

Improving Adoption Services for Adults – end of project report and recommendations

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June 2025

Acknowledgements

We are grateful for the support and encouragement of Sarah Johal (Head of Adoption England) and Vicky Swift (Practice and Development Lead, Maintaining Relationships) and the invaluable administrative assistance of Jennah Evans. We would also like to thank members of the Department for Education policy team who helped answer queries, commented on matters arising, and who issued helpful guidance to agencies during the life of the project.

An important element of the IASA project was to hear the voices of adults affected by adoption, so we are grateful to all the individuals and organisations who took part in our consultations. Their contributions and insights enriched our knowledge about the lifelong impact of adoption and the experience of receiving services, or lack of service provision.

The Adult Adoptee Movement; ‘Before it’s too late’ (BILT) group; ‘How to be adopted’; members of Adoption England’s adoptee and birth relative consultation groups.

We thank Mike Hancock (PAC-UK) and Denise Smalley (Adoption England) for their assistance with our consultations with people with lived experience of adoption.

We are deeply indebted to the professionals working in the field who were members of the IASA Working Group helping our understanding of pre and post commencement issues and feeding back on drafts of the practice guide and briefing papers:

Natalie Bendall, Adopt London South; Ruth Bradford, One Adoption, West Yorkshire; Siobhan Clemons, Father Hudsons; Alexandra Conroy-Harris, Legal Advisor Coram BAAF; Kate Garside, Milner and Garside; Mike Hancock, PAC-UK; Nicola Harris, Post Adoption Team Essex; Louise Hathaway, Adoption Central England; Pam Hodgkins, BITL; Irena Lyczkowska, Catholic Children’s Society; Reshma Kazi –Mendez, Adopt London East; Lynne Mockridge, Adopt South West; Jennifer Muthanna, Adopt London North; Joanna North; Hannah Rabbett, Barnardos Cafis; Lesley Singleton, Barnardos Cafis; Denise Smalley, Adoption England; Sally Smith, Norfolk Adoption Service; Michelle Snelus, Adoption Connects; Ange Tanner, BITL; Brenda Vincent, Adopt Central East; Bonita Thorpe, Adopt London East; Claire Trivett, Adoption South West.

We are grateful for the funding by Adoption England which enabled the project to take place. The views expressed are those of the authors and not necessarily Adoption England.

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Published by the Centre for Research on Children and Families, University of East Anglia © Elsbeth Neil, Leonie Jordan, Julia Feast, Mary Beek. 2025

How to cite this report:

Neil, E., Jordan, L., Feast, J. and Beek, M. (2025) Improving Adoption Services for Adults: end of project report and recommendations, Norwich: UEA Centre for Research on Children and Families.

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1. Background to the project

1.1. The lifelong needs of adults affected by adoption

This project was concerned with services provided to adopted people in adulthood, their birth family members, and other people connected to the adopted person (for example their descendants). Hundreds of thousands of such people have been affected by adoption over many decades. The circumstances in which children were adopted, and the profiles of birth parents and adopted people, have changed significantly across different historical periods. Each adoption is unique, but the main change across time is the move from “historical baby adoptions” (babies primarily adopted because of social pressures) to “adoptions from care” (children adopted via the courts where there are concerns about child protection). The experiences and outcomes of adoption for adopted people and birth family members vary widely. Whilst adoption may have worked out well for many people, regardless of the pathway to adoption there are several key interconnected issues which are common to both adopted people and birth family members across historical eras.

The first is the ***lack of power and control***. Birth parents in the past often felt compelled to place their children for adoption due to pressure from their family and the wider community (JCHR, 2022). Contemporary birth parents who lose their children through court proceedings, report strong feelings of powerlessness (Neil et al, 2010). For adopted people, most were babies or very young children when placed for adoption, and therefore were not active participants in the decision to be adopted.

Secondly, birth family members and adopted people have been affected by ***secrecy and the cutting of birth family relationships***. Adoptions before the 1970s were typically totally closed, with little background information available to the adopted person, and no birth family contact being the norm. Children adopted more recently may have had plans for birth family contact, usually letterbox contact, but these arrangements have often not endured, life story work may have been inadequate, and background information may not have been shared with them (Neil et al, 2015). Thus, across historical periods both adopted people and birth family members have lacked information about each other after adoption, creating a form of disenfranchised loss, and for the adopted person challenges with identity.

Thirdly, ***stigma*** is an issue affecting both birth family members and adopted people across historical eras. In historical baby adoptions, birth mothers often felt stigmatised for having a child when they were not married, and for “giving up” their baby (Howe et al, 1992). Birth parents who have experienced contemporary adoptions describe the difficulties of talking to anyone, including their own family, about having their child taken away because they were considered to pose risk to him or her (Neil et al, 2010). Adopted people recount the stigma of being adopted, often seen by others as a second-class status. They have reported the negative impact of micro-aggressions, and societal narratives about adoption, for example that they have been “rescued” and ought to be “grateful” (Baden, 2016).

Fourthly, both adopted people and birth family members experience **unresolved, ambiguous and disenfranchised loss**. Because of secrecy and the lack of openness, those affected by adoption often wonder where their lost relative is, how they are, what they're doing now, as well as wondering "do they ever think of me"? The birth parent and adopted person are lost to each other, but they continue to exist elsewhere. The loss is disenfranchised because adoption is seen as a "solution" or a positive outcome.

The fifth common issue relates to **identity**. Birth mothers from the historical adoption era have been described as having a "spoiled identity" (Howe et al, 1992), whilst birth fathers may have been written out of the adoption story altogether (Clapton, 1997). Birth parents in contemporary adoptions report strong feelings of shame around the removal of their children, and they can struggle to rebuild a sense of identity after the loss of their parental role (Neil et al, 2010).

These interconnected issues are the context in which adopted people and birth family members may use services as they seek to address unresolved losses, make sense of the past, and fill in gaps in their identity (Howe & Feast, 2020; Triseliotis et al, 2005). Services to obtain information from the adoption record and intermediary services can play a vital role in helping people address the lifelong impact of adoption.

1.2. The need to improve services

The background to this project was the growing recognition of widespread problems in the delivery of services to adults affected by adoption, in particular services to access birth and adoption record information, and the provision of intermediary services. For example:

- Adopted people have described high levels of dissatisfaction when attempting to access information from the adoption record. Problems include lengthy delays in receiving a service, 'lost' records, a lack of support available for the process, and large variations in the availability and timeliness of services across agencies (JCHR, 2022; PAC-UK, 2023; Rawcliffe et al, 2022;).
- Problems with the nature and quality of information from the adoption record available to the adopted person. Adopted people would like to see more complete and original information, provided sensitively and with greater recognition of their entitlement to this information (Adoption UK, 2024; PAC-UK, 2022).
- Experiences of intermediary services are mixed (AUK, 2024; JCHR, 2022), a key theme being the importance of services providing emotional support which extends beyond the initial meeting with a birth relative. The costs of using an intermediary service are highly variable and are prohibitive for many (PAC-UK, 2023). For birth relatives, the timeliness, availability, quality and cost of intermediary services are particularly pertinent, as for most this is their only way of contacting the adopted person.
- The requirement for the Appropriate Adoption Agency (AAA) to check if the adopted person has registered a veto and to provide a 'view' on the provision of intermediary services can hold up the provision of intermediary services to birth relatives, sometimes with huge delays (Murphy et al, 2022).

These recent reports highlighting problems in the provision of services for adults were key in the establishment of the Improving Adoption Services for Adults project.

1.3. Aims of the IASA project

This aims of the project were to:

- Identify needs, priorities and suggestions for change of adults affected by adoption through consultation with people with lived experience.
- Set up a working group of professionals to inform the development/revisions of the outputs and identify examples of best practice.
- Scope problems in the legal framework and suggest possible changes/solutions in a briefing paper.
- Expand and update the existing ‘Adoption: Access to Information and Intermediary Services Practice Guidance’ (last published 2008) and produce this new practice guide as an online document.

2. What have we achieved?

2.1. Consultation with the sector

- The project benefited greatly from the input of those with lived experience of adoption – see section 3 below.
- The project has been grounded in the experiences of professionals working in the sector. A working group of professionals from Regional Adoption Agencies (RAAs), Local Authorities (LAs), Adoption Support Agencies (ASAs) and intermediary agencies were recruited and met at intervals throughout the project. Subgroups of those with experience in pre-commencement and post-commencement were established. The professional working groups included several members with lived experience of adoption.

2.2. The practice guide

- The new practice guide was published on 20 May 2025. This was a substantial rewrite of the 2008 guidance. It incorporated a new chapter reviewing the literature relevant to the topic. This was felt to be important because practitioners providing services need to have a good understanding of the needs of adopted people and birth relatives, including those from the ‘historical baby adoption’ era. Many current practitioners may have experience only of adoptions from care, and there is a danger that as older professionals retire, knowledge and understanding of this area of practice is being lost to the sector.

- The practice guide also incorporated a new chapter on the professional role and key principles for practice, these being developed by drawing on the contributions of people with lived experience of adoption. The key principles for practice were woven throughout the practice guide, and their application illustrated through case examples.
- A new chapter on providing intermediary services to people with a ‘prescribed relationship’ to the adopted person was included.
- Chapters on providing services to people under post-commencement legislation were revised in the light of practice experience with this group of people (not available when the 2008 guide was produced).
- The practice guide is freely available online via the [Adoption England website](#). It can be printed or copied, and adapted for use locally (provided authorship is acknowledged).
- The practice guide is being adapted by Adopt Cymru for use in Wales.

2.3. Briefing papers on legal changes needed

- A briefing paper was produced in February 2024 (see appendices 1 and 2). This summarised problems affecting adoptions prior to the end of 2005 (pre-commencement adoptions), primarily those that took place in the historical period covered by the JCHR, and made a number of recommendations. (see appendices 1 and 2). A preliminary briefing paper was presented to the RAA leaders group and representatives from the DfE adoption policy team in July 2023.
- A second briefing paper was produced in July 2024 covering problems and potential solutions related to adoptions in the post commencement era (see appendices 3 and 4).
- Section 5 summarises our recommendations from these briefings.

2.4. Dissemination

- A webinar was held to coincide with the publication of the practice guide on 20 May 2025. This was attended by 155 participants. The webinar included contributions from an adopted adult and birth mother, members of the IASA project team, and practitioners involved in service provision. The webinar was recorded and a summary will be available on the Adoption England website.

2.5. Changes achieved within the life of the project

- We recommended that there should be no distinction as to the minimum retention period for records made before 30 December 2005 and those created after that date. A Department for Education directive was issued to the sector to retain pre commencement case records for a minimum of 100 years in Autumn 2024.

- On 2 May 2025 the DfE announced it intended, subject to clearance, *‘to launch a consultation about requiring these records to be kept for 100 years, bringing the regulations into line with the regulations for post-commencement records.’*
- The DfE used this opportunity to remind the sector that AAAs which receive requests under Regulation 12 The Adoption Agencies Regulations 1983 (from intermediary support agencies to check if there is a veto on the records and their view about providing a service) to *‘treat all such requests with the utmost urgency. Where resources are limited, however, we should remind you that regulations require that requests relating to those adopted before 12 November 1976 must be prioritised’.*
- The Department also reminded agencies that complaints procedures *‘should always be easy to use and sufficiently promoted to ensure that guidance can be found by those who need it. Adopted adults and their birth families may already be distrustful of institutions, so it is important that they are supported through the process in the event that they do need to make a complaint.’* We identified the importance of this in the Guide.
- With the assistance of the Department of Education adoption team The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 have been amended on the gov.uk website and include the 2014 amendments. Practitioners and legal advisers now have a useful resource to check legal duties and powers.
- The DfE has proposed consultation with the sector about passing on medical information by birth parents to an adopted person and the current limitations when using the GP to GP service (which is addressed in the Guide). The Department is proposing to consult about the challenges and examples of good practice in how to do enable this, particularly in circumstances where there is a veto: it must be recognised that very few absolute or qualified vetoes have been registered for adoptions that took place before 30th December 2005.

3. Consultations with people with lived experience: summary of issues raised

During 2023 and 2024, the Improving Adoption Services for Adults (IASA) team undertook a range of individual and group consultation meetings with adopted people and birth parents, recruited via special interest groups. All participants represented adoptions that had taken place before 30 December 2005 (‘pre-commencement adoptions’).

The aim of the consultation meetings was to explore people’s lived experiences, and especially their experiences of accessing adoption records and using intermediary services. They were also asked for their views on how these services might be improved and further developed.

In January 2025, the IASA team consulted with adopted people and birth relatives regarding the concerns that adoption professionals had already flagged in relation to sharing information from adoption records in post commencement adoptions.

Across all meetings we consulted with approximately 25 people with lived experience, 15 of whom were adopted people, the remainder being birth parents. The majority of those consulted had very wide ranging experience in connecting with other people with lived experience (e.g. through leading or facilitating groups) and so could draw on their own experience and the experiences of a wide range of others. A diverse range of people were represented in terms of age, variations in adoption experiences, gender and ethnicity.

These consultation meetings were invaluable to the team in sensitising us to relevant issues as perceived by people with lived experience. **We strongly recommend that further developments and changes in this area of practice are carried forward in collaboration with people with lived experience.**

Specific issues and recommendations are discussed below, but here we would highlight five “headline” issues/priorities raised by people with lived experience.

1. The lack of therapeutic and mental health support available to help manage the lifelong impact of adoption.
2. Problems in the timeliness, availability, affordability of access to records and intermediary services – including for intercountry adoptees.
3. The quality of services provided: sensitivity, accuracy, withholding of information.
4. The lack of recognition of impact of adoption.
5. Sensitivities around language and terminology.

It is worth noting that for many people, the provision of therapeutic services to help cope with the impact of adoption was a key priority. These types of services were not the focus of the IASA study, but we would like to amplify the importance of this issue and the need for this area of service provision to be addressed.

3.1. Pre-commencement adoptions – views of people with lived experience

It should be stressed that adoption related experiences are extremely varied and each person’s perspective is unique. However, common themes emerged from these discussions and key points are as follows:

3.1.1. Delays in the provision of services – agreement with proposals in briefing paper 1.

Adopted people and birth relatives we consulted with were all in agreement with proposals set out by the IASA team in the first briefing paper. These were:

- To remove the procedural difference for people who were adopted before 12/11/75 regarding applying for their birth certificate.
- To amend the requirements for agencies providing intermediary services to check for ‘vetoes’ and to seek the views of the adoption agency that holds the records.
- To reinstate the NHS Death Registration Service.
- To amend the regulation that states that adoption records for people adopted before the end of 2005 need only be kept for 75 years.
- To address the issue of the costs of services.

3.1.2. The redaction of information in the adoption record is often a source of frustration and distress

Those consulted with highlighted how sections of records may be blacked out leaving unanswered questions and endless speculation about the missing information. For example, one adopted person was given 20 pages from the file, all of which were completely black. They pointed out that even the title or heading of the document might have shed some light on why it was redacted. The same issues can arise when social workers ‘summarise’ information from the record. There is a lack of transparency about who makes decisions about redaction and why they are made. Adoptees would like to see more complete and unredacted information and to see original documents as opposed to summaries.

Possible ways forward

In each case, there should be **greater transparency on who has made decisions about redaction and why they have been made**. Policies on redaction should be clearly and simply explained to the person applying for the service. Where data has been withheld, people should be informed about it, given an explanation and they should have an easy way of making a complaint.

3.1.3. Adoption services do not always recognise important issues for adopted people and birth relatives

Adopted people and birth relatives reported a range of important issues that affect their lives and are not always recognised by adoption services. For example:

- The provision of services to adults by agencies (and social workers) who may be involved, or have a history of involvement, in placing children for adoption can feel inappropriate to people using the services and raise questions about impartiality.

- Strong and difficult feelings such as anxiety, fear and guilt may be present for people who are accessing adoption and intermediary services. Workers providing services need to have a ‘trauma informed’ approach as the whole process can be very triggering for both adopted people and birth relatives.
- For adopted people there are often feelings of guilt regarding adoptive parents. Many adopted people feel strong inhibitions when looking into their records or searching for birth family because they don’t want to upset their adoptive parents. They need a safe space to air these feelings, along with a clear message that it is normal and natural to want to explore birth origins. It is important that adopted people are not made to feel that their adoptive parents’ feelings are more important than their own needs.
- Some adopted people also report feelings of being ‘infantilised’ by the service they have received. They feel as if they are regarded as children, in need of protection, rather than as adults who have the right to information about themselves. They emphasise that individuals should be respected and treated as adults, but that doesn’t negate the need for sensitive support.
- For some birth parents, using intermediary services can trigger a resurgence of the feelings of powerlessness and lack of control that they experienced when their child was placed for adoption. The bureaucratic procedures, unfamiliar language and the meeting with a professional can feel like echoes of past experiences and, for some, are overwhelming. For some, there is also the fear that they will be judged all over again as ‘unfit parents’ and undeserving of a service.
- There are widely held views in society about adoption, adopted people and birth relatives who are seeking information or contact. For adopted people, these include the ‘bad adoptee’ (the notion that people seeking birth family information or contact are wanting to stir up trouble in their birth family), that adopted people should be ‘grateful’ to have been adopted, and adoption (and/or adoption reunions) as a ‘happy ending’. For birth relatives, there are fears that they will be seen as wanting to ‘claim’ the adopted person or disrupt the adoptive family. When unconsciously held, positive and negative narratives can influence the delivery of services. For example, the idea of adoption as a ‘happy ending’ can mean that professionals may underestimate the impact of adoption.
- Adoption issues are, for some adopted people and birth relatives, lifelong, and can be especially intense around key life stages such as parenthood, menopause, mid-life and later life. It is also common for needs and feelings about adoption and contact change across the lifespan. Professionals often misunderstand these issues or assume them to be ‘static’ rather than evolving.
- The absence of medical history information is a real and sometimes harmful problem for many adopted people and there is a call by some for all adopted people to have automatic notification of hereditary illness in their birth family.

Possible ways forward

In general, adults affected by adoption are ‘invisible’ in society and their needs are unrecognised.

- There is a strong call for the availability of an adoption support fund for adults affected by adoption, so that lifelong support and therapy is available.
- Supported peer group spaces are a valuable resource and should be available in every region. It is important that they have input from people with lived experience, and also that facilitators are skilled and knowledgeable about adoption issues. However, such groups should not be led by adoptive parents or adoption professionals as this can create inhibitions in the group.
- The key to improving adoption services is through the training of the full range of professionals who work directly and indirectly with children and adults who are affected by adoption. There should be national training schemes which involve (and ideally are led by) the voices of people with lived experience. These voices should be present in the writing and the content (such as videos) of training material and when training is being delivered.
- In addition, there should be focussed training and support for adoptive parents to help them to better understand and support the identity and contact needs of adopted children, young people and adults.
- Intermediary services should be better regulated to ensure that they meet good quality standards and deliver an appropriate level of service.
- There is a need for more people with lived experience working within the adoption sector to truly understand and represent the people accessing services, and to share their insights with colleagues.
- There is also a need for more therapists who have received specialised training in the range of issues connected with adoption. Two specific areas of training were highlighted as being especially necessary for therapists. Firstly, understanding the issues faced by transracially adopted children, young people and adults, and secondly, appreciating the unique form of loss and grief that is experienced by birth parents.

3.2. Post-commencement adoptions- views of people with lived experience

In January 2025, the IASA team consulted with adopted people and birth relatives regarding the concerns that adoption professionals had already flagged up in relation to sharing information from adoption records in post commencement adoptions, particularly in the Child Permanence Report (CPR). To promote discussion in the consultation, we summarised the professionals’ concerns including: the perceived ‘vulnerability’ of the adopted person; privacy issues re third parties named in the report; lack of balance in the

CPR; distressing information in the CPR; missing information that should have been included.

3.2.1. Responses of adopted people

The responses of adopted people to the discussion are summarised below, the overarching message being the need for maximum openness and transparency in sharing information.

It's going back to gatekeeping. It's going back to secrets and lies because these things will be uncovered, ...it's better for the adopted person and their mental health to have everything laid out on to the table. (Adopted person)

- There is never a 'right time' or a 'wrong time' for an adopted person to be given the information from the adoption record. A person who appears vulnerable is probably in the process of dealing with issues relating to their adoption. Receiving information from the record (with sensitive support) is part of this process. Withholding or restricting information is likely to create further harm, rather than preventing harm.
- Adopted people have had a life changing decision made about them without their consent. All the information on the adoption record belongs to them because it is information that was gathered at the time of this decision being made.
- Birth parent information belongs to the adopted person, whether or not it pertains to the adoption. because having it is the only way in which the adopted person can begin to put the pieces together and understand their story. The adopted person's life has been determined by the contents of the file and so it is their right to know everything that is in that file.
- The issue of the adopted person knowing more about their sibling's history than the sibling knows is irrelevant. 'Covering up' this information is pointless. Even if the sibling doesn't know it now, they will find it out one way or another at some time. The adopted person has the right to know everything and the reason the law was changed in the first place was that it is better for the adopted person and their mental health to have full information.
- Regarding 'sensitive' third party information, it is important to think about what the adopted person would have known if they had stayed within their birth family and community. Most things in families get shared or discovered in due course. And it's normal for some people in the family to know more than others - for example, a younger sibling might not be told something until they're older. Or another sibling might be estranged from the family and not know something until later on. So the issue of 'who knows what' is irrelevant.

3.2.2. Responses of birth parents

There was unanimous agreement that the adopted person should be able to read their CPR and other information, but birth parents highlighted there are many difficulties associated with this which need to be considered.

- Sharing information from the adoption record was felt to be ‘always problematic’ because so much of it is inaccurate and/or not evidence based so the adopted person might be completely misled by it. Inaccurate information is unfair to birth parents and unhelpful to adopted people. (An example shared was that the adoption file stated that two siblings had different fathers because they had different skin colours, when in fact they did have the same father. No DNA test had been carried out and so this important information was based on speculation, although presented as ‘fact’).

Suggestions were made as follows:

- The likelihood/possibility of inaccuracy and opinion (as opposed to evidence) should be spelled out to the adopted person.
- Information on the file could be ‘categorised’ so that evidence and opinion can be clearly differentiated.
- Before the CPR is shared, the birth parents could be approached and offered the chance to write their own accounts of events.
- Regarding data protection, there was concern about the sharing of highly personal information that doesn’t directly pertain to the adoption. For example, one person said that she was sexually abused in childhood and she hasn’t told her 18 year old child (still at home) and would not want them to know. But this information is likely to be on the adoption record and her adopted child could find out about it.

Suggestion: If the social worker is concerned about sharing sensitive third party information, they should approach the birth parent and ask for their view.

You know, there are certain things I didn't want him to know about. Like me being you know, sexually abused. ...I don't understand why that needed to be in there without my permission. ...Just because they've been removed off me and placed in adoption, doesn't mean that all my rights go out the window ... I need to be protected as well (Birth mother)

4. Key principles for practice

Based on the views of people with lived experience, the literature review and the legal framework, we outlined fully in the practice guide six key principles for practice, summarised briefly below.

4.1. Supporting Openness

Be open in sharing information from records and support people to make contact, whilst also considering the welfare and confidentiality of others

4.2. Responding Sensitively

Provide services that are respectful and sensitive to each person's needs and feelings

4.3. Supporting Sense Making

Support each person using a service to build a personal understanding of their adoption story

4.4. Promoting Autonomy

Support adopted people, birth relatives and others to make their own decisions about what is right for them

4.5. Recognising that needs can change

Recognise that the impact of adoption on an individual can change across the life course; take this into account when offering support and advice

4.6. Sharing complex decisions

Ensure that decisions about complex issues are not taken by one person alone; consult with colleagues and managers before taking decisions

5. Next steps – recommendations for policy and practice

We have annexed four appendices which set out the issues in pre and post commencement practice and proposed solutions. We have presented the discussion briefings and proposals to the Adoption Team at the Department for Education and to Adoption England. Below we identify the issue[s] and briefly our proposals. Appendices 2 and 4 identify the relevant amendments to primary and secondary legislation. Below we set out our key recommendations from the project.

5.1. Pre-commencement adoptions

Recommendation 1

Address the distinction between people adopted before or after 12 November 1975 regarding the need to receive ‘counselling’ before being given birth record information.

- Remove the requirement that those persons adopted before 12/11/75 who do not know their birth name must receive ‘counselling’ before they can have information to apply for their birth certificate.
- Continue to provide, if the person wishes, an opportunity to meet with an adoption worker to have information and support before making their application.
- Amend as necessary the BIBA form. (Currently the BIBA form is being amended to provide clear information about if and when meeting with an adoption worker is required.)

Recommendation 2

Minimise delays caused by Regulation 12 of The Adoption Agencies Regulations 1983: requirement that the intermediary support agency must wait until the appropriate adoption agency has confirmed if a veto has been registered by an adopted person and also to give their views about an approach being made to the adopted person and delays arising.

- Amend Regulation 12 to require the AAA to respond within a defined period unless there is a justifiable reason for delay.
- Establish protocols across RAAs to provide an effective, easy to use and timely complaints process.
- Ask RAAS to collect data to track delays to inform future service development.

Recommendation 3

Amend current retention period for pre commencement case records of 75 years.

- Amend Regulation 14 of The Adoption Agencies Regulations 1983 to extend the retention period to a minimum of 100 years to be consistent with the retention period in post commencement regulations.
- Ensure timely reviews of records to secure safe archive storage for paper, microfiche and digital records.

Recommendation 4

Address access to intermediary services, particularly the lack of suitable available services.

Currently there is no duty on the RAA, AAA or VAA to provide intermediary services to enable an adopted person, their birth relatives and others to trace and make reconnections. In addition, there has been a significant reduction in sufficient and suitable services across the sector. Fees for services impact those affected by adoption who are not able to afford charges. We acknowledge there has been some improvement in availability of intermediary services for older persons via a grant to PAC-UK, but more needs to be done.

- Consider imposing a duty on AAAs to provide services and revise sector wide standards, including a reasonable charges scale with discretion on the agency to charge no or a reduced fee.

5.2. Post-commencement adoptions**Recommendation 5**

Managing the right of the adopted adult to information given to adoptive parents from the records, including the Child Permanence Report, and privacy rights of third parties.

- Consider amending the Adoption and Children Act 2002 to give to the appropriate adoption agency a defined discretion to redact sensitive personal data. It is vital to consult with those who will be affected by this proposal, including adopted people and others whose information is in these documents.
- Require the Agency Decision Maker to make the determination regarding redactions.
- Give the adopted person the right to refer any decision about redactions to the Independent Review Mechanism.

Recommendation 6

Power to deal with gaps in relevant information which should have been included in the documents, including the CPR.

- Through guidance and/or amendment to the Act, give the appropriate adoption agency power to provide information to the adopted person without requiring the consent of the subject in certain circumstances, for example, the last known addresses of birth parents.

Recommendation 7

Section 61 applications: providing information about an adopted adult.

Currently there is no duty to provide support services to either the applicant or the subject of the application. There is an issue of fees for services: an adopted person cannot be charged a fee for services under section 61 and others can be charged a 'reasonable' fee.

- Consider and consult with the sector about what support services are needed, by whom and the costs of such services.
- Develop inter agency protocols to enable applicants and others to receive local support services.
- Review and develop protocols and sustainable funding streams to develop services for the adopted person, applicants and the subject of an application, including inter-agency costs and fees.

Recommendation 8

Role of the agency decision maker and Independent Review Mechanism: the need to develop knowledge of the respective roles and responsibilities across the sector.

- Review protocols in the RAA/AAA about the number of designated ADMs and allocation of duties.
- Provide training for adoption workers and managers to ensure quality reports are presented to the ADM to enable effective and timely decision making.
- Develop systems for sharing practice knowledge about the approaches taken by the IRM panels.

Recommendation 9Section 62 applications: providing information about an adopted child.

There is a lack of clarity between the local authority post adoption support teams and the AAA about what is a request for contact or variation of contact and what should be managed as a section 62 application.

- Develop protocols to ensure child centred collaborative practice with support services available to adopted child, adoptive family and birth family.
- Gather data to inform service development and training for practitioners.

5.3. Non-agency adoptions**Recommendation 10**Address urgently the uncertainties about the status of records of non-agency adoptions.

The Data Protection Act 2018 does not exempt records of non-agency adoptions (i.e. records created by the Local Authority when it was notified of an adoption application where the child was not placed by the local authority acting as an adoption agency). A person asking for personal information from such records must use the data subject access process, similar to asking for information from care records. Until recently, many agencies considered the records to be ‘adoption case records’ and dealt with requests for information under the relevant regulations.

- Urgently review the concerns of practitioners in the sector about this recent advice and the implications it has for **current** practice to respond to the information needs of this group of adopted people.
- Consultation and Interim guidance needs to be made available to assist adoption workers when responding to requests for information from these records.
- Notify the courts of likely increase in applications for information from adoption court records.

5.4. All adoptions

Recommendation 11

Reinstate the NHS Death Registration Service.

- This service, which can help an intermediary worker to quickly find out if the subject of a search is most likely alive or if they have died, was suspended during the Covid 19 pandemic and has not subsequently been reinstated. The DfE adoption team have been lobbying NHS to address this problem, but at the time of writing this important issue remains unresolved.

Recommendation 12

Address the gaps in adoption competent therapeutic services for adults affected by adoption.

- Whilst the recent removal of the requirement for therapists in certain circumstances dealing with adoption related issues to be registered with Ofsted may remove some barriers to people accessing services, there is still an urgent need for Adoption England and DfE to consider how to expand the availability, affordability and adoption competence of therapeutic services.

6. Summary

- This project has met its aims to identify problems in the legal framework relating to access to records and the provision of intermediary services, and practice guidance has been brought up-to-date and published. This has been achieved in consultation with people with lived experience and those with professional experience.
- Whilst progress has been made, the substantive problems in service provision that negatively impact people with lived experience of adoption remain outstanding. Focus on this area of service provision is overdue and needs the urgent consideration of policymakers, Adoption England, regional and voluntary adoption agencies, adoption support agencies and intermediary service providers.
- Our primary focus has been on access to records and intermediary services, but our consultation with people with lived experience strongly suggests a wider focus is needed to address the well-being of those affected by adoption. Particularly a focus on therapeutic support services for adults affected by adoption is needed, alongside broader consideration of master narratives around adoption, including sensitivity to language.
- This project is just the first step in a journey of service improvement, to be taken forward in collaboration with people with lived experience and practice experience.

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Appendices

Appendix 1 - Recommendations for changes in government policy to help older adopted people and their birth relatives

Appendix 2 - Pre commencement issues – legal amendments needed and interim actions

Appendix 3 – Post-commencement Adoptions: concerns about disclosure of information

Appendix 4 - Post commencement issues – legal amendments needed, practice areas to review and interim actions

Appendix I - Recommendations for changes in government policy to help older adopted people and their birth relatives



Improving Adoption Services for Adults

Introduction

- a. We acknowledge there are different views about the preferred way to describe adults with personal experience of being adopted. For example, some people prefer the term 'adoptee' or 'adult adoptee'; others prefer 'adopted person'. We respect the right of people to define themselves in whichever way they prefer. In this document we use the terms "adopted person/s" and "adoptee/s" interchangeably and in all situations, we are referring to people aged 18 or older.
- b. Our recommendations in this paper relate mostly to adoptions that took place from 1948 until mid 1976. The rights and needs of persons adopted during this period and the impact on their birth parents were considered in the report: The Joint Committee on Human Rights: The Violation of Family Life: Adoption of Children of Unmarried Women 1949 - 1976 (JCHR report).
<https://committees.parliament.uk/publications/23076/documents/169043/default/>
- c. The JCHR report primarily focused on birth mothers, with some consideration of adopted persons. The implications of adoption practices from this historical period profoundly affect not just mothers but also their adopted children, as well as birth fathers and other birth relatives. Our proposals therefore relate to the needs of adoptees and their birth relatives. Persons adopted in this period will now be in mid-to-later life, and their birth parents will be a generation older than them.
- d. Although every adoption is different, these are mostly adoptions that took place for social reasons, rather than child protection purposes. The risks around adoptees and their birth relatives being in touch are therefore likely to be different compared to people adopted more recently. But there are aspects of the law affecting access to adoption records and using intermediary services that are risk averse. Adoptions in this period were premised on the 'promise' of enduring confidentiality for the birth parents and the principle of a 'forever' break between the birth family and the adopted person. Certain legal barriers based on these assumptions get in the way of older adopted persons and their birth relatives and descendants being able to contact each other or services they need to cope with the impact of adoption on their life or to trace relatives.

- e. Intermediary services are provided by professionals who assist adopted persons and their birth relatives and others to get in touch with each other. Most birth relatives will not know the new name of the adopted person and therefore cannot find the person by themselves - so their only hope of contact and a potential reconnection is through an intermediary service.
- f. Delays can be a significant problem for birth relatives or adoptees who are in later life, particularly if they have health problems, and sometimes the person being sought may die before contact is made. A number of problems slow down adopted people accessing their birth record information and birth relatives using intermediary services. When adopted people and birth relatives experience these delays this can cause huge stress and anxiety and the consequences of delay may sometimes be devastating.
- g. There is particular concern about birth parents whose children were adopted before 12 November 1975 because this is the oldest group of birth parents (e.g. a mother who was 16 when her child was adopted in 1975 will now be in her mid sixties – most birth parents will be older than this). There are even more barriers to accessing records (and potential reconnection) for this group of people, including the cost of paying for tracing and intermediary services which can exceed well over £1000.
- h. Some people refer to this group of birth parents and associated adopted people as the “before it’s too late” group - the argument being that they need **urgent** help to get the information they require to assist them to trace each other.
- i. The IASA project team have consulted with persons affected by adoption and social workers providing support services about the current challenges and issues to inform our recommendations to government. Across the sector there is a shared view that the rights and needs of this group of older adopted persons and their now elderly birth parents require immediate attention as identified in the JCHR Report. Set out below are our recommendations and the rationale for each.

Problem 1 – Adoptees needing to wait for a ‘counselling session’ (birth records meeting)

- a. A person adopted before 12/11/1975 who does not know their birth name must attend ‘... an interview with a counsellor.’ [Adoption Act 1976 s51(6)] before they can have the information they need to get a copy of their original birth certificate. (<https://www.gov.uk/adoption-records>)
- b. Adopted people from the same era who already know their birth name and can provide the GRO index reference are able to apply directly to the Registrar General for a copy of their original birth certificate without having to attend such an ‘interview’.
- c. People adopted between 12/11/1975 and before 30/12/2005 can get their birth record information directly from the Registrar General, as can people adopted from 30 December 2005 onwards. They are not required to have a ‘counselling meeting’, although it is available to them if they wish.

- d. Hence some adopted people have quicker access to their birth record information than others, creating a two tier system.
- e. The birth records meeting is not actually a therapeutic counselling session, even though it may be referred to as ‘birth records counselling’ and, more usually now, as a ‘birth records meeting’. It is a meeting with an approved adoption adviser and its primary purpose is to enable the adopted person to obtain the information they require to obtain a copy of their original birth certificate. However, it is also an opportunity for them to find out how they may be able to access further information about their adoption and their birth family from the records of the agency involved in their adoption and to consider the issues and outcomes relating to this.
- f. For the group of adoptees who **must** have this meeting, waiting can be more than just a short delay, as adoption agencies currently may not be able to respond quickly to a request. This affects birth relatives as well as the adopted person, as it delays the adopted person getting the necessary information to trace a birth relative.
- g. One reason why the requirement for this birth records meeting was included in the law is that, prior to 1975, birth parents were usually told that their adopted son or daughter would never be able to get in touch with them. It was thought that it may be a shock for some parents to be contacted by the adopted person. The meeting, it was believed, would give the adopted person information to support them to be prepared for this reaction. The legislation was in effect a compromise between various views about the impact on the privacy of birth parents and relatives. In effect, an arbitrary date [the implementation date of the Act] has created different rights for adopted persons, depending on the date of their adoption and whether they know their birth name.
- h. We believe, however, that this legal requirement made almost 50 years ago is not needed today as it is now common knowledge that adopted people can trace their birth parents. Research has shown that the majority of birth parents are happy to be contacted by the adopted person, even when they were not expecting this. In any event, a birth parent or relative can register a wish for no contact on the Adoption Contact Register to protect their privacy.
- i. Thus, this outdated legal requirement is likely to be doing more harm than good as it delays adoptees in exercising their right to access information fundamental to their sense of identity. It singles out one group of older adopted persons.
- j. Some adopted persons feel strongly that this current barrier for one group is not relevant and should be removed. Others can see value in a meeting but accept that this should not be compulsory. Professionals are well aware of the delays arising from this requirement and a lack of resources in the sector to respond in a timely way. The entitlement to have the benefit of a meeting before or during the process of applying for their birth certificate should be available to all adopted persons, regardless of the date of their adoption. It should not, however, be compulsory for some adopted persons and not others.

Our proposal: remove the mandatory ‘procedural requirement’ for persons adopted pre 12/11/75 and ensure adequate resources are in place for those who wish to have a meeting with an approved adoption worker.

- k. We propose that these ‘earlier’ adoptees follow the same process as those who already know their birth name and more recent [post 1975] adoptees; the adopted person may apply directly to Registrar General who will be able to make the link from the Adopted Children Register to the Birth Register and release the information without further delay. They should still be able to request a consultation meeting with an adoption advisor if they so wish. There needs to be sufficient resources across the RAAs to enable this service to be provided by experienced adoption advisors.
- l. This proposal will remove the present barrier for one group of adopted persons applying for their birth information and thereby reduce delays when adopted people are seeking to trace and contact birth family members. This will benefit both adopted people and their birth relatives in the pre 12/11/75 group.
- m. However, it is important to note that this recommendation is not to diminish or devalue the role of an adoption advisor who is key to providing information, advice and support services to adopted people and birth relatives. Resources need to ensure that the adopted person has choice about whether to meet with an adoption advisor prior to seeking their birth certificate so that they may have additional information from adoption records enabling them to consider some of the issues they may encounter and potential outcomes, as they embark on their search for information and for birth relatives. When an adopted person goes ahead with accessing information from adoption records at that stage, they will have the support of an adoption adviser.
- n. This proposal requires an amendment to legislation. Meantime, resources should be in place within the RAA and AA structures to enable this group of adopted persons to have the birth records meeting if they wish without delays. In addition, information on RAA websites and the relevant government website can provide useful information and signposts to support services. In addition, the GRO could provide information through a leaflet or in online form about the value of a meeting with an adoption worker when responding to an application for a birth certificate.

Problem 2 – Delays in providing intermediary services for birth relatives linked to checking for vetoes and seeking the adoption agency’s “view”

- a. Birth relatives of a person adopted before 30 December 2005 now have the right to request an intermediary service to enable a registered adoption agency to approach the adopted adult relative, (for example their son, daughter, brother, sister or grandchild) to find out if they wish to respond to the birth relative’s request for contact.

- b. When a birth relative's application for an intermediary service has been accepted, the intermediary **must** contact the adoption agency holding the records to ask if the adopted person has registered a veto regarding contact- see ISR [12].
- c. The right to add a veto was implemented on 30 December 2005 when the Adoption and Children Act 2002 came into force. Only persons adopted before that date have the right to record a veto with the adoption agency responsible for their adoption. It was accepted that some adopted persons may not want to have contact with any member of their birth family or wanted to limit who to have contact with or define the situation in which an intermediary worker could contact them on behalf of a birth relative.
- d. There are two types of vetoes. An 'absolute veto' is where the adopted person says they do not want to be contacted by an intermediary to inform them that a birth family member wishes to have contact. A 'qualified veto' is where the adopted person states the circumstances in which they would like to be contacted, for example, by a specific birth relative, or to be told about a life or death situation.
- e. It can take agencies a long time to check for a veto because the adoption records may not be easily accessible, they may not have enough staff, and few agencies keep a record of vetoes centrally (despite the government suggesting they do so). Checking for this veto becomes another source of considerable and unacceptable delay.
- f. According to the limited research available, and informed by our consultation with professionals, the numbers of adopted people using their right to put a veto on their adoption file is very small and is likely to be a tiny number for those adopted before 1975.
- g. The intermediary (who may be working for a birth relative or an adult adoptee) **must** also ask the adoption agency for their "view" about providing the intermediary service (e.g. if there is a good reason why they should not put the birth relative and the adopted person in touch with each other.) Because of the problems in finding records and allocating the work described above, it can also take a considerable time for agencies to respond to an intermediary service enquiry with their "view", sometimes exceeding a couple of years.
- h. Even when agencies obtain the adoption records, when the person was adopted before 1975, there may be limited information in the records. The information from the record, whilst of value, is historic and the birth parent may now be in a completely different situation in their life. It is likely that this current information will be known to the intermediary but not to the agency holding the file.
- i. Although there is a duty for the intermediary to find out if there is a veto recorded and to ask for the "view" of the adoption agency holding the files, there is no duty on the adoption agency to respond within a prescribed timescale. Waiting for information about the agency's view, together with awaiting confirmation of a veto or not, results in significant delay, as shown in some recent research.

Our proposal: amend ISR Regulation 12 requirements.

- j. We have carefully considered the views of professionals and birth relatives about what may be a realistic timeline for the agency holding the records to respond. We are acutely aware of the current unacceptable delays that some, but not all, birth relatives experience. At the same time, we are aware that, especially in the case of older records which may have been transferred from a closed VAA to the LA, it may take time to locate records and there may be a lack of clarity in RAA protocols as to which agency is responsible, again leading to further delays. The Data Protection Act 2018 requires the organisation to respond within one month of receiving a subject access request. However, we consider that this may not be a realistic time frame, although we recognise the desire of birth relatives to reduce delay, particularly for older persons. We propose that agencies be required to respond to a Regulation 12 request from an intermediary agency within **three months**: unless there is a 'justifiable' reason for seeking an extension of time.
- k. We acknowledge, as do professionals, that it may be useful for the intermediary agency to have historic information from the case record to assist the applicant to make an informed decision about pursuing contact. Delays, however, are not helpful for either the applicant or the intermediary agency worker.
- l. If the adoption agency does not reply within three months, and a 'justifiable' extension has not been agreed, the intermediary should be given discretion to proceed with providing their service without waiting for a response about [a] whether there is a veto and [b] the view of the adoption agency. We consider that the risks are minimal and it is likely that a very low number of vetoes are, in fact, registered.
- m. Where the adoption agency holding the adoption files is not the original adoption agency (as that agency may have closed), it should have discretion to allow the intermediary service provider to go ahead without checking for the veto and the "view". Intermediaries are already obliged to consider the impact on the welfare of the person they are helping and the person being sought and any other person who may be affected.
- n. We would argue that intermediary service professionals can make informed judgements about whether and how to make an approach to the adopted person. They will have up-to-date information about the birth family member and their life now. We think this can mitigate any risks of going ahead with providing an intermediary service without having the view of the adoption agency holding the file.
- o. In the very unlikely case that the adopted person registered a veto with the appropriate adoption agency and this was missed, it is not the birth relative who will make a direct approach to the adopted person. It is the intermediary worker. The birth relative will still find out through the intermediary if the adopted person does not want to be contacted, and the adopted person is still protected as they can let the intermediary know that they do not want any contact or want to put conditions around any contact. Again, any risk arising from making an approach to the adopted person is properly managed.

- p. By having a process with a timeline and thereafter enabling intermediaries to proceed will ensure that their services are provided in a more timely manner resulting in adopted people and birth relatives potentially being put in touch with each other more quickly.
- q. We also recommend that (a) agencies are reminded of the existing best practice statutory guidance that any vetoes placed by adopted persons on the record are collated and held centrally by the adoption agency or within the RAA and (b) that steps are taken without delay to set up a central (i.e. national) register of vetoes. For example, this could be held by Adoption England although we are aware that their funding extends only until 2025. Our preferred option would be an amendment to give this responsibility to the Registrar General. Then, there will be only one place for the intermediary service agency to check for a veto which will speed things up. To progress this, it would be valuable to have a dedicated time limited funding stream to enable archived adoption records to be checked to compile a local/regional register which could be transferred in the future to RGO.

Problem 3 – Closure of the NHS Death Registration Service

- a. This NHS service was suspended during the Covid 19 pandemic measures and, as yet, has not been reinstated. Before the suspension, this service enabled adoption agencies acting on behalf of adopted people and birth relatives to check digital NHS death registration records to find out if the person being sought had died. This was a crucial service saving a lot of time when providing tracing services as it helped inform the scope of the intermediary service and the costs that could be incurred.
- b. The website explaining this service can be found here:
<https://digital.nhs.uk/services/adoption-registration-service/death-registration-enquiries#how-to-use-this-service>
- c. The Department for Education have said in their response to the JCHR report that it would be very difficult to set up an alternative system.

Our proposal: urgently reinstate the NHS service

- d. We recommend that the Department for Education holds urgent discussions with the Department for Health to press for the immediate reinstatement of this service. A number of agencies and organisation in the sector are also pressing for this.

Problem 4 - The retention of adoption records

For people adopted before the end of 2005 their adoption records must be kept for 75 years. For anyone adopted after this date their adoption records must be kept for 100 years. For older adoptees this is potentially a big problem. For example, a person adopted as a baby in 1948 will now be 75 years old and their adoption records could be legally destroyed.

This could be devastating for that person if they seek access to their records. It would also affect people in a “prescribed relationship” to the adoptee. For example, if the adopted person had died and their son or daughter wanted to access information from the parent’s adoption record.

There is no justification now for a difference in the retention period especially given the right since 2014 for persons in a ‘prescribed relationship’ (for example an adopted person’s son or daughter) to apply for information from a relative’s adoption record.

Our proposal: require all adoption case records to be retained for a minimum of 100 years

- a. We acknowledge that the Department has recommended to RAAs and adoption agencies that all adoption case records are retained for at least 100 years and we welcome this action. We are acutely aware of the fragility of some adoption records and the issues of deterioration resulting from inappropriate storage and mishandling of paper records and microfilm documents. It is crucial that RAAs ensure that digital records are properly backed up and secure from cyber attacks.
- b. We recommend that as soon as practicable this directive is reinforced by changes to statutory guidance.
- c. In addition, we recommend that the adoption regulations are amended so that **all** adoption records must be retained for **a minimum of 100 years**.
- d. We further recommend that there is consideration and potentially consultation as to whether one hundred years is long enough, particularly given the rights for people related to the adopted person to apply for intermediary services for information from the adopted person’s records.

Problem 5 - Intermediary services are unaffordable and unavailable for many adoptees and their birth relatives

- a. There are wide-ranging problems affecting services for adults affected by adoption, and these all require consideration. Here, however, we are focusing on services needed urgently by the pre-1975 group, whilst recognising that there are issues for all seeking intermediary services.
- b. Some birth relatives and adoptees wanting an intermediary service will be able to access services for free, others will be asked to pay for the service. Because there is no duty to provide intermediary services, provision varies across England. Some RAAs prioritise a service for older adopted persons and birth relatives: others are not able to do so because of constrained resources: across RAA arrangements there are differing agreements about where responsibility for this service is located. There are intermediary services provided outside of the RAA and AAA structures in the not for profit sector and in the private sector. Inevitably most of these providers charge fees

- and many cannot afford this as it may exceed £1000. Even low-cost services are out of reach for people on a low income.
- c. Aside from questions of affordability, there is a shortage of intermediary services, particularly in some geographical areas.
 - d. The effect on birth relatives is devastating because using an intermediary is for most the only route to tracing the adopted person. But the problem also affects adult adoptees: some would prefer to contact their birth relatives using an intermediary, and many would welcome being “found” by a birth family member.
 - e. Those who have used intermediary services are clear that the services need to be regulated and professionals need to be supported and resourced to provide high quality services. Some may prefer not to use the services of an agency that was directly involved with their adoption: others may find this helpful. Adoption workers consider it important that knowledge and skills are retained and expanded in the public and not for profit sector, whilst recognising that some adopted persons and their relatives may not trust an agency involved directly in placing children for adoption historically and currently.
 - f. There is unanimity amongst all that, presently, these much needed services are not always available to meet the demand for such services; availability varies across regions and the available services are not adequately resourced and sustained.

Our proposal: the provision of ring fenced funding for intermediary support services

- g. That the government should set aside money specifically for the pre-1975 “before it’s too late” group to fund services for adopted people and their birth relatives. This is an approach that has been taken in other countries with regard to historical adoptions, and in the UK with regard to child migrants. Dedicated funding streams could be channelled as appropriate through RAAs and VAAs.
- h. That the government urgently considers how they can widen the pool of intermediary service providers, for example, through direct funding of adoption support services, spot purchasing of services, and potentially the use of suitably qualified and supervised volunteers working under the auspices of registered adoption agencies/adoption support agencies.

IASA Project Team

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February 2024

Appendix 2 - Pre commencement issues – legal amendments needed and interim actions



1. No distinction in terms of rights for persons adopted before or after 12 November 1975

Action required

Legal amendment:

- Amend ACA02 and provisions in Schedule 2 para 4(1) and regulations to remove the pre and post 12/11/75 distinction in terms of rights and the process for applying to the Registrar General for a birth certificate.

Interim measure:

- relax the strict requirement on arrangements about how these services are provided.
- discuss with the Registrar General scope to enable the Registrar General to provide a birth certificate for applicants in the pre November 1975 subgroup without requiring birth information counselling before processing an application for their birth certificate.
- resource courts to deal with applications for court documents which are likely to include a copy of the individual's birth certificate.

2. Adopted persons' right to register an absolute or qualified veto: impact on intermediary support agencies working with birth relatives

Legal amendment

- Amend Adoption and Children Act 2002 and The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005, Regulation 12.

Proposed amendments to include:

- Bring forward amendments to Regulation 12 to impose a strict time limit on the adoption agency/LA to provide confirmation regarding a veto or not and its view. Under data protection laws the data controller must reply to a subject access request

within one month. We recommend 3 months. Any extension of time must be for justifiable reasons and agreed with the applicant.

- Regulate that if the adoption agency does not comply within the time limit, a registered ISA is permitted, using appropriately qualified and registered social workers and informed by its own enquiries and information from the applicant for services, to make and record an informed decision to offer services or not. If offering intermediary services, the ISA must comply with policies or guidance regarding sound practice, taking into account the welfare of the adopted person, the welfare and situation of the birth relative and any identifiable risks if an approach is made [ie R6 framework].
- Regulate to give an ISA ‘reasonable discretion’ to proceed in cases where particular factors dictate urgency such as where a birth relative making the application has a known life shortening illness or likewise the adopted person. The intermediary service agency should notify the adoption agency of the grounds and reasons for its decision. If the agency does not respond within 14 days, the intermediary agency may proceed, if in the circumstances it considers it appropriate to proceed.
- Regulate to permit that, where the application by the intermediary services is made to the adoption agency holding the adoption case records of a no longer functioning agency, the local authority/adoption agency may delegate ‘forming a view’ to the intermediary services agency about what information should be shared from the adoption records with the applicant. In addition, empower the intermediary services agency to check whether a veto is entered on the adoption record.

Interim action

- In the case of the JCHR pre 12 November 1975 sub cohort, permit an intermediary services agency to proceed with application for intermediary service, based on its own assessment by skilled practitioners, requiring the ISA to keep a record of steps and actions taken and to inform the appropriate adoption agency of actions and decisions taken. This will avoid delay for an older group of persons affected by adoption and will ensure consultation and support to an applicant and the subject.

3. Retention period for pre commencement adoption case records

Legal amendment

- **Amendment to** Amend Regulation 14 of The Adoption Agencies Regulations 1983 to extend the retention period for adoption case records to a minimum of 100 years.

Interim action

- Through Adoption England, the DfE has issued guidance to adoption agencies to consider unless there is a sound reason not to do so to extend the retention period for all pre commencement adoption case records they hold, including case records

transferred by a closed agency. Adoption England together with the DfE should remind agencies, including voluntary agencies and RAAs of the shared responsibility to review and secure archived records to ensure that the integrity of the data – eg microfiche records – on all records is secure and retrievable. **Ofsted** should be tasked to include in any inspection or review of AAs, VAAs and ISAs an assessment of the integrity and secure preservation of all records and related documents and equipment to access the records. And also review the agency's retention of records policy.

- Consider whether to inform Data Controllers and Data Protection Officers of AAs and VAAs the information about expected record retention for at least 100 years. This could be done through Adoption England.

Appendix 3 – Post-commencement Adoptions: concerns about disclosure of information



Adoption and Children Act 2002, sections 56 – 65

The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005

1. Introduction

This briefing considers some of the current concerns and challenges that practitioners are facing when dealing with applications for information from adoption records under sections 56 – 65, Adoption and Children Act 2002 and The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005, particularly:

- Adopted adult's right to have the Child Permanence Report and information given to their adopters – section 60(2)
- Section 61 applications - disclosing protected information about adults
- Section 62 - disclosing protected information about children

2. Background

The Adoption and Children Act 2002 introduced significant changes to the process for an adult adopted on or after 30 December 2005 and persons connected to them to have information from the adoption records. The aspirations of greater transparency for the child about their adoption and for information exchange over time between the birth and adoptive families, whilst generally welcomed, have not always been consistently achieved. And likewise, expectations of post adoption direct or indirect contact have not always been sustained. The challenges when applications are made under the post commencement framework are now emerging as young adults, adopted after the implementation of these regulations, are exercising their right to have a copy of the Child Permanence Report and other information given to their adoptive parents.¹ The majority of these young adopted adults were adopted from care and their adoption may have been contested by their parents and birth family members.

The most recent statutory guidance was written in 2013. Whilst useful, it does not reflect the more complex and, at times, unanticipated consequences now emerging in day to day practice. In addition, RAAs have been set up across England since this guidance was issued, each having somewhat differing structures and protocols. There is now wide variation about

¹ ACA02 section 60(2)

what support services are available for an applicant under s60 [disclosing adoption information to an adopted adult] and those seeking protected information under sections 61 [disclosing protected information about adults] or 62 [disclosing protected information about a child].

There is a lack of clarity about where responsibility for responding to these applications is placed within the sector. There are issues about the allocation of resources within and across the sector to support both the applicant and the subject of the application. As a result, process matters such as accessing archived adoption records may cause delays for the applicant and for the practitioner. There is a risk that knowledge and skills in the sector acquired from the experience gained in pre commencement practice will be lost, impacting on creating a secure foundation for post commencement practice.

The IASA advisory group has shared anonymised information about the profile of the young adopted adults exercising their right to have the information in the CPR and other information shared with their adoptive parents. We are aware that, as yet, there is no systematic concrete data regarding this cohort. It appears that currently the young adopted adult is seeking information in circumstances where their adoption ended in an unplanned way and their desire to have information to gain an understanding of the past is central to their application. Some may also wish to trace and make some form of re-connection with their birth family. Some of the young adopted adults have had early and continuing difficult and challenging life experiences, others may have an identified or indications of mental health needs [often affected by lack of CAMHS resources in a timely way]. Some are in difficult personal circumstances of homelessness, absence of any support network and some have found themselves in abusive relationships.

The post commencement framework was structured on a presumption of greater openness about sharing information with the adoptive parents who in turn and, with support from the child's adoption social worker if they wished, would share information with their adopted child during their childhood and adolescence. It was envisaged that some children would have either direct or indirect contact post the adoption order with a member of their birth family. This may have included maintaining relationships with siblings. There was an expectation of high quality life story work being done with all persons in the child's circle, together with supporting birth parents to write a later life letter for the child. There were high hopes for letter box contact where other forms of contact were not suitable. Innovative practice regarding maintaining connections was variable and creative work done in VAAs was, for various reasons, not always replicated by local authority adoption agencies. In addition, the provision to enable advance consent [R11] for information sharing, enabling not only birth family members but also perhaps former foster carers or other persons involved with the child before their adoption, to agree to personal information being shared with the adopted adult does not seem to be widely known or used, although contested adoption plans may impact on using such agreements.

3. Summary

In summary, there are challenges to interpreting the duties in the Act and regulations in a way that:

- Respects privacy rights of all concerned whilst respecting the unqualified right of the post commencement adopted adult to have the CPR and other information
- Responds ethically and sensitively to the rights of these young adults wanting information, whilst also meeting their needs in a context where some young adults may welcome receiving support when information is shared. Others may not.
- Addresses issues of consistent interpretation of sections 61 and 62 and the issues about discretion on the part of the agency.

For practitioners and their managers this is made more challenging because of finite resources, in a context of no requirement of intermediary services. The majority of the adults exercising their rights, as well as the subject of an application, are likely to benefit from skilled and time intensive work to enable them to explore options before taking a decision about what is their best way forward.

4. Key issues identified by practitioners

a. Adopted adult's right to the Child Permanence Report and related practice issues

The post commencement adopted adult has an unqualified right to have a copy of their CPR and any other information shared with AP when the child was placed by AA for adoption.

Section 60(2)

(2) The adopted person has the right, at his request, to receive from the appropriate adoption agency—

- (a) any information which would enable him to obtain a certified copy of the record of his birth, unless the High Court or family court orders otherwise,
- (b) any prescribed information disclosed to the adopters by the agency by virtue of section 54.

Statutory guidance**para 11.13**

Section 60(2)(b) of the Act provides an adopted person, on reaching age 18, with a right to receive from the AAA the information disclosed under section 54 of the Act to the prospective adopters during the adoption process. This will be the information contained in the child's permanence reportThe child's permanence report will include identifying information about the child, the birth parents, birth siblings and possibly other members of the birth family. It will also include information about the child's early life and family history, their social, emotional and behavioural development and other matters.

para 11.4

On receipt of such an application, the agency will need to consider carefully how best to disclose it since it will contain information about their early life and some of this may be upsetting or distressing. Prior to disclosure the agency should consider whether it would be best for the information to be disclosed in parts over time accompanied by appropriate counselling and support. This may help lessen the impact for the adopted person of receiving potentially distressing information about their early life while still enabling them to fulfil their right to receive the information.

5. Summary of issues relating to Child Permanence Report [CPR] and other sources of information

- right to CPR:
 - The adopted adult is entitled to the complete document and there is no power given to the agency to redact personal data of others, including sensitive personal data. Practitioners ask how this fits with data protection principles. The Regulations have not been reviewed since 2005. Since then, the General Data Protection Regulation 2016 [GDPR] and Data Protection Act 2018 [DPA] have been implemented and, although the process for accessing agency adoption records is exempt from the Subject Access Request process in DPA², the principles of data protection apply to that process.
- poor quality of CPR:
 - Despite guidance and training, it is evident that some CPRs are of poor quality. An amendment to AAR05 in 2012 meant the CPR of a child, who was the subject to care proceedings and for whom the LA's plan was adoption and thus a placement order was to be applied for, did not go the AAA's adoption panel. As a result, one source of quality assuring both the content of the CPR, corroborating sources of information, ensuring accuracy and relevance of information in the CPR, was no longer in place.
- CPR as Annex B report to support Placement Order application:

² DPA Schedule 4 paragraph 3(2)

- In 2015 it was agreed that the CPR would serve a dual function – as a record/document to be shared with the adoptive parent when considering matching and a court document³ to support the local authority’s application for a placement order. This proposal, designed to avoid duplication, is likely to have shaped the presentation of evidence about the birth parents and family who the local authority consider are not able to care for the child. It may have resulted in an individual’s personal data, particularly information about birth parents or a relative who may be offering to care for the child, tending to point in one direction in order to meet the threshold for a placement order. Detailed personal data about other siblings or other children in the family home may have been included to ‘justify’ the adoption plan for an individual child. If a court was asked to provide the CPR under R14.18, all third party personal data would be redacted. The issues of the court responding to a request for documents from the court records has been reviewed by the Public Law Working Group which may result in more consistent practice when responding to a request for court documents.⁴
- Various iterations of CPR:
 - The CPR is a document which may have been revised over time for differing reasons. There may be variation in contents over time. As this may not be logged, it may be unclear which version of the CPR the adopted adult is entitled to have. Looking forward this issue may improve given the revisions CoramBAAF has made in wide consultation to the CPR form and guidance notes.
- AAA or the agency acting on its behalf lacks discretion to ‘redact’ personal data of others if it is already in CPR:
 - The AAA/AA has no discretion to redact third party information. If the agency considers that such information is highly sensitive and there are risks in sharing it, the agency can only refuse to either accept or proceed with the application from the adopted adult.
 - This decision not to proceed must be made by the Agency Decision Maker [ADM] and gives the adopted adult the right to refer that determination to the Independent Review Mechanism. This power is too blunt and does not give the agency any discretion about managing and addressing the deficits of some CPRs, including managing sensitive third party information. CoramBAAF has been providing training and discussion for ADMs and there may be a continuing need fund training and support to for ADMs as well as IRM members taking on this task.
 - If the data is in the CPR, the agency is not required to have the consent of that person to share the information [unlike the process for sharing third party information in the pre commencement regulations].
- Lack of/missing information in CPR including relevant identifying information:

³ Annex B Report: Requirements of Practice Direction 14C]

⁴ Public Law Working Group interim report [September 2023] and final report [November 2014] : Recommendations for Best Practice in Respect of Adoption

- If the CPR does not have identifying information, practitioners and the agency are struggling to find a power under which it can use discretion [cf pre commencement residual power in Regulation 15 AAR83] to share information. This means if the address of a birth parent or relative is not on the CPR, the adopted adult will need to make a parallel application under s61 – see below.

Other sources of information for the adopted person

- Information in life story books is sometimes of poor quality and may differ from information in the CPR.
- Post adoption information exchange:
 - Later life letters, which are of variable usefulness and quality, and information exchange between the birth and adoptive family through, for example, letter box contact arrangements require skilled and continuing support to all the parties concerned to sustain this. Such support has often been absent during the adopted adult’s childhood and adolescence and may have stopped with no clarity about why.
 - This may be a significant factor motivating the young adult to ask for copy of their CPR. The current information indicates that many requests are made in the context of unplanned endings to adoption and a wish to reconnect with birth family members.
- Regulation 11 agreements in advance about what personal data can be shared:
 - There is no concrete data about how the AA and the LA planning the child’s adoption may have used these ‘advance’ agreements. Practitioners report that such agreements are unlikely to be found on post commencement adoption records. In any case, such agreements are unlikely to be reached in the context of contested care and placement order proceedings and are unlikely, generally, to emerge after the adoption order is made.

6. Issues to review and consider with practitioners and policy makers

- Consider whether the unqualified right to the CPR with no power to the agency to redact sensitive third party personal data is consistent with data protection duties on the agency and the welfare of both the adopted adult and others in the adoption circle. Whilst the para 11.4 guidance is a reminder of good practice, sharing information over time with support requires resources to be allocated within the agency and the RAA and across the sector. Currently the agency has no legal power to withhold information about third parties in the CPR, if the adopted adult wants their CPR without any support.
- Consider whether the agency should be given a qualified discretion to redact sensitive third party information contained in non-recent and current CPRs. The discretion should take into account the welfare of the adopted person and their right

to have a narrative to make sense of their life to date, balanced against the Article 8 and GDPR privacy rights of others. **Guidance** setting out criteria to inform the exercise of discretion can be developed across the RAAs. Practitioners have expertise to undertake this balancing process and decision-making, based on pre commencement practice. The ADM acting for the agency should be entrusted with the power to make a final decision which would be a qualifying determination with a right given to the adopted adult to apply for a review by the IRM. This requires an **amendment to both s60(2) and to current regulation 15**. However, the amendment would need to be retrospective to deal with current as well as future applications.

- A challenge remains because of the varied uses of the CPR including as a source of information for prospective adopters and for the court. Good practice would ensure that only relevant protected and identifying information is shared. At the same time information which should have been in the CPR may not have been included. The agency should have a discretion to share such ‘missing’ information with the adopted person and not require the adopted person to make a section 61 application, which requires the subject of the application to be traced and give consent.
- Looking forward, the revised form and practice notes developed in consultation with the sector by CoramBAAF should result in more thoughtfully organised content in CPRs. Urgent training is needed to improve the quality of CPRs and particularly what information about others is relevant, the importance of sources of information and an understanding of advance consent [R11] to sharing information. Practitioners need to be aware that the CPR is a document which the adopted person has the right to when they are an adult. Training will not however address poorly written CPRs from the past.
- Consider whether children subject to care proceedings for whom the plan is adoption should be presented to the adoption panel before the placement order application is considered by the court. There is no substantive evidence that the previous requirement to do so caused delay and it assisted in ensuring a document setting out cogent evidenced based reasons for the adoption plan and placement order was created. This requires amendment to the AAR 2005. The alternative is to ensure that the local authority when planning a child’s adoption ensures that the adoption adviser is tasked with, as part of quality assurance, reviewing the quality of the CPR.
- The coupling of the CPR to the Annex B report requirements is not helpful for those affected by adoption and the CPR should not be used as a court document. This requires a review of Family Court Rules and guidance and could be referred to the Public Law Working Group.

7. Proposals for amendments to the Act and Regulations

- (a) **Amend section 60(2) and Regulation 15 to give discretion to redact and also discretion to provide certain identifying information from records without the consent of the subject – issues regarding this.**

The s60(2) right to the CPR is a statutory right and thus including a discretion to withhold information requires amending primary legislation. If the AA has discretion to redact information from the CPR, the adopted person must have the right to invoke the IRM process if they consider the redaction is 'unfair'. This is not ideal as it is difficult for the applicant to challenge redactions when what has been redacted is unknown, but it is one way of acknowledging and redressing the power imbalance.

In addition, if relevant identifying information, such as a parent's address, is not in the CPR, give the agency a power and qualified discretion to share this information with the adopted person: currently the adopted person must make a s61 application. Under s61, the subject of the application must give consent and this is not always helpful as the applicant may not want such an approach to be made at an initial stage.

If establishing a model where the agency has the discretion to both redact and to share, there needs to be a **statutory right to intermediary support services** and funding to expand these services. A skilled intermediary worker will be able to consider issues of risk for both the adopted adult and for third party family members if information is shared without support. Such services would ensure support to the adopted person receiving the information and also to family members. This will require additional and sustained resources in the sector.

(b) Present all children subject to care proceedings for whom the plan is adoption and where a placement order application is being considered to the agency's adoption panel

This requires an amendment to Regulation 17 of the Adoption Agencies Regulations 2005 which was amended in 2012 to remove the duty to present a child the subject of a care order or placement order application to the adoption panel.⁵

8. Applications under sections 61 and 62 – practice issues

The two extracts from the 2013 Statutory Guidance are a succinct summation of the key challenges for agencies and practitioners to balance the Article 8 privacy rights of all concerned, being attentive to individual privacy rights whilst promoting transparency and mindful of the impact of a risk averse culture shaping decision-making.

⁵ See The Adoption Agencies (Panel and Consequential Amendments) Regulations 2012

Statutory guidance**para 11.42**

...where it is a question of the possible disclosure of ‘third party’ information, such as identifying information about members of the birth family or former foster carers, the agency must not only act in accordance with sections 61 and 62 of the Act, but also in accordance with the principles of the Data Protection Act.

para 11.43

What is important is that both the Act and the Data Protection Act require the agency to carry out a balancing exercise between the rights of the person requesting disclosure and those of the person to whom the requested information relates to in considering the overall fairness of disclosure.

(a) Section 61 - Disclosing protected information about adults**Statutory guidance: para 11.44 – 11.52**

The adopted person, a birth relative or other person with an interest may apply to the AAA for the disclosure of protected information none of which relates to a child. If the agency proceeds with the application, it must take ‘all reasonable steps’ to find out the views of the subject about their protected information being shared with the applicant. This requires resources. An adopted person cannot be charged a fee for a section 61 application: others may be charged a ‘reasonable’ fee. The agency is not obliged to proceed with an application but should not use the lack of resources as a reason to not go ahead with an application. Most agencies will wish to respond positively. It is the responsibility of the agency’s decision-maker [ADM] to decide not to proceed, taking into account the factors in section 61(5).

Practice issues

- The subject has to be told and give consent unless dead or incapable of giving consent: the applicant may not want the subject to be told as they may wish to have identifying information but have no intention to trace or contact.
- The agency has no duty to provide intermediary services but tracing and supporting the subject of application to make an informed decision about what information they wish to share is akin to aspects of an intermediary service.
- Fees: AAAs and RAAs may not have been aware of the issue of costs of providing section 61 services and how to manage this across the sector where it may be more appropriate for a local agency to deal with the application on behalf of the appropriate adoption agency. Presently good will is used to manage this but the sector needs protocols and sector wide funding to provide services best suited to the applicant and the subject.
- If an applicant wants to use an intermediary when seeking information, unless they are the adopted person, there is likely to be a fee for this service. There are limited numbers of ISAs and regional variation in the available services. This is likely to exclude many persons who have been affected by the child’s adoption.

- It is well established that not all, but many adopted adults, birth relatives and others related to them through the adoption order, welcome the support of intermediary workers throughout or at key stages of seeking information. The absence of intermediary services in the post commencement framework to support adopted people and relatives creates an injustice for post commencement adopted adults.
- The agency, if the subject cannot be traced, may apply to the Registrar General to find out if there is information to assist on the Adoption Contact Register – Regulation 20.1.b. Does the agency need to pay a fee for this application or should the agency charge the applicant? Agencies are under resourced for post commencement work and delays are likely if the practitioner has to make a case to the agency to cover the fee. Birth relatives and other persons may struggle to pay this fee. It would assist all, given the role of the State in the lives of these adopted adults, if that fee could be waived.
- The ADM has a responsibility to either decide not to share information or what information to share having regard to the welfare needs and privacy rights of all affected by the application. It is not clear whether the implications of this additional responsibility have been reviewed within RAAs and agencies so that practitioners are clear about to whom a referral for a decision is made.
- There is also a new role for the IRM panel members – see Regulation 15. As yet the volume and complexity of referrals remains unknown together with the support that an applicant may need to present their referral.

(b)Section 62 – Disclosing protected information about children

Statutory guidance: para 11.53 – 11.58

The agency/ADM has discretion about whether to go ahead with the section 62 application but it must take ‘all reasonable steps’ to find out the views of any adoptive parent or any guardian of the child and also the child having regard to their maturity and understanding, about the information to be shared with the applicant. The adopted child’s welfare must be the agency’s paramount consideration and it must have particular regard to the welfare of any other child affected by the application.

- This duty however does not restrict the right of an adopted adult under section 60(2) to have the CPR and any other information.⁶ Weighing up how best to manage competing rights and welfare needs of children, take account of views of adoptive parents and the rights of an adopted adult is challenging. A review of these provisions is needed to ensure that through guidance there is consistency of practice across the sector and to support decision making by ADMs to enable justifiable and coherent qualifying determinations.
- There is discussion in the sector about how should the local authority/agency respond to a request from a birth relative or another person for post adoption

⁶ Section 62(8)

contact? If the view is that contact is not in the welfare interests of the adopted child and the person wants to make an application for a contact order, does this become a section 62 request to have the information to inform an application to seek leave under section 51A(4)(c)? Or will it be for the court to make directions about how the information needed to commence proceedings is obtained? See also section 51B.

- Review and discussion are urgently required to ensure that agencies and the courts are clear about the procedural pathways to respond to such requests. The applicant under section 62 does not have the right to refer the agency's decision to the IRM so their only recourse is to seek leave to issue a contact application.

9. Responding to requests by adopted adult birth or related and other persons: where does responsibility sit

The sector needs a steer to develop protocols to manage these applications in a way which supports both the applicant and the subject. The application must be made to the 'appropriate adoption agency' How do agencies across the sector manage aspects of the work if asking a local agency or ISA to undertake the work on their behalf?

The agency has discretion under R8.2.a to provide protected information [s56] to an ASA or another agency to which a section 61 or 62 application has been made. Resources to manage these applications across the sector are limited. An applicant may prefer a local agency to deal with their application. Inter-agency work requires protocols for collaborative information exchange and decision making, and in the absence of this, serious delays and inconsistencies across the sector are now emerging. There also needs to be clarity about where ADM responsibilities reside.

10. Conclusion

One way forward may be to set up a task group of practitioners and others in the sector and the department to review these issues and identify whether and what amendments are needed to the Act and/or regulations and to consider:

- What steer/guidance can the department give to RAAs, AAAs VAAs and ASAs on how to approach practice issues identified to date.
- Working with the PLWG to inform court protocols regarding requests for documents on adoption court files.
- Setting up a programme to gather data from adopted adults of their experience of applying for the CPR and other documents and the experiences of applicants making sections 61 and 62 applications.
- A parallel programme to enquire into the challenges and experiences of practitioners working with applicants to inform what if any amendments are needed to the post commencement framework.

July 2024

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Appendix 4 - Post commencement issues – legal amendments needed, practice areas to review and interim actions



This note identifies legal amendments required if the recommendations in the briefing are to be taken forward and interim actions to address the challenges in the sector.

1. Adopted adult's right to the Child Permanence Report and other documents: balancing privacy rights of all persons identified in the documents

Legal amendment

- Amend section 60(2) to give a tightly defined discretion to the AAA to redact sensitive third party information from the CPR and other documents provided to the adoptive parents under section 54, together with a power to provide identifying information which should have been on the CPR but is not.
- Amend Regulation 15 to give responsibility to the ADM to make a qualifying determination about what information is redacted and give to the adopted person the right of review through the IRM process.

Additional considerations

- Amend AAR 05 to give the agency discretion to refer adoption plans to panel for consideration if a placement order application is proposed.
- Review the implications of using the CPR as a report document to support a placement order application.

Interim measures

- Support Adoption England to develop sector wide knowledge about managing redactions if considered necessary and appropriate to ensure consistent decision making across and within RAAs.
- Begin sector wide consultation about the criteria which the ADM must address when making a decision to redact information in the CPR with a view to informing action to amend section 60(2).
- Consider the implications for practice if the adoption agency shares certain identifying information from case records without the consent of the subject where this information should have been included in the CPR. Develop relevant criteria to guide decision making.
- Provide funds for training practitioners to use the revised CPR form to improve quality and an understanding of the future rights and needs of the adopted adult.
- Provide funds for training practitioners involved in planning a child's adoption about writing Life Story Books and Later Life Letters.

- Consider the range of support and advice services which adopted persons may wish to use when exercising their section 60(2) rights and plan service development, as applications may in the immediate and longer term increase.
- Develop the skills of practitioners to work with adopted persons across the sector.
- Secure funding streams to ensure information, advice and support, including support to make an approach to a person identified in the CPR is available when it is asked for.

2. Section 61: disclosing protected information about adults

- Review the support needs and ascertain whether suitable services are available for individual applicants, including the need to require in legislation, specific services [a form of intermediary services] to be available to support reconnections between an applicant and the subject of the application.
- Support Adoption England to develop protocols for inter-agency practice to enable both the applicant and subject to use local services if they wish: this includes managing both the secure transfer of protected [section 56] information and arrangements for any inter-agency fees for services.
- Review the implications of the funding costs currently and in the future to the RAA/AAA of providing quality services to an adopted person, who cannot be charged a fee for services required when either making an application or when they are the subject of an application by other persons.
- Review the cost of tracing the subject of an application and what services the subject may need or wish to have to make their decision about sharing or withholding personal information.
- Enable the sector to discuss and share information about costs charged to ‘other’ applicants and the cost basis of a ‘reasonable fee’ structure.
- Develop systems for disseminating information about the approach IRM panels are taking when a referral has been made following a Qualifying Determination by the AAA’s ADM.

3. Section 62: disclosing protected information about children

- Develop protocols to ensure the child’s post adoption social worker and the adoption support worker work together to ensure that the child and all other persons affected by an application do not experience delays when the agency responds to a section 62 application.
- Disseminate guidance for practitioners about how to respond to section 62 applications.