

## **Adopt South West Guidance on Children Relinquished for Adoption**

**A key principle of the Children Act 1989 is that all children are best looked after within their families**

This is operational guidance in relation to the presentation of plans for relinquished children at panel.

This guidance should be read in conjunction with individual Local Authority policies on placing relinquished children for adoption.

**This guidance also makes use of and reference to:**

- Children Act 1989
- Adoption & Children Act 2002
- Adoption Agency Regulations 2005 (AAR)
- Statutory Guidance on Adoption 2013 and 2014
- Cafcass guidance
- National Minimum Standards (NMS)

### **Principles**

All plans for children relinquished for adoption in England must be presented to the Local Authority's adoption panel so that consideration can be given to a recommendation for adoption, (AAR 18 and Statutory Guidance 2013 para 2.69)

Devon County Council, Plymouth City Council, Torbay Council and Somerset County Council children will all be considered at Adopt Southwest adoption panels.

It is the expectation that children's plans will be presented to panel within 6 weeks of the statutory review where adoption is identified as the permanence plan (NMS 17.6)

Formal consent for a child to be adopted needs to be signed by any parent that has Parental Responsibility (always the mother and sometimes the father), and this consent needs to be witnessed by a CAFCASS officer.

CAFCASS should ordinarily witness consent after a recommendation of a care plan of adoption from the adoption panel and ratification of the decision by the Agency Decision Maker, however, consent may be secured prior to the panel if this is deemed appropriate by the responsible Local Authority.

The law does allow for parents to provide informal consent to placement for adoption prior to panel if the parent wishes to and if this would avoid delay for the child. This should only be considered in exceptional circumstances. Where early permanence is deemed in the best interests of the child, it is preferable for the child to be placed in a Fostering for Adoption (FFA) placement, which does not require early/informal consent to placement for adoption.

Each Local Authority will have their own procedures in respect of relinquished babies, this guidance is to support and assist in understanding the roles and responsibilities of the agencies.

The following process map sets out the usual expected process. If there is a good reason to complete the process in a different order, this should be clearly recorded in the child's paperwork.

### Local Authority Social Worker

During this time:

#### Pre-birth

Work with parent(s)– counselling and support. The LA SW details what Child Looked After means and how this can be achieved and also the parent(s) rights to withdraw consent to relinquishment.

Consult with legal in relation to contacting father without PR or unknown father

Consider seeking legal advice (see additional guidance)

Share written information about the legal consequences of giving section 19 and 20 consent (A&CA) with the parent(s) and/or guardian(s) with PR.

[https://www.proceduresonline.com/adoptsouthwest/p\\_place\\_adop.html?zoom\\_highlight=relinquished](https://www.proceduresonline.com/adoptsouthwest/p_place_adop.html?zoom_highlight=relinquished)

Make CAFCASS referral

Gather information on parents and extended family members including photographs and anything handwritten/ mementos.

Formulate and write care plan

Formulate and write CPR, obtain photographs of parent(s) and family.

Arrange child’s adoption medical

Obtain birth certificate

Commence life-story work

Refer for Family Finding

Explore extended family as carers

### Process Map

Mother and/or father expresses wish to relinquish child.

#### Pre-Birth

Joint counselling visit by LA and ASW. If their decision remains to relinquish then additional information shared. **see responsibility table.** Seeking legal advice on contacting father

Child accommodated under S20 CA1989 and placed with foster carers/ fostering for adoption

Looked after review where plan of adoption recommended

Adoption panel within 6 weeks of statutory review

Agency decision regarding child’s plan.

CAFCASS to witness consent/s once child over 6 weeks old.

Adoption panel for match

Agency decision Placement regarding match. Converted to Section 20 placement.

Placement with prospective adopters if not already placed in FFA placement

### Adopt South West

During this time:

#### Pre-birth

Allocated to a Family Finding social worker- who will...At first contact/visit share detail of what relinquishment means, specifically relating to ability to change their minds and the timescales.

[https://www.proceduresonline.com/adoptsouthwest/p\\_place\\_adop.html?zoom\\_highlight=relinquished](https://www.proceduresonline.com/adoptsouthwest/p_place_adop.html?zoom_highlight=relinquished)

Allocation for an Adoption worker to work with parent(s) offering counselling and support.

Family Finding for early permanence placement.

### **Recommendations for best practice in notifying family members.**

The following checklist forms part of the judgement in **A, B and C (Adoption: Notification of Fathers and Relatives) [2020] EWCA Civ 41**. Workers may find this useful to ensure they have given due consideration to decision whether or not to notify other family members about the plan for the child. The judgement states that the Local Authority should:

- Check its files for background information and for contact with other agencies such as health and the police.
- Arrange for the social worker and (ideally) an adoption worker to visit the mother, or mother and father, on at least one occasion to discuss their decision to place the child for adoption. They should discuss the reasons for not wanting to notify the father or wider family, and gather information about the mother, father and wider family and cultural issues. They should discuss the implications of adoption, outline the legal process for adoption, discuss the other possible care options, give information on adoption counselling, and explore the support that the mother, or mother and father, may require.
- Give no assurance that the father and wider family will not be notified.
- Give written information about the adoption process and counselling services.
- Check its records about the father where identified.
- Inform the placement/ ASW Family Finding team immediately about finding a suitable placement, which should preferably be with early permanence carers.
- Inform CAFCASS to enable them to allocate a worker to discuss the matter with the mother, or mother and father, and, where appropriate, take their consent for adoption.
- Consider the mother's explanation and statement where she claims the father's identity is unknown and see whether there may be a reasonable way to establish the father's identity.
- Seek legal advice where the mother opposes notification of the father, the mother is unwilling to identify the father, there is doubt that the mother does not know the father's identity, and the mother opposes notification of the wider family. Legal advice should be given with urgency on whether an application should be issued.
- Where there is a decision not to make an application, provide CAFCASS with the LA's detailed reasons.
- Provide the mother, or mother and father, with advice about obtaining independent legal advice. The LA should consider funding such advice.
- Where an application is to be made, the social worker should prepare a detailed statement outlining the information gathered and the LA's position.

### **Registration of birth and naming the child.**

- Registration of birth: to be completed by birth mother/father.
- If they refuse/ are unable to do this, this cannot be completed by the Local Authority Social Worker and legal advice should be sought.
- Birth parents sometimes offer the opportunity to name the child to the foster for adoption carers, often viewing it as a 'gift'.

- However, this is not a child centred approach. Birth parents need to give this 'gift' to their child. Our experience of adult adoption counselling teaches us how significant the name birth parents choose for their child is.

If the local authority does have to name the child, the following issues should be considered (advice given by Local Authority legal):

- Ethnicity
- Religion of parents
- Cultural background
- Nationality
- Wishes and feelings of parents or siblings if known
- Given that the child may know nothing about their parents except for the name, consideration should be given to making the name similar to the parents.

The decision to name the child should be given to the Local Authority Assistant Director, acting as corporate parent, in consultation with the social worker.

The reasons for the name given should be clearly recorded and kept on the child's file and also a letter, which can be used in life story work.

### **Recommendations for best practice in presenting Adoption Plans to panel**

All decisions taken in relation to agreeing a plan for adoption should be clearly recorded and the rationale explicitly stated. Panel can only make a recommendation where this work has been completed.

The Child's Permanence Report (CPR) is the appropriate place to record the decisions of the agency and to provide the analysis of any issues identified.

The CPR allows the panel, the Agency Decision Maker and, most importantly, the child to be assured that the plan for adoption has been carefully considered.

Adopt South West normally expects children's plans to be presented to panel separately from the match. This allows for appropriate legal consent to be sought via CAFCASS before placing the child in an adoptive placement (if not placed in a FFA placement), without putting undue pressure on the birth parent/s. If, in any particular case, this would not be in the best interests of the child, social work teams should record the decision and explain why it was made.

### **Consent**

Social workers should pay particular attention to any decisions in which consent is requested:

- i. Consent must be freely given by all parties who have PR
- ii. Consent can only be given where the person has capacity to consent

- iii. Birth fathers who do not have PR are not required to legally consent. The Local Authority **should always consult with the legal team** to consider whether or not it is in the child's best interests to contact the birth father and whether there is a duty to do so. The reasons for any decision must be clearly recorded in the child's records, including the Child Permanence Report.

There are two forms of consent under the Adoption and Children Act 2002 (A&CA):

- S19 A&CA consent allows the agency to place the child for adoption.
- S20 A&CA consent gives advance agreement to the making of the adoption order. This is distinct from S20 consent to accommodate a child (under the Children Act 1989)

Only S19 consent is required to allow placement of the child, though in practice both are often provided simultaneously. It is normally expected that witnessed consent

Mothers may choose not to divulge father's identity.

The basic principles are that if there are close family ties then the Human Rights Act 1998 applies, and there would need to be compelling reasons why the father should not be notified, or efforts made to locate him. **Where a mother refuses to disclose the identity of a father and her reasons are not persuasive, legal advice should always be sought.**

It is possible for a parent to provide written consent that the child be placed for adoption even before they are 6 weeks old and prior to attending panel (stat guidance 2013 S2.90 and also AAR 35 (4))

This consent is informal and legally ineffective. It should not normally be used and fostering for adoption is the appropriate mechanism for early placement of children.

Guidance states this may be used where the parent is anxious to sign consent and where waiting for adoption panel could delay placement for the child.

## Appendices:

### Appendix 2: Adoption Information for Birth Parents

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**Source:** CAFCASS publication **Good Practice Guidance: Children Relinquished for Adoption** (website: [Home - Cafcass - Children and Family Court Advisory and Support Service](#))

#### **What exactly is adoption?**

Adoption is a way of providing a child with new legal parents. It ends the legal relationship between the child and the birth parents and establishes a new one with the adoptive parents. Adoptions are arranged by adoption agencies but are made legally binding by the court making an adoption order. Once granted an adoption order is final and cannot be overturned.

#### **How do I find out more about adoption?**

In addition to the information provided by adoption agencies, advice can also be sought from:

- Social workers from the Children's services Department of your Local Authority.
- Hospital social workers who work with maternity clinics.
- Websites [www.adoptionuk.org](http://www.adoptionuk.org)  
[adoptsouthwest.org.uk](http://adoptsouthwest.org.uk)

#### **How is an adoption arranged?**

If you decide that adoption is right for your child or just want some help with considering it further, a social worker or other adoption worker will spend some time with you to help you with your decision. You will be offered counselling and support from a social worker independent of the adoption agency. Preparations for the adoption can begin before your child is born, however, nothing will be definitely arranged until after the birth.

You will be free to change your mind up until the time when you sign consent to placement of your child for adoption, which usually takes place six weeks after the child's birth. Should you decide to proceed with adoption you will, in due course, need to give some personal information about yourself, your family and your family's health, for the adopters to be able to share with the child as he/she grows up. You will be asked to sign to agree that any information you have provided can be shared with the child.

#### **Must the father of the baby give his permission?**

If the birth father of the child has parental responsibility (PR) then his permission is necessary for the child to be placed for adoption. If a birth father of a child does not

have PR, his permission for the child to be placed for adoption is not necessary. However, it is important to note that the father may wish to apply for PR, and should this be granted, will need to consent to the adoption. He could choose to withdraw his consent to the adoption, at any stage up until an application for an adoption order has been made. The social worker may need to contact the father, if considered appropriate, as the adoption agency will want some information about the father's health, family and medical history so they can pass it on to the adopters and the child.

The baby's father may not agree with the adoption plan of the birth mother and may want to bring up the child himself or within his own family. If this is the case, and the birth father has PR or is likely to apply for it, the adoption agency and the court will need to know about it. If he and the birth mother are unable to agree the court will have to decide whether it thinks adoption or a life with the father is likely to be best for the child in the long term. If the birth mother is married but the husband isn't the father, the law will still consider the husband the legal father of the child unless he has signed a declaration otherwise. In this case the husband's consent to placement for adoption is necessary, but the adoption agency will also want, if possible, some information on the birth father so they can pass it on to the adopters and the child.

### **What sort of people will adopt my child?**

The social worker will discuss with you the kind of family you want your child to grow up in. The greatest care will be taken to find a family who will give a safe and loving home to your child. You should talk to the social worker about the possibility of meeting the family, if you want to, or about other sorts of contact such as exchanging letters and if agreed, some photographs.

### **What happens after my baby is born?**

Before you leave the hospital you will be asked to sign a form to agree to your child going to foster carers (this is not a consent form for adoption). In most cases the baby will be looked after by a temporary foster carer until you sign consent to placement for adoption when your child is six weeks old; up until this time, you are able to change your mind and your child could be returned to you, provided the Local Authority does not choose to continue the adoption process by applying for a placement order.

Social Services' agreement is required if you wish your baby to be placed for adoption under six weeks of age. You should discuss this with the social worker who has given you independent advice and the child's social worker. You will be asked to sign a written agreement. The social worker will make regular visits to the child to check everything is going well and offer support. You will be kept up-to-date with your child's progress. When your baby is at least six weeks old the social worker will arrange for you to be interviewed by a CAFCASS officer who will make sure that you understand what adoption involves. They will ask you to sign a formal document consenting to your child's placement for adoption, and you may also give advance consent to an adoption order being made when the adopters apply for it.

You can, if you wish, be involved in the process of helping to decide what kind of family your child should grow up with, and the adoption agency and your social

worker will make every effort to find a family that both meets your wishes and the needs of your child. However, the adoption agency and your social worker will always need to place the needs of your child first when choosing a family. Once the child has been placed with adopters and has lived with them for 10 weeks, they can then apply for an adoption order (in some cases the adopters apply for an adoption order many months after the child has gone to live with them).

If you wish to oppose the making of the adoption order once an application has begun, you will need to ask the court for permission to do so. The court may give its permission if it is satisfied that there has been a change of circumstances since you consented to your child being placed for adoption. The agency will provide a report to the court about the child's circumstances, and if the court is satisfied that an adoption order is in the best interests of the child, the adoption order will be granted. You will be notified about the adoption application and when and where it will be heard, unless you request specifically not to be told.

### **Can I arrange the adoption myself?**

There are circumstances in which you can make a private arrangement for the placement of your child but the Local Authority would still need to investigate. This would be a private adoption which is entirely different and beyond the scope of this leaflet. You will need to seek legal advice. To protect the child, all other adoptions must be arranged by an adoption agency. Only the court is able to grant all adoption orders.

### **What if I change my mind?**

A birth mother can change her mind at any time in the first six weeks and ask that her baby be returned to her care. Once you have signed your consent to your child being placed for adoption, your right to change your mind will be limited and may be lost altogether. You will be able to withdraw your consent at any time until the people who want to adopt your child start an adoption application in the court. If you do withdraw your consent and want your child to be returned, you will need to notify the adoption agency. However it will not automatically be the case that your child will be returned to you.

If the adoption agency has not placed your child with prospective adopters and agrees that your child should be returned to you, they will return the child within seven days. If they have already placed the child with prospective adopters and they agree that your child should be returned to you, they will return the child within fourteen days. However, if the adoption agency considers that your child ought still to be adopted they will have to apply for a placement order, asking the court for permission to place your child for adoption.

When the people who want to adopt your child have made an application to the court for an adoption order you will not be able to ask for your child to be returned. Unless you have said that you do not wish to be informed, you will be told when they make their application but you will have to ask the court for permission to oppose it. You will have to show the court that there has been a change of circumstances since you gave your consent to your child being placed for adoption and that permission to oppose is in your child's best interests.

### **Will I see my child again?**

Once you have given consent to the child being placed with prospective adopters it may be possible to have contact with your child through arrangement with the adoption agency or by getting a court order, but you will not have an automatic right to contact. You will be supported to think about future contact with your child and have discussions with the social worker. They will give you information about direct contact, i.e. face to face and indirect contact i.e. letters. You will have a right to apply to the court for an order for contact with your child at any time until the adoption order is granted.

Adoption can sometimes involve continuing contact between the birth parents and the adoptive family, either face to face or by letter. The agency will usually try to find a family for your child who are happy with having the sort of contact that you would like, as long as this is also in your child's best interests, although it would not be usual for a very young child to have face to face contact with his/her birth parents on an on-going basis. The contact you have with your child may change over time depending on the child's needs.

### **Can I keep it a secret?**

Adoptive parents are advised to tell children from an early age that they are adopted. As they grow up, most adopted people are curious to know something about their background. Adopted people can obtain their original birth certificate when they are 18 years old (16 in Scotland), and if you were registered as a parent, your name will be on the certificate. Using that information the adopted person could try to trace you. There are adoption contact registers covering England and Wales, Scotland and Northern Ireland to facilitate contact between adult adopted people and their birth relatives. Where a birth parent and adopted adult have both registered, the adoption contact registers will inform the other party. The contact register will not share contact details it will be up to the parties to decide if they wish to pursue contact following counselling.

Adopted young people and adults or birth family members may make contact or obtain information from social media sites on the internet. This would be discouraged by adoption agencies because contact for both birth families and adopted adults without preparation and the support of an adoption agency can be distressing. Advice and support are available free from your Local Authority adoption support service.

### **Can I contact my child again when they become an adult?**

You can request an adoption support agency, Local Authority adoption agency or certain voluntary adoption agencies to act as an intermediary for you once your child becomes an adult. There may be circumstances in which the agency does not accept an application to facilitate contact, and it is important to note that contact would only be re-established if it is what the adopted adult wants.

### **Making the decision**

The decision you make about your baby's future is so important that you should not rush into it. Get all the advice you can before you make up your mind. You need to

be sure that you are doing the best for your child so that you will feel comfortable that your decision is the right one for your child.

### **Will I get support?**

You will be encouraged to see a specialist adoption worker to assist you in making your decision but there are also services available for birth parents after their child has been adopted. There are many agencies who provide support groups and workers who know a lot about adoption. You can ask the social worker for details about this and other support services available. Local authorities also provide support to everyone involved in adoption throughout a child's childhood and beyond. They will be there to assist if any difficulties arise in relation to contact with your child or if you have any queries at all.

### **Appendix 2:**

#### **Writing a CPR for a relinquished baby.**

