



Department  
for Education

# **CONTACT ARRANGEMENTS FOR CHILDREN: A CALL FOR VIEWS**

## Foreword

During the past year and since my appointment as adoption advisor to the Government, I have visited a large number of local authorities and voluntary adoption agencies, and met many hundreds of individuals involved in adoption.

Whenever I sit down with practitioners or adopters to discuss adoption and wider issues of care, I often ask them to tell me what worries them. Contact has been one of the subjects mentioned most frequently.

The more I have listened, and the more I have read the extensive research which is available, the more I have become concerned that, although it is invariably well intentioned, contact harms children too often.

But let me be very clear. Most children who come into care enter for short periods and are soon reunited with their families. I am not remotely suggesting that contact should not take place in these circumstances. Even when children are in care for longer periods, and before it is clear that adoption is the right path for them, I expect contact with their natural parents and families to be the norm. But I do argue that such contact should be agreed only when it is in the best interests of the child. The current legislative presumption in favour of contact and which sometimes leads to contact being seen as inevitable, needs re-examination.

In the large majority of cases where contact is appropriate, there is a need for local authorities and the courts to look critically at the amount of contact. Daily contact sessions, often lasting more than two hours, sometimes preceded and followed by long journeys are not in the interests of the child and are too often distressing to them. This is of particular concern when contact involves an infant.

I believe that contact should happen much less frequently by the time a child receives a Placement Order. At this point, reunification with the birth family is only a remote possibility. Contact should happen only when it is, demonstrably, in the child's interests. And after adoption, birth family contact, including letterbox contact, should only take place when the adoptive parents are satisfied that it continues to be in the interests of their child. Although the legal

position on this is clear I hear from too many adopters who feel informally bound to allow contact despite their grave reservations.

But these are very difficult issues and I am very pleased that before coming to a conclusion themselves, Michael Gove and Tim Loughton are seeking views. I hope that social workers and other practitioners, magistrates and judges, birth families and adoptive families as well as older adoptive children and adopted adults will let Ministers have their views. I have been pleased to prompt what I believe to be a crucially important debate.

Martin Narey  
Government Advisor on Adoption  
July 2012

## CONTACT ARRANGEMENTS FOR CHILDREN: A CALL FOR VIEWS

1. Last year 9,500 children were taken into care – the majority having suffered abuse or neglect.<sup>1</sup> For each one of these children, the question of how far, and in what way, they should have contact with their birth family is a matter that needs careful and sensitive thought and expert planning. The right arrangements will be entirely individual to the child and his or her needs and circumstances, wishes and feelings. They need to change and develop as the child's circumstances change. As it becomes clear what the future holds for a child – whether they are likely to be reunited with their birth family, or other family members and friends, be placed through special guardianship, long term foster care or adoption – the frequency and type of contact with their birth family needs to be assessed and reassessed.

2. We know how strongly all parties – children, birth parents, temporary or permanent carers and adoptive parents – can feel about contact arrangements. The nature of contact arrangements should in all cases be determined by the needs of the child and what is in their best interests. Poorly planned and badly managed arrangements can be harmful for the child and distress and disruption caused by contact are in themselves potentially harmful. Research shows children experience behavioural difficulties and anxiety before and after contact and, at worst, children can be exposed to further abuse.<sup>2 3</sup> Where the local authority and professionals have decided that reunification with the child's birth family is unlikely, and the plan is adoption, contact with the birth family will need to reflect this to make the most of the opportunity that the child now has of a stable loving family elsewhere.

3. The Government thinks that it is time to review practice and the law relating to contact to make sure that arrangements are always driven by a thorough assessment of what is in the child's best interests. There is growing concern that contact arrangements are being made that are inappropriate for the child, badly planned and badly monitored. These are being driven by view that contact should take place, rather than on the basis of the individual needs, circumstances, views and wishes of the child. As the number of children in care rises, so the burden and negative impact of poor contact becomes more pressing.

4. This paper is a call for views. It considers the evidence from research and feedback from foster carers, children in care, adopted children and adoptive parents. It outlines a number of proposals, including changes to legislation, to improve practice in contact arrangements with birth parents for children in care, and for children who are likely to be, or who have been adopted. It does not specifically address the question of contact with siblings or other birth relatives, such as grandparents. However, we recognise that the contact that a child has with their wider family including siblings can be of

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<sup>1</sup> DfE Statistical First Release: Children looked after in England (including adoption and care leavers) year ending 31 March 2011 – 54 per cent of children who started to be looked after were provided with a service because of abuse or neglect.

<sup>2</sup> Selwyn, J. (2004) Placing older children in new families: changing patterns of contact, in Neil, E. and Howe, D. (eds) *Contact in Adoption and Permanent Foster care: Research, theory and practice*, London: BAAF.

<sup>3</sup> Sinclair, I (2005) *Fostering Now: Messages from research*. London: Jessica Kingsley Publishers

great importance and the proposals in this paper do not seek to cover this. Contact arrangements for children who are voluntarily accommodated are also out of scope. On managing contact arrangements, this paper does not cover the development and impact of social media, however we are interested in gathering views on this issue. The Government is asking for responses to the analysis and proposals in this paper. We will consider responses before deciding what further steps to take.

## PART 1: CONTACT ARRANGEMENTS FOR CHILDREN IN CARE

5. Many children in care return home<sup>4</sup>. For many of those who cannot, contact with their birth parents may play an important role in their future lives, particularly in the case of older children. Sinclair (2005)<sup>5</sup> found that 40–50% of looked after children have contact with a family member on a weekly basis, with only one in six children having no contact with a birth family member. Both the age of the child and the reasons why they have been taken into care will strongly influence the nature of contact arrangements. Careful consideration should be given to how the arrangements are attuned to the age and developmental needs of the child and whether contact is genuinely purposeful and beneficial for the child concerned. For example, is contact instrumental in supporting the child's best future prospects, whether those prospects lie in return to the birth family, or a stable and loving home elsewhere.

### The legal framework

6. The law requires the local authority to make contact arrangements with a child's birth parents as long as it is in the child's best interests and promotes and safeguards the child's welfare. This means that where this is not the case the local authority should not support contact arrangements between the child and their birth parents. Local authorities may suspend contact arrangements for a short period where it is necessary to safeguard and promote the welfare of the child and they also have the capacity, through an application to the court to terminate contact arrangements. Current legislation and statutory guidance<sup>6</sup>, set out the requirements for contact arrangements, but do not explicitly require local authorities to make clear how these arrangements are purposeful and consistent with the long-term plan for the child.

### What do good contact arrangements look like?

7. For children growing up with adopters or foster carers, one of their big challenges is to make sense of what their birth family means to them and why they are not living with them. This understanding changes with time and maturity and is something children need to be able to talk about so they can make sense of their lives. Contact arrangements are not an end in themselves – they need to support the emotional development of vulnerable children.

8. For children in care for whom a likely to return home is in their best interests, contact with birth families should, if well managed, be a beneficial

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<sup>4</sup> In 2010-11, 39 per cent of children (around 10,350) leaving care returned home. This compares with 11 per cent (around 3,000) who were adopted, and 15 per cent who moved into independent living or adult support services.

<sup>5</sup> Sinclair, I (2005) *Fostering Now: Messages from research*. London: Jessica Kingsley Publishers

<sup>6</sup> Section 34 of the Children Act 1989 imposes a duty on the LA to allow children in care reasonable contact with their birth parents; Schedule 2, paragraph 15 of the Children Act 1989 imposes a duty on the local authority to endeavour to promote contact between the looked after child and their family. The Care Planning, Placement and Case Review (England) Regulations 2010 (SI 2010/959) provide that the child's care plan must record any court order for contact and set out the arrangements made to promote contact so far as is reasonably practicable and consistent with the child's welfare. The child's placement plan must also include the arrangements made for contact. The Children Act 1989 Statutory guidance Volume 2 on care planning also covers contact arrangements. S46(6) of the Adoption and Children Act 2002 and S1(4)(c) of the Adoption and Children Act 2002.

part of their wider care plan. Well-organised and purposeful contact can also play a role in assessing whether a child can return home. If it is in a child's best interests to return home, research has identified an association between good quality contact with family members in conjunction with other interventions, and a successful reunification<sup>7</sup>. But research evidence<sup>8 9</sup> suggests that too little work is done with birth families prior to children returning home, and that there is much greater scope for purposeful work for reunification to take place during contact visits.

9. Contact allows children to maintain relationships with people they love and with other important people in their lives. In some cases such contact helps them to come to terms with what has happened to them. For babies the need for development of positive attachment means that consistency and continuity of routine with their primary carer are of particular importance. Children tend to look forward to contact, and want more contact, but nevertheless are often upset by it. Most children who were part of our ministerial discussion group expressed a wish for a more nuanced approach to contact arrangements which is tailored to the different people in their lives.<sup>10</sup>

10. Around a third of children looked after by local authorities are in long term foster care, where neither adoption nor reunification with the birth family are likely. Many children in children's homes, who become looked after much later in their lives, are also less likely to return home to their families. In these circumstances if the child or young person is clear that they want to stay in touch, contact with birth parents has a different purpose: how to maintain the relationship over the years of separation and help the child manage being part of two interlocking family networks. Research<sup>11</sup> has found that the most positive contact is actively managed and supported by the social worker, but that teenagers increasingly take charge of contact arrangements themselves. This means that helping older children manage contact and birth family relationships safely is an important challenge for carers and social workers.

### Contact arrangements planned with a purpose

11. Contact should be planned with a purpose. It needs to take into account the capacity of all the people involved to cope emotionally with the arrangements and manage the contact in the best interests of the child. Where a return to the birth family is unlikely, the purpose of contact arrangements is different to those made if there is a realistic plan that the child will return home. The social worker has the complex task of managing the needs and emotions of all concerned and taking extremely difficult

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<sup>7</sup> Sen, R and Broadhurst, K (2011) Contact between children in out-of-home placements and their family and friends networks: a research review. *Child and Family Social Work*, **16**, 298-309.

<sup>8</sup> Farmer, E and Lutman, E (March 2012) Case Management and outcomes for neglected children returned to their parents: a five year follow-up study – from the Safeguarding Children Research Initiative, study on Children returned to their parents;

<sup>9</sup> Wade J, Biehal, N, Farrelly, N and Sinclair I (2012) Maltreated children in the looked after system: a comparison of outcomes for those who go home and those who do not - from the Safeguarding Children Research Initiative, study on Maltreated children in the looked after system (March 2012)

<sup>10</sup> Children's Rights Director for England (2012) *The Minister's discussion group with young people on sibling separation and contact: A children's views report from the Office of the Children's Rights Director*.

<sup>11</sup> Schofield, G and Ward, E (2011) Understanding and working with parents of children in long-term foster care. London: Jessica Kingsley Publishers

decisions that impact on the lives of the child and their family.

12. In all cases, the arrangements should ensure that the child's welfare is safeguarded and promoted. Selwyn (2004) found that 21% of children in her study were physically or sexually abused during unsupervised contact.<sup>12</sup> Children should never be exposed to such risks of harm – unsupervised contact should never be agreed if there is a history of abuse with a particular individual. Sinclair's research found that for those children who had been abused, it was important to restrict contact with particular family members. For those children with unrestricted contact with their birth family, there was a higher likelihood of re-abuse either during contact or after return home than those who had planned, well managed contact arrangements with selected family members.<sup>13</sup>

13. It is essential that contact arrangements are dynamic and flexible so that they can develop in response to changing plans for a child's future. When the child's plan and circumstances change, contact arrangements should be reviewed: they should never be allowed to drift.

### **Practical arrangements**

14. Practical arrangements for contact must be carefully thought through with the child's best interests firmly in mind. As previously noted the right arrangements will vary according to the age and stage of development of the child, and the history of their relationship with birth parents and wider birth family, including siblings.

15. Foster carers give numerous examples of contact arrangements which are not well planned and managed. Children should not be taken to contact visits by escorts they do not know, leaving them to deal with difficult and confusing feelings on their own. Foster carers should have a clear understanding of their role in contact arrangements which are set out in the National Minimum Standards. They should also have the support they need to manage difficult issues before, during or after a child's contact with their birth family. Social workers should consult foster carers about the impact of contact on the children they are caring for and the experience of contact for the child should inform how further arrangements are made. Involving birth parents in contact arrangements at an early stage in the placement can help avoid negative or disruptive relationships between birth parents, the local authority and the foster carers and makes contact arrangements work better for the children concerned.

16. Children have raised the issue of contact arrangements which are logistically difficult. Where children are placed a long way from home, regular face-to-face contact is hard to achieve, and children raise concerns about arrangements that take little account of distance, time and resources. Older children find it difficult when contact arrangements prevent them from

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<sup>12</sup> Selwyn, J. (2004) Placing older children in new families: changing patterns of contact, in Neil, E. and Howe, D. (eds) *Contact in Adoption and Permanent Foster care: Research, theory and practice*, London: BAAF.

<sup>13</sup> Sinclair, I (2005) *Fostering Now: Messages from research*. London: Jessica Kingsley Publishers



socialising with friends or taking part in extra-curricular activities at school.

17. Contact for infants can be particularly problematic. There is pressing evidence that high intensity contact for this group can be stressful and disruptive. Of particular concern is the exposure to multiple carers and the constant disruption to a daily routine. Contact for infants may be arranged for several hours a day for three to five (or more) days a week. Kenrick (2009)<sup>14</sup> studied the effect of contact on infants involved in Coram's concurrent planning project. The study showed that the babies displayed distress before, during and following contact sessions, and that the requirement for frequent contact was experienced as disruptive by the child and carers. The concurrent carers who reported distress and anxiety, described the need for a resting or recovery time of 24 hours to "settle" the child, something which is impossible with such frequent contact arrangements. For infants who have been abused or neglected, the distress from frequent and unsatisfactory contact can make it more difficult for them to recover.<sup>15 16</sup>

### The way forward

18. As noted, it is essential that contact arrangements are purposeful and take account of the specific needs of the individual child and what's in their best interests. The quality of contact is as important to a child's welfare as the frequency.<sup>17</sup> However, any potential benefits can be undermined by poor practice. We need to reassert that the child's best interests are paramount when decisions are made about contact.

19. We think that regulations and guidance can be strengthened to reflect these principles more strongly than they do at present. We should like to see all professionals involved in making contact arrangements give careful and critical consideration to the length and frequency of arrangements, particularly for infants.

20. Statutory guidance can be strengthened to ensure more consideration is particularly given to the purpose of contact for infants. Ensuring that arrangements are appropriate to their age and stage of development and they are not, for example, subject to long journeys. Each case will need to be decided on an individual basis, however we should like to propose that a good starting point might be that children under two are rarely exposed to contact more than 2 or 3 times a week and for sessions of no more than 2 hours.

21. We propose to look again at guidance for Independent Reviewing Officers to ensure that their role in scrutinising contact arrangements as part of the care planning process for the child is sufficiently emphasised.

22. In order to redress the balance to ensure that decisions are driven by

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<sup>14</sup> Kenrick, J. (2009) Concurrent planning: a retrospective study of the continuities and discontinuities of care and their impact on the development of infant and young children placed for adoption by the Coram Concurrent Planning project. *Adoption and Fostering* 33:4, 5-18.

<sup>15</sup> Schofield, G. and Simmonds, J. (2011) Contact for infants subject to care proceedings. *Adoption and Fostering*, 35:4, 70-74.

<sup>16</sup> Kenrick, J. (2009) *ibid*.

<sup>17</sup> Humphreys, C. and Kiraly, M. (2011) High-frequency family contact: a road to nowhere for infants. *Child & Family Social Work* 16:1, 1-11.

the best interests of the child, we also plan to look again at the duties on local authorities in primary legislation to allow children in care reasonable contact with their birth parents and to promote contact for looked after children. We think that these duties may encourage a focus on the existence and frequency of contact arrangements, rather than on whether they safeguard and promote the welfare of the child. This could remove the perceived presumption of contact in all cases and help local authorities to take a case-by-case decision about the best contact arrangements for the individual child. We recognise that these duties were introduced because some local authorities did not previously make adequate arrangements for contact, and we do not want to see a return to contact being exceptional rather than the norm.

23. Alternatively we could look at replacing the duties with a new requirement that local authorities consider contact arrangements that have a clear purpose documented in the child's care plan and are in the child's best interests. The intention would be to ensure that arrangements are made in the child's best interests, taking account of views and wishes of all concerned, and aligned with the longer term plans for the child.

## **PART 2: CONTACT ARRANGEMENTS ONCE ADOPTION IS THE PLAN**

24. We have already established the principle that contact arrangements for a child should be decided with the long term plan centrally in mind. This means that after the local authority has taken the decision that a child should be placed for adoption, plans for contact should be carefully reassessed. Once the court has made a placement order the presumption in favour of contact with the birth family is removed, but there is no presumption against contact although in reality it is unlikely to benefit the child.

### **Contact arrangements planned with a purpose**

25. The conclusions drawn from the evidence in the previous section apply equally in these circumstances. It is extremely important that contact arrangements at this stage are agreed with a clear purpose, taking account of the child's specific needs and ensuring their welfare is safeguarded and promoted. All appropriate people should be consulted including the child, current and if appropriate previous carers, birth family and, if identified, potential adopters. Any arrangements made should be realistic – they should reflect the shift in purpose from the possibility of a return home to the prospect that, subject to the court's decision, the child will be adopted or have alternative permanence arrangements in place. Contact arrangements should also take account of distance, time and resources – particularly if the child is placed a long way from their birth parents. Arrangements should not unduly interfere with a child's education or extra-curricular activities.

### **The legal framework**

26. Where adoption is the plan for the child there are three key points at which contact arrangements need to be considered and reassessed.

27. Point 1: The first point is where the local authority has made a decision that a child should be placed for adoption but no placement order has yet been made by the court. At this stage the local authority is still under a duty to allow the child reasonable contact with their birth family, although the authority could if they considered it appropriate seek a court order authorising them to refuse contact with the birth parents. However, prospects of a reunification between the child and birth parents are by this point remote, notwithstanding the decision of the court. The purpose of contact shifts from supporting the child towards a possible reunification with their family to preparing them for a life with a new family. Maintaining previous arrangements can create confusion and conflicting messages for the child.

28. Reviewing contact arrangements at this stage is an opportunity to lay the ground for birth parents to come to terms with the fact that, notwithstanding the court's decision, their child is unlikely to return home. As the focus of arrangements shift towards a child moving in with prospective adopters and beginning the process of goodbyes, the quality and nature of the previous arrangements must be reviewed. Resolving the question of contact with birth parents at this point can make it less likely that an application for contact is made at a later stage; it is of course a particularly difficult and

emotional stage for many birth parents.

29. Point 2: When the court makes a placement order all formal contact arrangements made before the placement order cease. At this point, the court can consider proposals for or comments about contact from the local authority or birth parents. The court can decide whether to make a formal order about contact arrangements but if it does not the local authority can decide what contact to allow. The local authority can suspend it for a short time if it is necessary to safeguard and promote the welfare of the child.

30. We know that contact arrangements following the making of a placement order are often informally agreed rather than arranged through a formal contact order. Between 2009-11, there were only 20 applications for contact orders, resulting in 15 contact orders at the point a placement order was made.

31. We have heard from social work and family justice professionals that negotiations take place outside of court processes, often to speed up proceedings by persuading birth parents to consent to an adoption in return for a guarantee of contact. It is unclear to what extent the local authority assessment of previous contact plays in such informal agreements. Likewise the quality of such assessments is unclear, including the extent to which prospective adopters are involved. Ultimately, we consider that it is unlikely that such arrangements are tested through the prism of the child's best interests.

32. Point 3: It is not until the local authority has decided that the child should be placed with particular prospective adopters that there is a requirement to review contact arrangements and take account of the views of these prospective adopters. However, there is evidence that prospective adopters may not always be included in the contact planning process and that children are sometimes placed with adoptive families with contact arrangements already in place. Prospective adopters report that they feel unable to challenge them, often for fear of jeopardising the match.<sup>18</sup>

33. We are considering legislating to require local authorities to consider placing children in a foster placement with carers who are the child's likely adopters before the placement order is made. One way of doing this is through concurrent planning. Concurrent planning is suitable for looked after children under 2, for whom a local authority thinks adoption is likely to be the best option, but for whom a return home remains a realistic possibility. The child is placed with carers who have been approved both as foster carers and as prospective adopters. Efforts to support the birth family and make it possible for reunification are not abandoned. But if the family continues to be unable to safeguard and promote the child's welfare, the infant is then adopted by those same carers.

34. Contact arrangements are an important element of concurrent

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<sup>18</sup> Neil E *Literature review on contact after adoption*, prepared for Judicial Studies Board Training – November 2010 and January 2011

planning. There is a clear purpose and timetable which is understood by all parties. The local authority and the concurrent carers are seeking to enable the child to return home. Contact helps the child and the birth parents to maintain a relationship while the child is away from home, and the expert supervision and support gives the parents an opportunity to develop their parenting. If these efforts are not successful by an agreed time, then the child will go on to be adopted and contact will change to reflect the new status of the placement.

35. The Government wants to see the principle of concurrent planning applied more widely – to children where the local authority has decided that adoption is the right option and is no longer working towards return home. Through a practice we are calling ‘Fostering for Adoption’, local authorities may place children, for whom an adoption decision has been made, with foster carers who are also approved as prospective adopters. Local authorities can do this before the placement order is granted, which can mean children move in with their likely adopters much sooner. It is still for the court to decide whether the child should be placed for adoption. In line with the principles in this paper, ‘Fostering for Adoption’ is likely to involve less contact, because the local authority has decided adoption is the best option.

### **The way forward**

36. We need to ensure that contact arrangements change as a child’s circumstances change and that they are consistent with plans for the child’s future. We also want to discourage the practice of making informal arrangements or ‘deals’ outside of the court process. In order that contact arrangements are, and remain, fit for purpose, we could look at existing provisions for reviewing contact and ensure a formal review and decision making process takes place at each of the points set out above. We could look at existing guidance and regulations and consider where and how these can be strengthened.

37. There could be particular scope for this at the point of placement order. At present, there is no presumption for or against contact with the birth family at this stage. We could introduce a presumption of ‘no contact’ unless the local authority is satisfied that contact would be in the best interests of the child. For example, this might be the case where an older child, with the backing of his or her adoptive parents, expresses a wish to meet his or her birth parents.

38. We could also introduce a ‘permission’ filter for birth parents applying for contact with a child. This would require birth parents to gain the court’s permission to apply for contact, rather than being able to make a direct application.

39. If potential adopters have been identified it is important that their views are also taken into account at an early point when making contact arrangements. We could introduce a provision to explicitly seek the views of the potential adopters in relation to contact at the point of the placement order.

## PART 3: CONTACT ARRANGEMENTS FOR ADOPTED CHILDREN

40. From the point at which an adoption order is made the adoptive parents have full parental responsibility for their child and are responsible for their welfare and best interests. Any further contact between their child and their child's birth parents is now a matter exclusively for the adoptive family. Nevertheless, just as when arrangements are made post placement order, some adoptive parents feel an obligation to allow contact even when they believe it may not be in the best interests of the child. Adoptive parents are only obligated to maintain contact where a contact order has been made. Adoptive parents must be free to use their judgement about what is in the best interests of the child.

### Contact after adoption

41. The evidence suggests that very few formal contact arrangements are imposed after the adoption order. Informal arrangements, however, are more common. Neil (2011)<sup>19</sup> found that 89 per cent of her sample of adopted children who had direct contact with their birth relatives had some contact with birth parents, though only 17 per cent had face-to-face contact. After the adoption order has been granted, birth families must seek permission to apply for a contact order. If there are no existing contact arrangements in place, then permission is unlikely to be granted. Permission often depends on previous contact arrangements. Where there was no previous agreement to contact in place this is unlikely to succeed.

42. Contact with members of a birth family can be harmful or challenging for an adopted child, particularly contact with relatives who have mistreated them. Mackaskill (2002)<sup>20</sup> found that the proportion of children suffering negative consequences from contact was twice the proportion for whom contact had a positive effect. Problems include feelings of divided loyalty, emotional and behavioural difficulties, progress setback and in some cases, continued abuse. Some children may be unwilling to let go<sup>21</sup>, even when the relationship has been abusive and this can compound the difficulties for adoptive parents. Even when some children found contact to be a positive experience, it could provoke painful and overwhelming feelings.<sup>22</sup>

43. Contact can be difficult for adoptive parents too, threatening their sense of family identity<sup>23</sup>. They can decide to refuse contact, going against the contact order, but this may mean that they face proceedings for not complying. There is no sanction in place if a former parent makes unsolicited contact or breaches the contact arrangements – other than possible recourse to the courts.

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<sup>19</sup> Neil, N. et al (2011) *Supporting Direct Contact after Adoption*. BAAF.

<sup>20</sup> Mackaskill, C. (2002) *Safe Contact? Children in permanent placement and contact with their birth relatives*. Lyme Regis: Russell House Publishing

<sup>21</sup> Thoburn, J. (2004) 'Post-placement contact between birth parents and older children' in Neil, E. and Howe, D. (eds) *Contact in Adoption and Permanent Foster Care*. London: BAAF.

<sup>22</sup> Mackaskill, C. (2002) *ibid*.

<sup>23</sup> Lowe et al 1999 in Neil E *Literature review on contact after adoption*, prepared for Judicial Studies Board Training – November 2010 and January 2011.

44. Elsbeth Neil, in her paper to the Judicial Studies Board, explored the benefits there can be for continued contact post adoption order. She found that contact arrangements at this point can be helpful for the child, primarily in gaining knowledge and information about their family history, life story, inherited traits and reasons for being adopted.<sup>24</sup> However, Quinton and Selwyn's research with a group of adopted children found that at the age of 33 it was hard to discern any clear benefits in their sense of identity among those who had maintained contact.<sup>25</sup>

45. Indirect contact, such as letterbox contact, is more common post adoption. It is undoubtedly less disruptive and potentially less harmful than face-to-face contact. But as Selwyn<sup>26</sup> has argued it is not without risks – there is considerable scope for disappointment with different expectations and communication issues. Letterbox contact requires a degree of literacy and although moderated by the adoption agency, can risk emotive language that can compound a child's tendency to romanticise former parents and their relationships with them. Loxtercamp<sup>27</sup> found that former parents underplayed their abusive and violent behaviour in communication with the child. Children may also find it to be disruptive or distressing, for example if a child experiences delayed or no response from their birth family.<sup>28</sup> These risks are potentially higher given the development of social media.

46. Training and advice in managing contact is available to adoptive families, either from their local authority (adoption support), a voluntary adoption agency or from organisations such as BAAF and Coram. This is a statutory requirement. Preparation training should help prospective adopters understand the role of contact and how to manage unauthorised contact, including social media. Developments in social media have made unsolicited contact easier and more widespread. This works both ways – with former parents, or members of the birth family contacting the child, or the child tracing and making contact with their birth family.

47. Local authorities are required to offer support to birth families who have had a child adopted, but recognising that birth parents may have negative feelings towards the local authority who removed their child, the guidance states they should be offered independent support through their support worker. This could include help to understand why changes to contact arrangements may be in the child's best interests. However many birth families do not take up this offer.

## **The way forward**

48. Adoptive parents have been judged by the local authority and the court to be appropriate people to care for a child as their own. We need to ensure

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<sup>24</sup> Neil E *Literature review on contact after adoption*, prepared for Judicial Studies Board Training – November 2010 and January 2011.

<sup>25</sup> D. Quinton and J. Selwyn 'Adoption: research, policy and practice'. 2006

<sup>26</sup> Selwyn J (2006) More than just a letter Service user perspectives on one local authority's adoption postbox service *Adoption and Fostering Journal*.

<sup>27</sup> Loxtercamp, L (2009) Contact and Truth: *The Unfolding Predicament In Fostering and Adoption*" Clinical Child Psychology and Psychiatry,

<sup>28</sup> Neil E *Literature review on contact after adoption*, prepared for Judicial Studies Board Training – November 2010 and January 2011

that adoptive parents can make decisions on all aspects of their child's life, including arrangements for contact with the birth family.

49. One option may be to provide that the court can on application for an adoption order make an order for no contact. This would give adoptive parents recourse where informal contact arrangements were causing difficulties, but this would only take effect once an adoption order has been made. Post-adoption contact should be exceptional but in a minority of cases it may be appropriate, for example in the case of an older child. What should govern such contact arrangements is what is in the best interests of the child.

50. In addition to introducing a "no contact" order, we could amend legislation to create a new more demanding 'permission filter'. This would raise the bar for any birth parent to make an application for a contact order. Criteria for granting permission already exists therefore we could explore how this might be strengthened.

51. It is clear there is a need for evidence based practice in the family justice system as well as many local authorities, to ensure that when decisions are made about contact, they can be made in the light of the best available evidence about the impact on a child's development and welfare. The Department is supporting the preparation of a synopsis of research on child development for family justice professionals. We propose to consider what additional support social workers and other family justice professionals need to ensure their own practice and recommendations are informed by evidence about the positive and negative effects of contact for children who are adopted.

52. We could consider strengthening the training on coverage for prospective adopters as part of the new adopter assessment process.

53. We could explore whether more can be done as part of post adoption support, to help adoptive parents support their child to understand how to make or stop contact with their birth family.

54. We should like to consider further how unsolicited contact could be managed better.



**We welcome your thoughts and views on the specific proposals below and any other comments you would like to make in relation to these issues.**

## **CONTACT ARRANGEMENTS FOR CHILDREN IN CARE**

1. We could strengthen regulations and guidance so that contact arrangements are purposeful and reflect the needs of the child. We want to ensure that all professionals involved in making contact arrangements give careful and critical consideration to the length and frequency of contact, particularly for infants.
2. We could strengthen statutory guidance to ensure more consideration is given to the purpose of contact for infants. Ensuring that arrangements are appropriate to their age and stage and they are not, for example, subject to long journeys. Each case will need to be decided on an individual basis, however we should like to propose that a starting point might be that children under two are rarely exposed to contact more than 2 or 3 times a week and for sessions of no more than 2 hours.
3. We propose to look again at guidance for Independent Reviewing Officers to ensure that their role in scrutinising contact arrangements as part of the care planning process for the child is sufficiently emphasised.
4. We could look again at the duties on local authorities in primary legislation to allow children in care reasonable contact with their birth parents and to promote contact for looked after children. We think that these duties may encourage a focus on the existence and frequency of contact arrangements, rather than on whether they safeguard and promote the best interests of the child. Removing these duties would remove the perceived presumption of contact in all cases and help local authorities to take a case-by-case decision about the best contact arrangements for the individual child.
5. Alternatively we could look at replacing the duties with a new requirement that local authorities consider contact arrangements that have a clear purpose documented in the child's care plan. This would ensure that arrangements are made in the child's best interests, taking account of views and wishes of all concerned, and aligned with the longer term plans for the child.

**Please send responses to [adoption.reform@education.gsi.gov.uk](mailto:adoption.reform@education.gsi.gov.uk) by Friday 31 August.**

## **CONTACT ARRANGEMENTS ONCE ADOPTION IS THE PLAN**

6. We could look at existing guidance and regulations and consider where and how these can be strengthened to ensure a formal review and a clear decision making process about contact takes place at each of the three points identified in the paper: (a) when the local authority makes a decision that a child should be placed for adoption, but no placement order has been made; (b) at placement order; and (c) when the child is placed with prospective adopters. We want to ensure that contact arrangements change as a child's circumstances change and that they are consistent with plans for the child's future.
7. We could introduce a presumption of 'no contact' unless the local authority is satisfied that contact would be in the best interests of the child. For example, this might be the case where an older child, with the backing of his or her adoptive parents, expresses a wish to meet his or her birth parents.
8. We could also introduce a 'permission' filter for birth parents applying for contact with a child. This would require birth parents to gain the court's permission to apply for contact, rather than being able to make a direct application.
9. We could introduce a provision to explicitly seek the views of the potential adopters at an early point in relation to contact at the point of the placement order.

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## **CONTACT ARRANGEMENTS FOR ADOPTED CHILDREN**

10. We could provide that the court can, on application for an adoption order, make an order for no contact. This would give adoptive parents recourse where informal contact arrangements were causing difficulties, but this would only take effect once an adoption order has been made.

11. In addition to introducing a “no contact” order, we could amend legislation to create a new more demanding ‘permission filter’. This would raise the bar for any birth parent to make an application for a contact order. Criteria for granting permission already exists therefore we will explore how this might be strengthened.

12. We propose to consider what additional support social workers and other family justice professionals need to ensure their own practice and recommendations are informed by evidence about the positive and negative effects of contact for children who are adopted.

13. We could consider strengthening the training about contact for prospective adopters as part of the new adopter assessment process.

14. We could explore whether more can be done as part of post adoption support, to help adoptive parents support their child to understand how to make or stop contact with their birth family.

15. We should like to consider further how unsolicited contact could be managed better.

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Friday 31 August.**



Department  
for Education

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