the Agency decides to withhold or disclose information concerning an adult contrary to the wishes of the subject, this is a 'qualifying determination' under the Regulations and can be challenged by an application to an Independent Review Panel.
- 6.6 Where an Independent Review Panel has made a recommendation, the Agency decision-maker (for the Local Authority that placed the child) must take this into account when making a final decision about the response to the initial application to access information.
- 6.7 Where the request for disclosure of protected information concerns a child, the Agency will only proceed if it considers it appropriate to do so. If it does intend to proceed, the Adoption Social Worker will seek firstly to obtain the views of:
- Any parents or guardians of the child (adoptive parents where the child is adopted).
 - The child, subject to their age and understanding.
- 6.8 Where the child is an adopted child, their welfare will be the service's paramount consideration. For any other child, the Agency must have regard to their welfare. The service will also consider all the circumstances of the case, including any existing agreements.
- 6.9 There is no right by the service to request an Independent Review in respect of applications for the disclosure of protected information concerning a child.

7 Disclosure of Information to Third Parties and other Agencies

- 7.1 Together4Children Local Authority Partners are required to release information in the following circumstances:
- For inquiries under S17 of the Adoption and Children Act 2002 or S 81 of the Children Act 1989.
 - To the Secretary of State.
 - To Ofsted in relation to an Inspection.

- Where the Local Government Ombudsman is investigating a complaint against the Agency. (Local Govt Act 1974)
- To an Independent Person appointed by the Agency to investigate a complaint in relation to the adoption service.
- To an Independent Review Panel set up to consider a Qualifying Determination issued by the Agency in respect of disclosure of information.
- To a Court, in the course, for instance, of a judicial review.

7.2 Together4Children Local Authority Partners will seek to enter into formal written agreements with relevant persons to obtain prior permission for the disclosure of protected or identifying information. Counselling will be offered to any person concerned and the over-riding factor for consideration will be that any such agreement is in the best interests of the child who has been or is to be adopted.

7.3 Together4Children Local Authority Partners should be prepared to review any such agreement where a significant change of circumstances occurs or at the request of any of the parties involved, and at intervals of **three years**.

7.4 Together4Children services will provide written information about the availability and costs of counselling, and decide to provide counselling, either directly or through commissioning an external agency for any person who:

- Is seeking the disclosure of information
- May be the subject of a disclosure application.
- May be considering entering into an agreement.

7.5 Information (including Protected Information) may need to be disclosed to any external organisation acting on the Together4Children's behalf and a written record will be kept of the information disclosed, when, to whom and any conditions imposed.

7.6 Together4Children service may exercise discretion to make a charge to cover costs involved in processing an application for the disclosure of information. **No charges** will be made to an adopted person for the disclosure of information concerning a birth relative.

7.7 Any fees or charges to be applied will be made clear before applications are processed and set out in the together4Children's service literature.

7.8 All Together4Children staff concerned with this area of work will be made aware that the unauthorised disclosure of information is a contravention of the Adoption and Children Act and would leave the Agency open to being found in breach of its duties.

8 Miscellaneous

8.1 Together4Children Partner Local Authorities will maintain the adoption case record for **at least 100 years** from the date of the Adoption Order. Any records to be disposed of after

that time will be treated as confidential waste and disposed of in line with the authority's processes.

- 8.2 A Voluntary Adoption Agency which is ceasing to operate and who previously worked mainly within a Together4Children Partner Local Authority's boundary, or had its Head Office in the area, should notify Together4Children and the relevant Local Authority of the proposed location of its records. This will enable agencies to signpost any future inquirers seeking access to the Voluntary Adoption Agency's records.
- 8.3 Together4Children Partner Local Authorities may agree to a request from a closing Voluntary Adoption Agency to hold the records of that agency itself and should this be the case, the Agencies should inform Ofsted in writing of that transfer.
- 8.4 Local Authorities within the Together4Children Partnership have the discretion to co-operate with research which requires the disclosure of protected and background information. In agreeing to participate in research of this type Local Authorities must ensure that sufficient safeguards are in place, all local governance arrangements are followed, and authorisation is obtained from the Secretary of State.

