

Lifelong Issues for Adopted People – Duties on Adoption Agencies and Arrangements under Adoption Regionalisation.

This Note has been written as a preliminary alert to highlight how important it is for local authorities and adoption agencies to ensure that the lifelong issue of being adopted – for the adopted person and for their birth relatives and others affected – is addressed and not overlooked during the process of the Adoption Regionalisation programme.

The Adoption and Children Act 2002 and Regulations outline what is required of local authorities and agencies when providing post-adoption services for adopted adults and their birth relatives, both for adoptions that took place before 30 December 2005 (**pre-commencement**) and on or after 30 December 2005 (**post-commencement**). There are different regulatory frameworks for pre- and post-commencement adoptions. Practice knowledge and expertise is generally in place regarding services for pre-commencement adoptions, including intermediary services. Although some agencies may have already received requests from adopted young people or adults who were adopted post 30 December 2005, there is a dearth of knowledge about the post-commencement framework and the implications for adoption agencies.

When planning for regionalisation, it is therefore crucial that structures are in place and resources allocated to meet the service needs of all adopted adults and birth relatives for both pre- and post-commencement adoptions. There must be clarity about how these duties will be met under regionalisation arrangements and funding agreements. Otherwise, adopted adults and those affected by adoption will be seriously disadvantaged by adoption regionalisation.

Section 98 of the Adoption and Children Act 2002 refers *only* to pre-commencement adoptions and provides for regulations to assist adopted adults to obtain information about their adoption and arrange contact between them and their birth relatives. Intermediary services for these adopted people are currently provided both by adoption agencies and registered adoption support agencies. There is no reference in the Act to similar duties owed to people adopted on or after 30 December 2005. A recent survey by the South East Post Adoption Network (SEPAN) indicated that local authorities appear to have limited understanding of the differing statutory framework for pre- and post-commencement adoptions.

The majority of children adopted on or after 30 December 2005 are likely to be children who were removed from their birth family because of safeguarding issues or for complex reasons. As adopted adults, they are entitled to have the information contained in their Child Permanence Report (CPR) (all the information given to their adopter/s), and also information from the adoption agency to enable them to apply for their original birth certificate. The regulatory framework directs that this application is made to the adoption agency, not to the Registrar General (unlike in the case of pre-commencement adoptions). For some of this group of adopted adults, there may be issues about their well-being when making contact with their birth family as adopted adults more complex. In a very small number of situations, the adopted person may pose a risk to birth family members or vice versa. The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 (AIR) do not provide specifically for intermediary services.

We are therefore concerned to ensure that the duties on adoption agencies owed to all adopted people are properly taken into account and, in particular, in relation to persons adopted post 30 December 2005 when planning services under regionalisation. These duties are listed below:

1. The duty on adoption agencies to provide to people adopted on or after 30 December 2005 a service to disclose information needed to apply for their birth certificate. Regional Adoption Agency (RAA) plans need to take account of this duty and its likely volume and how it will be addressed explicitly in RAA arrangements.
2. The duty to provide adopted people with their Child Permanence Report (CPR) at the age of 18 – what are the resource implications arising from this?
3. The duty on the adoption agency to have in place a process for considering such applications and providing support to the adopted person – see in particular the expectation in the statutory guidance that supports will be available, if requested.
4. The duty to have systems in place to enable the adoption agency to exercise its general discretion under AIR 8 to provide background information to birth relatives and others, including arrangements under AIR 8.2.a to agree terms with an adoption support agency to undertake any necessary tracing or other work on their behalf. Note: a number of adoption agencies may not have the knowledge or experience to carry out successful tracing and undertake the skilled work to seek consent.
5. Arrangements for making and recording agreements under AIR 11 to disclose protected information.
6. Arrangements for making a decision to respond to an application for disclosure of protected information under AIR 13 and 14. This includes the right of the adopted person and others to ask for an independent review of a decision to withhold information or disclose information without third party consent – see AIR 15.1.a.
7. Arrangements for fees for tracing and for counselling: the adopted person has the right not to be charged fees when they apply for information to obtain their birth certificate and for counselling. The agency has discretion to waive fees and this discretion must be exercised reasonably and consistently. Processes will need to be in place to evidence the exercise of discretion.

The above are highlights and reinforce the need for the Adoption Leadership Board to ensure that as part of regionalisation all RAAs will have addressed the duties owed to adopted adults. There are likely to be additional issues that will emerge from discussion with experienced practitioners. We believe that the statutory guidance on disclosure of information and supports for pre- and post-commencement adoptions will require revision to provide further guidance on post-commencement adoptions.

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