

# Practice Guidance regarding changing names of children being adopted



## Introduction

This practice guidance details the legal context, value base and practice considerations in relation to name changes for children placed for adoption through Adopt Thames Valley.

The guidance sets out the position of Adopt Thames Valley in relation to the value and importance of children's names, and the exceptional circumstances where it may be appropriate for a change of name to be considered.

The practice guidance is for Adopt Thames Valley social workers, local authority children's social workers, independent reviewing officers, adoption panel members and legal services.

## Underpinning Legislation and Guidance:

This policy document is underpinned by the following legislation and statutory guidance:

- Section 28 Adoption and Children Act 2002
- Article 7 United Nations Conventions on the Rights of the Child

## Key Principles:

Every child has the right to a/their name as enshrined within the **United Nations Conventions on the Rights of the Child**: *"The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents."* **(Article 7)**

**Section 28 Adoption and Children Act 2002** states that **(2)** Where a child is placed for adoption under section 19 or an adoption agency is authorised to place a child for adoption under that section, or a placement order is in force in respect of a child, then (whether or not the child is in England and Wales) a person may not, unless the court gives leave or each parent or guardian of the child gives written consent cause the child to be known by a new surname.

Adopt Thames Valley is clear in its position that a child's name is an absolutely core component of their identity. Birth parents have a right and a duty to give their child a name. In almost all cases, they will have put a great deal of thought into naming their child and, regardless of the circumstances surrounding the child's entry into care, this name will have value to the child and future adopted adult.

It is of importance that the social worker checks the child's name against their birth certificate to ensure accuracy of the full name and spelling and for this to be checked at

distinct stages, for example during case transfer between teams to avoid errors and mistakes. If the child's birth parents are not willing to name a child where that child is the subject of care proceedings, it is the local authority's responsibility to do so. Adopt Thames Valley can provide professional advice in situations where the birth parents have declined to name their child. Adopt Thames Valley supports this position from both a legal and best practice perspective.

## 1. What the law says

The surname of the child is normally changed to that of the adopters on the making of the adoption order. The adoption application provides for the new names to be identified. As an exercise of parental responsibility, the adoptive parents can choose not to change the name.

**In Re D, L and LA (Care: Change of Forename) (2003) 1 FLR 339:** the president of the family division said that although adopters have the theoretical power to change the first names of a child on the making of an adoption order, they should not do so before the order without the agreement of the persons having parental responsibility or by order of the court.

**In the Court of Appeal in Re D, L and LA (change of forename) 2003, Butler-Sloss** states: *“To change a child's name is to take a significant step in a child's life. Forename or surname, it seems to me, the principles are the same, in general. A child has roots. A child has names given to him or her by parents. The child has a right to those names and retains that right, as indeed the parents have rights to retention of the name of the child which they choose. These rights should not be set to one side, other than for good reasons.”*

**In the Court of appeal, Re C (children) 2016, Lady Justice King** stated: *“If a baby cannot be brought up by his or her parents, often the forename given to him or her by their mother is the only lasting gift they have from her. It may be the first, and only, act of parental responsibility by his or her mother. It is likely, therefore, to be of infinite value to that child as part of his or her identity. That remains the case, even if the name used in his or her new family and thereafter throughout their lives, is different from that given to him or her by their birth mother”.*

Adoption agencies placing children for adoption have been advised to consider carefully with adopters any desire they may have to change first names. This is a clear discouragement to adopters to change first names.

As pointed out in the judgement of **Lady Justice King in the Court of appeal, Re C (children) 2016**, the Local Authority shares parental responsibility with birth parents before an adoption order is made and can limit parental responsibility (including the right to name the child) but only *“if it is necessary to do so in order to safeguard or promote a child's welfare.”* (Children Act 1989)

**In no circumstances should the child's surname(s) be changed prior to the granting of the adoption order.** The child's surname(s) will usually be changed to that of the adopters' surname(s) when this name is entered onto the adoption certificate.

## 2. Circumstances where a change of name might be considered:

There will always be exceptions and in those circumstances careful consideration should be given to the issues by the professionals involved. Exceptional reasons for the agency to consider a name change could include:

- the child might have been given wholly unsuitable names because of their meaning or pronunciation
- If there is a known, identified and significant risk to the child which cannot be ameliorated by the child being placed outside the local geographical area
- If there is a known, identified and significant risk to the child and it is not appropriate to place outside the geographical area e.g. the child is being placed with a sibling already in an adopted placement
- The name is more identifiable due to its non-traditional spelling, which would increase a known risk and/or threat to the child. In these instances, the name may be changed to the correct spelling
- The identified prospective adopter has a child already at home with the same name and they are the only prospective adopters who are considered suitable to adopt the child. The reasons for this must be identified and recorded in the matching criteria
- With an older child, the names might be rejected because of the associations with treatment in the birth family e.g. the child's name is the same as a parent/adult who may have abused the child. The child's views should be sought and recorded where such a risk is identified
- Evidence that the birth family have used social media inappropriately and have tried to trace the child and present a risk/threat to the child

### **3. Relinquished babies:**

- In circumstances where a child has been relinquished, a name change will not be agreed unless any of those reasons outlined above in '*Circumstances where a change of name may be considered*' apply.
- In circumstances where a child has been relinquished or abandoned and has not been named, it will be the responsibility of the child's social worker with their manager to name the child. Consideration should be given to a name that is linked with birth family, if known.

### **4. Early Permanence through fostering for adoption:**

Early Permanence carers who care for children under a fostering for adoption arrangement must not change a child's name under any circumstances – this is a fostering placement and the birth parents share parental responsibility with the local authority.

### **5. Key Factors for Consideration:**

Children aged as young as 6 months can be aware of their name and it will be a core component of their identity at an early stage. To introduce a new name at a time when they will be moving to new surroundings and new carers would create significant confusion for them. Children younger than two will typically respond to their name and understand the name of others, including any siblings.

The impact of changing a child's name is significant and will have a bearing on the child's life story book, especially if this is already completed. It will also impact on the later life letter and have an ongoing impact on any indirect contact with the child's birth family. It could also impact on the child's identity and self-worth. When the child later discovers their name was changed, they may consider their new name unsuitable and not right for them, nor understanding the reasons why.

The movement of names should not be encouraged, including moving a forename to a middle name, making the new forename the primary name and the child's original name becoming unused or unfavoured. This may be seen as a rejection of the original first name and remains, in practice, a significant change of name.

Prospective adopters have every right and are encouraged to change the family name which reflects their own following the making of an adoption order. Once the child is placed with prospective adopters, pre-adoption order, permission can be sought for the child to be 'known as' the adoptive family name in settings such as school. However, this should not become the gateway to changing the child's forename too.

#### **6. Process for agreeing name change in exceptional circumstances:**

- Where a change of name is under consideration a thorough discussion should take place with the child's social worker at permanency planning meetings/reviews and, if the name appears to present a risk to the child's placement being identified, and there is a threat to the child or their adoptive family, a risk assessment identifying the nature of the threat and any protective factors should be recorded (see appendix). This should include factors such as the uniqueness of the name, any evidence to suggest that birth family will seek out the child, any evidence to suggest that there is a threat of disruption or aggression and any actions that the adoptive family can take to safeguard the child's confidentiality, without changing the child's forename.
- Depending on the child's age, their views and wishes should always be considered
- A decision to change the child's name should be recorded on the child's file as a significant event to evidence the reasons why the local authority made such a decision, to ensure the child may see this if they choose to look at their birth records. Where possible, the decision to agree to a name change should be made prior to the child being matched and before prospective adopters for that child are identified.

The team manager for the local authority should confirm the final recommendation in writing so this can be added to the child's matching criteria. For transparency, if a name change is necessary, the Head of Service must approve the decision and they may consult with the Agency Decision Maker in doing so. Evidence of the final authorising decision, specifically the signed decision-making template, should be submitted to panel at the point the child is presented for linking (see appendix template)

- Adopters should be asked about their views on the child's name and should be made aware of the decision by the local authority from the outset, at the initial family finding visit and any subsequent visits

- Any differences of opinion between adopters and social workers should be recorded on the child's file
- Adopters should take advice from the social workers regarding a new name, the recommendation is that the new name has a similar sound to the child's birth name
- Matching paperwork should contain the child's birth name, as well as any other formal documents, and the child should be referred to in their birth name in the all local authority care records for the child
- Welcome Books should be made in child's birth name
- Electronic versions would allow for a child's name to be changed so that children could have two versions of a Welcome Book (this would require careful thought in advance of introductions for the child)
- If it is agreed that the child's first name should not be changed, adopters are able to add a second or middle name of their choosing at the point they complete the adoption order application
- Panel will take a scrutinising role in relation to the process of name changes for children being linked for adoption and those being presented for a 'Should be Placed for Adoption' recommendation (where the child has been relinquished)

## **7. Practice considerations**

The adoption preparation groups attended by all prospective adopters should address the legal issues and Adopt Thames Valley practice guidance on maintaining the child's name(s). The reasons for, and the importance of retaining the child's name(s), should also be explored with prospective adopters in the home study assessment.

The local authority social worker for the child should clearly specify in the matching considerations the importance of maintaining the child's name(s). This should be discussed with prospective adopters and it should be recorded that they understand the legal requirements. Before the adoption order the child must be registered with agencies such as the GP and school in their birth name.

In relation to school and health, the child "can be known as" the new surname when appropriate i.e. for a child starting a new school it is acknowledged that they might not wish to change their surname at a later date following the making of an adoption order, although their surname will formally remain as that recorded on their birth certificate until an adoption order is granted.

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