



Department
for Education

Draft statutory guidance

**For local authorities and voluntary adoption
agencies**

July 2014

Contents

Placement of looked after children with foster carers who are also prospective adopters (Fostering for Adoption)	3
Duty of a local authority under section 22C(9A) of the 1989 Act	3
Key considerations and safeguards	4
Matching	6
Implementing the new provision and the European Convention on Human Rights	6
Amendment of the Care Planning, Placement and Case Review (England) Regulations 2010 - Placements in accordance with section 22C(9A) of the 1989 Act	7
Amendment of the Adoption Agencies Regulations 2005 – Duties of adoption agency considering a placement under section 22C(9A) of the 1989 Act	8
Ethnicity of children and prospective adopters	9
Culture, Religion, and Linguistic Background	10
Sibling Placements	11
Adoption support: Duty to provide information	12
What information needs to be provided?	12
Cases where information does not need to be provided	14
Adoption and Children Act Register	15
Contact: children in care of local authorities	17
Contact: post-adoption	18
Contact orders at the adoption order stage	18
Contact orders post-adoption	18

Placement of looked after children with foster carers who are also prospective adopters (Fostering for Adoption)

This indicative statutory guidance is an update to the Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review and to the Statutory Guidance on Adoption. It is aimed at local authorities and supports the introduction of:

- a new requirement under section 22C(9A) of the Children Act 1989 (the 1989 Act) on local authorities to consider placing a looked after child, for whom the local authority is considering adoption, with foster carers who are also approved prospective adopters;
- a new regulation under the Care Planning, Placement and Case Review (England) Regulations 2010 (CPPR 2010) providing for a decision to place a child in accordance with section 22C(9A) to be approved by the Director of Children's Services (DCS) of the local authority looking after the child; and
- a new regulation under the Adoption Agencies Regulations 2005 requiring the adoption agency to notify in writing the child's parent or guardian and the prospective adopters of its decision to place the child in a Fostering for Adoption placement.

Duty of a local authority under section 22C(9A) of the 1989 Act

It is already possible under the 1989 Act to place a looked after child with foster carers who are also approved prospective adopters. Section 22C(9A) imposes a duty on a local authority to consider placing a looked after child, (including children who are accommodated under section 20 of the 1989 Act) and for whom the local authority is considering adoption, with foster carers who are also approved prospective adopters. The new duty applies to cases either where a local authority is considering adoption as an option for a looked after child or where the Agency Decision Maker's decision has been made that the child ought to be placed for adoption, but where the local authority does not yet have authority to place the child for adoption either through a placement order or parental consent. Before they consider placing the child in this way, the local authority must first consider placing the child in accordance with section 22C(6)(a), in a placement with relatives, friends or a connected person, and have decided that this is not the most appropriate placement.

Where the local authority is considering placing the child in this way, the duties set out in section 22C(7) to (9) - to ensure, so far as reasonably possible that the placement allows the child to live near their home, does not disrupt their education or training, allows them to live with their sibling if the sibling is accommodated by the same local authority, and is in the local authority's area - do not apply to the local authority. However, it may be

appropriate for the local authority to consider some of these criteria in some cases, and subsection 22C(9A) does not prevent this.

Placements under section 22C(9A) are fostering placements which may lead to adoption by those foster carers, where it is decided that adoption is the plan for the child and either the court agrees to make a placement order, or parental consent to adoption is given. Some cases will not lead to adoption.

Key considerations and safeguards

Placing children with foster carers who could become their adoptive family if rehabilitation with the birth family is not successful offers many benefits to the child: it is the adults taking the risk that the placement will not be permanent. But it will be appropriate for only a subgroup of children who are adopted, and local authorities will need to consider the following:

Children who are looked after under section 31 of the 1989 Act

- the local authority must consider placement under section 22C(9A) at the point it is considering adoption for the child. “Considering adoption” is a term used in the Adoption Agencies Regulations 2005 which set out the additional actions the local authority needs to take;
- the local authority will not usually be considering adoption, and so not considering a placement under section 22C(9A) until it has determined that the child is unlikely to return to their birth family, and that it has considered family and friends carers, who must be given priority (unless that placement does not support the child’s safeguarding and well being). That assessment may happen quite quickly, for example where the family is known to social services, and other children have been taken into care or adopted. Additionally, where the local authority thinks that adoption is a probable outcome, but there is a possibility of rehabilitation, it may place the child with dually approved foster carers who will foster the child whilst the local authority continues to work with the birth families. This practice is usually referred to as “concurrent planning”, and can occur from birth.

Children who are voluntarily accommodated under section 20 of the 1989 Act

- the local authority should not consider a placement under section 22C(9A) for a voluntarily accommodated child where there is a reasonable likelihood that the child will be able to return to his/her birth parents or to family/friend carers;
- the local authority may consider placement under section 22C(9A) for children who are voluntarily accommodated, but should do so only where the birth parents understand that the child is very unlikely to return home. Each case will

be different, but a possible scenario could be where the birth parents of a second or subsequent child where other children have been removed, accept that the child needs to be accommodated, the child is voluntarily accommodated from birth, and the local authority will not need to obtain a care order. So although adoption is the plan, the child is accommodated under section 20. In these cases, additional action is required:

- the local authority must notify the birth family of its decision in writing, and remind them of their right to remove the child from the local authority's care; and their right to free legal advice.

In either section 31 or section 20 cases, if a family/friend carer is identified after the child has been placed under section 22C(9A), the local authority still has a duty to assess their suitability to care for the child, and remains under the continuing duty in section 22C(5) to place the child in the most appropriate placement available. So if that relative is the most appropriate placement, the local authority must move the child.

The local authority may be considering adoption:

- where the local authority is trying to rehabilitate the child with the birth parents, but will have adoption as their fall-back position if rehabilitation does not succeed (this assumes that there are no suitable family/friends carers who could care for the child, unless they are intending to adopt the child if rehabilitation does not succeed). This scenario is often known as concurrent planning;
- where the local authority has decided at the permanence planning stage (this is normally by the second statutory review, which is held four months after the child enters care, but can be much earlier), that adoption is the plan for the child. The local authority will need to be able to demonstrate why adoption is the right plan for the child, and that there are no suitable family/friend carers;
- where the Agency's Decision Maker has made the decision that the child ought to be placed for adoption, but does not yet have a placement order to place the child for adoption (in these cases, additional duties in the Adoption Agencies Regulations 2005 will apply); and
- in cases where the birth parents may be indicating that they are likely to consent to the child's adoption, but have not yet consented.

Matching

The local authority may not carry out a formal matching process under the Adoption Agencies Regulations 2005 unless a decision has been made to place the child for adoption. In considering the match with carers under section 22C(9A) of the 1989 Act, the local authority must consider their capability as foster carers, whilst also giving consideration to the possibility that they may become the child's permanent carers, and their suitability for that role. Coram's practice guidance [Fostering for Adoption: Practice Guidance](#) provides advice on how to do this.

Once the decision has been made to place the child for adoption, the formal adoption matching process must be carried out. The period of foster care will provide evidence for that process, which may also be used to consider any additional issues arising, and provides an additional opportunity to look at adoption support needs.

Implementing the new provision and the European Convention on Human Rights

Article 8 of the European Convention on Human Rights (ECHR) provides a right to respect for one's "private and family life, his home and his correspondence", subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society".

Consistent with this Article is the key principle of the 1989 Act that children are best looked after within their families, with their parents playing full part in family life, unless compulsory intervention in family life is necessary. This principle is reflected in the local authority's duty to provide services which support children and their families and the duty to return a looked after child to his or her family unless this is against their interests.

Section 22C(2) of the 1989 Act requires local authorities looking after a child to make arrangements for the child to live with their parents (or someone with parental responsibility). In deciding whether the child can live with parents, the local authority is under a duty to safeguard and promote the child's welfare. It is only where it is not consistent with the child's welfare and reasonably practicable for the child to live with his or her parents that the local authority must then place the child in one of the types of placements set out in section 22C(6).

Whilst it is already possible under the 1989 Act to place a child with foster carers who are also approved prospective adopter, the effect of the new provision is that local authorities will be required to consider this for a looked after child for whom they are considering adoption. The child may be placed with foster carers who might become the child's adopters. The placement is a fostering placement under the 1989 Act, which subject to

the local authority deciding that the child ought to be placed for adoption and the courts making a placement order, may become an adoptive placement.

There may be cases where limited or no involvement by the courts has taken place which means that there may have been limited scrutiny of the case and the extent to which birth parents are involved. This particular aspect of the new provision highlights the importance of careful and considered handling by social workers and other professionals in the decision making process and of birth parents' rights to be involved in it. The decision making process in matters of interference in family life must be fair and afford due respect to the interests safeguarded by Article 8. Birth parents must be involved in the decision making process to a degree which is sufficient to provide them with protection of their interests. If not, this may constitute a breach of their rights.

Section 22(4) of the 1989 Act provides that, before making any decision with respect to a child whom the local authority is looking after or propose to look after, the authority must, as far as reasonably practicable, ascertain the wishes and feelings of the parent or anyone with parental responsibility for the child and to take these into account.

Article 6 of the ECHR protects the right to a fair hearing. The new provision does not change the process by which the decision to remove a child from the birth family is made or the process by which the courts decide whether a child should be placed for adoption. The decision whether to authorise the local authority to place the child for adoption remains one for the court at the placement order stage, and the birth parents retain their right to be involved in the process and to have full account of their views and wishes.

Amendment of the Care Planning, Placement and Case Review (England) Regulations 2010 - Placements in accordance with section 22C(9A) of the 1989 Act

New regulation 22A relates to cases where the local authority is considering placing a child with local authority foster carers who are also approved prospective adopters, as described in section 22C(9A) of the 1989 Act. This regulation requires the local authority's Director of Children's Services (DCS) to approve the decision to place the child in this placement, before the placement takes effect, and requires the local authority to have prepared a placement plan.

Before approving the decision, the DCS must also ensure that the child's wishes and feelings have been considered and that the Independent Reviewing Officer has been notified. He or she must also ensure that the requirements of regulation 12B(2)(b) of the AARs will be complied with before the placement takes effect. This regulation requires the local authority to notify the prospective adopters and to the child's parent or guardian in writing of its decision, as soon as possible after making it.

Amendment of the Adoption Agencies Regulations 2005 – Duties of adoption agency considering a placement under section 22C(9A) of the 1989 Act

This regulation relates to the adoption agency when they consider placing a child in accordance with section 22C(9A) of the 1989 Act. The regulation requires an adoption agency, where it has identified prospective adopters with whom to place a looked after child, to notify the prospective adopter, the parent or guardian of the child, of its decision in writing. The notification must be communicated as soon as possible after the decision has been approved by the DCS, in accordance with regulation 22A of the CPPR 2010. This notification to the prospective adopter will be treated as the equivalent of a 'matching certificate' for statutory adoption pay and leave benefits.

It is important that, particularly in cases involving children who are accommodated under section 20 of the 1989 Act, birth parents are promptly notified of the local authority's plan for the child. Birth parents should be reminded of their right to remove the child from the local authority's care and of the right to free legal advice.

Ethnicity of children and prospective adopters

This draft guidance on ethnicity of children is an update to chapter 3 of the Statutory Guidance on Adoption and explains the duties of an adoption agency when it proposes to place a child with a selected adoptive family.

A prospective adopter can be matched with a child with whom they do not share the same ethnicity, if they can respect, reflect or actively develop a child's racial identity from the point they are matched and as they develop throughout their childhood. The Government is clear that a black, Asian or mixed ethnicity prospective adopter can be a successful adopter of a white or mixed ethnicity child and a white prospective adopter can be a successful adopter of a child who is black, Asian or of mixed ethnicity.

Section 1(5) of the Act has been repealed to ensure that in placing a child for adoption, differences in ethnicity, religion, culture or language are not given such undue emphasis or prominence that they result in potential placements not being explored or an otherwise satisfactory adoption placement not going ahead. This is particularly important when black children wait a year longer to be adopted than white children, and some children simply grow out of the chance of adoption.

In the past a very cautious approach to matching has been taken, with an emphasis on achieving same race placements where possible, or as a compromise, allowing partial ethnic matching. This has been based on the assumption that transracially adopted children might not have their identity needs adequately met, and that they might not develop a positive racial identity. Over time, research has established that identifiable differences and lack of a shared heritage do not act as barriers to a successful adoption placement.

It is important that when social workers are looking for an adoptive family for a child, that they avoid placing the child's ethnicity above other characteristics without strong, well analysed reasons for doing so. An ethnic match is an advantage in an adoption but that is just one of a large number of considerations to be taken account of when matching prospective adopters and children. In practice, ethnicity has frequently been given undue significance in matching. One study found that children's profiles often included the specific requirement for the prospective adopter to match the child's ethnicity, with "same race" placements dominating the Child Permanence Report over and above other needs. This study also found that some social workers were so pessimistic about finding ethnically matched prospective adopters that there was little family finding activity.¹

What matters in the matching of a child with a prospective adopter of differing ethnicity are the qualities, experiences and attributes the prospective adopter can draw on and

¹ Selwyn, J., David Quinton, D., Harris, P., Wijedasa, D., Nawaz, S., Wood, M., (2008) Pathways to permanence for children of black, Asian and mixed ethnicity: dilemmas, decision-making and outcomes.

their level of understanding of how discrimination and racism operates in society at both an individual and an institutional level. It is therefore vital that the prospective adopter has the openness, strength and insight to support the child or young person if they are confronted by racism when growing up. When such characteristics are present in a prospective adopter the placements can be made with confidence.

The prospective adopter needs to demonstrate that they fully understand that having a child from a different ethnic group will present a number of challenges, not least that there may be visible differences that can affect a child's self-esteem and increase their possible feelings of difference. For example, the child may have to deal with questions from their peers about why they are "different" to their family.

The child's Life Story book can play an important role in helping a child come to terms with his or her ethnicity when it differs from that of his or her adoptive parents (see chapter 7). All children with a plan for adoption must have a Life Story book

Culture, Religion, and Linguistic Background

Section 1 of the Act is clear that in reaching a decision in relation to the adoption of a child, the paramount consideration of the court or agency must be the child's welfare, throughout his or her life. While the agency is required to take account of the birth parents'/relatives' wishes about the child's future upbringing it may not be possible to meet their wishes – the child's welfare is paramount.

When a child has developed a sense of his or her culture or religion, and where he or she has already begun to speak a language other than English, it is important to find prospective adopters who, while not necessarily sharing any of these, are willing and able to help the child develop these important elements of their future identity.

Where a child is very young, particularly when still in infancy, it is important not to make assumptions about religion, culture or language and these should not be imposed on a very young child. A sense of one's culture is developed over time and it should not be assumed that an infant possesses a cultural, linguistic or religious background. These issues can be explored with the child as he or she grows up and a sensitive prospective adopter will encourage the child, if he or she wishes to do so, to probe these aspects of their birth parents' background. All prospective adopters should help children placed with them to understand and appreciate their background and, particularly in the case of older children, their religion, linguistic or cultural background, for example, celebrating cultural or religious festivals. Prospective adopters should be able to access support, education and training to strengthen their skills together with their knowledge and understanding of the child's birth heritage, to help the child develop a healthy racial and adoptive identity.

A child's view of these issues is likely to change and develop over time as they grow up (see also Life Story book in chapter 7).

Sibling Placements

This draft guidance on sibling placements is an update to chapter 3 of the Statutory Guidance on Adoption and explains the duties of an adoption agency when it proposes to place a child with a selected adoptive family.

There should be a clear decision making process which enables social workers to decide early whether it is in the best interests of each child to be placed together or separately, and the impact on each child of that decision. The decision making process should be set out clearly with the supporting information and evidence so that all the professionals who are involved in making decisions about each child's future can see how and why the decision was reached. It will also be important in future for the child, as an adult, to be able to see how and why a decision was reached. The decision should be based on a balanced assessment of the individual needs of each child in the group, and the likely or possible consequences of each option on each child. Agencies may wish to have a formal assessment process in place to assist with the analysis and decision making.

There are many factors that may need to be considered in reaching a decision on whether to place siblings together or separately. These will include:

- the nature of the sibling group – for example, do the siblings know each other; how are they related;
- whether the children have formed an attachment, and if so the nature of that attachment (secure, insecure or otherwise);
- the health needs of each child;
- each child's view (noting that a child's views and perceptions will change over time);
- other relevant factors.

This means that the agency is better able to make robust, evidenced decisions on whether it is in the interests of each child to be placed separately or together.

Family finding should begin as soon as adoption is under consideration, and before the ADM decides that the child should be placed for adoption or a placement order is made. Some details may need to be withheld to manage confidentiality issues. AAR 12A(2) requires the agency, where it is considering adoption for two or more siblings, to consider whether they should be placed separately or together.

Adoption support: Duty to provide information

This draft guidance on the duty to provide information is an update to chapter 6 of the Statutory Guidance on Adoption and is about how local authorities should carry out their duty to provide information under section 4B of the Adoption and Children Act 2002 (the 2002 Act) to those persons listed in section 4B(1) of that Act.

Providing information should ensure that those interested in adopting and adopters are better informed about adoption support services, their rights and other services that are available to them. Greater awareness of adoption support services has the potential to increase the recruitment of prospective adopters, make adopters more open to adopting harder to place children and reduce the chances of adoption breakdown.

Local authorities are responsible for providing prescribed information relating to available adoption support and their entitlements. They must provide the information to any person who has contacted the local authority to request information about adopting a child, or has informed the local authority that they wish to adopt a child. Local authorities are also required to provide information to any person in their area who they are aware is the parent of an adopted child, or to any such person on request. An appropriate member of staff should take responsibility for fulfilling the duty; this might be an appropriate role for the ASSA.

Local authorities are free to decide how to fulfil the duty, but it is expected that the majority will choose to do so through a locally tailored version of the 'Adoption Passport', which can be found on the First4Adoption website. This sets out the high level support services adopters can expect from local authorities as well as national entitlements, such as pay and leave from work. Local authorities can use the information from the Passport and supplement this with specific local information, such as information about support services in the local area and the ASSA's contact details.

While making information about adoption support services available on local authorities' websites is good practice, it is not in itself sufficient to fulfil the duty to provide information. To fulfil the duty, local authorities will need actively to provide information to individuals within scope of the duty. This might mean sending a pack of the relevant information to individual prospective adopters or adopters, or sending a letter directing them to the parts of a website that holds the information that is relevant to them.

What information needs to be provided?

The following information must be provided to everyone covered by section 4B(1) of the Act:

- information about the full range of adoption support services available in the authority's area. This includes, but is not limited to, therapeutic services,

assistance in relation to contact arrangements, and financial support (see ASR3);

- information about the right to request an assessment of their adoption support needs (at any time);
- from [note: date to be confirmed], information about personal budgets for adoption support services;
- the address and phone number of the ASSA;
- the address and phone number of the web based information service supported and funded by the Department for Education to provide information about adoption;
- information about the availability of assessments for adoption support services for persons outside the local authority area (including the 'three year rule') so that parents understand which local authority is responsible for assessing their support needs;
- information about how to make a complaint, both under the local authority complaints procedure and to the Local Government Ombudsman;
- information about any other relevant services provided by the local authority;
- any other information that the local authority considers relevant.

The following information must also be provided to potential and prospective adopters (section 4B(1)(a) and (b) of the Act):

- details of where to find information about adoption pay and leave. Details can be found at www.gov.uk;
- information about the right to receive a copy of the child's permanence report, including a summary of the medical adviser's report on the health of the child before the child is placed with them for adoption.

Where appropriate, information about priority school admissions must also be provided. Details can be found at www.gov.uk.

Local authorities must also provide information about:

- the entitlement to a life story book. This should include who provides the life story book, what it includes and what it can be used for;
- information about priority council housing and Discretionary Housing Payments;

- from September 2014 information about the entitlement to early education from the age of two.

Cases where information does not need to be provided

Where the local authority has provided all the necessary information in the last 12 months and none of the information has changed substantively or a person has informed the local authority that it does not wish to receive the information, the local authority does not need to provide the information again, unless it considers it appropriate to do so. For example, where a person has lost the information that was originally sent the local authority should send the required information again if requested. If the local authority refuses a person's request for information, it should give reasons for the refusal and signpost the person to the website that holds the information. The local authority may refuse to send the information again, for example, where the same person requests the information a number of times in a short period.

When a person requests information about a specific service, the local authority must ask whether they would like any of the other information as well. This ensures that the person is aware of the other information available. If the person declines, the local authority need not provide the additional information. It should make it clear that there is more information about support available should the person change their mind.

If a person tells the local authority they do not want to receive any information at all, the local authority does not need to provide it, unless they are satisfied that there are valid reasons for providing it. This might be in a case where a child is unaware that they are adopted at that stage or where a family does not feel they need any additional support. The local authority should again make it clear that there is information about support available should the person change their mind.

When a local authority becomes aware of an adopter, by the adopter contacting them about something else, they should ask whether they would like information about adoption support. For example, where a parent rings the local authority about an SEN assessment and it becomes clear that the child is adopted, the local authority should inform the adopter about the information available and ask if they would like to receive it. The local authority must provide the information unless the adopter does not want it or there are valid reasons for not providing it.

Adoption and Children Act Register

This draft guidance on the Adoption and Children Act Register is an update to chapter 3 of the Statutory Guidance on Adoption.

The Register holds information on children waiting to be adopted and approved prospective adopters who are available and able to meet the needs of children needing an adoptive family.

The agency must refer children to the Register following the decision that the child should be placed for adoption where the agency has not identified particular prospective adopters with whom it is considering placing the child. Referrals must be made as soon as possible after, and no later than three months from, the ADM's decision that the child should be placed for adoption (AAR 19). If legal proceedings are on-going at this stage, and the child is subject to an interim care order, referral to the Register can be made provided the necessary consents and the court's agreement have been obtained.

The agency must refer prospective adopters to the Register as soon as possible and no later than 3 months from approval unless they have identified a particular child with whom they are considering placing with the prospective adopter. The agency must also have obtained the consent of the prospective adopter before referral. Prospective adopters may choose to refer themselves to the Register, three months after approval, using the Adopter Self-Referral form (AD02). This form is available from the Register's website. Where a local authority is aware that a particular prospective adopter approved by another adoption agency can best meet the needs of a child, they should negotiate with the agency as soon as possible about the possible placement of the child with that family.

When the ADM approves a prospective adopter as suitable to adopt a child, the agency should provide them with information that explains the role of the Register and includes the Register's website address.

The agency must ensure that the information that the Register holds on the children and prospective adopters is up to date. Any change in the child or prospective adopters' circumstances must be notified to the Register.

Approved prospective adopters should be encouraged to identify children they might be suitable to adopt. This can be through attending Adoption Activity and Exchange Days and viewing publications such as Children Who Wait and Be My Parent.

From [Note: date to be confirmed], in a number of pilot areas, approved prospective adopters will be able to access the Register and identify children for whom they might be appropriate adopters. Prospective adopters will need to discuss with their own social worker the particular needs of the child so that they can decide whether they wish to pursue that match. Social workers will have a crucial role to play in helping prospective

adopters reach that decision and the final matching decision will remain with the adoption agency. Opening up the Register in this way should increase the speed of matching and it should also lead to more matches. A list of local authorities that are participating in the pilots will be available at the Register's website.

The Act makes provision for the Register to contain information about children who may be placed for purposes other than adoption. Details of children that are being considered for a Fostering for Adoption placement in the pilot areas will be held in a separate section of the Register. This will ensure that access is limited and only open to approved prospective adopters who have expressed a willingness to care for a child on a Fostering for Adoption basis.

Scotland and Wales have established their own Registers but there will continue to be protocols with Wales, Scotland and Northern Ireland in order to allow the sharing of appropriate information on adopters and children awaiting adoption – so that the chances of adoption are maximised.

Contact: children in care of local authorities

This draft statutory guidance is an update to the Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review

(Indicative amendment text is in italics).

2.89 Where the responsible authority is refusing contact with a particular person (either temporarily under section 34(6) of the Children Act 1989, or following a court order) its duty to endeavour to promote contact with that particular person, under Schedule 2, paragraph 15 no longer applies (see section 34(6A) of the Children Act 1989). The responsible authority is required to notify those affected about proposals to refuse contact under section 34(6) that would otherwise be allowed under section 34(1) or an order under section 34 (see regulation 8(2)). If those arrangements are set out in a court order, there is provision for the terms of the order to be departed from with the agreement of the person named in the order, and in specified circumstances with the agreement of the child, subject to the child being of sufficient age and understanding (see regulation 8(4)).

Contact: post-adoption

This draft statutory guidance is an update to chapter 5 of the Statutory Guidance on Adoption.

Contact orders at the adoption order stage

Before making an adoption order, the court will consider whether there should be arrangements for allowing any person contact with the child. At this time, the court may, on its own initiative or following an application from an eligible person (the adopters, the child, or any person who has obtained the court's leave to make an application), make an order under section 51A of the Act providing for contact or an order which would prohibit contact between the child and any of those persons listed in section 51(3) of the Act. When making an adoption order, the court may on its own initiative make an order for prohibiting contact. Both orders for contact and orders prohibiting contact are likely to be relatively rare at the adoption order stage, and where some form of continuing contact is proposed, whether direct or indirect, it is more likely that this will be a matter for agreement between the person concerned and the adopters. The court may however make a note on the court file about the agreement reached.

Contact orders post-adoption

Applications for orders under section 51A – either for contact, or prohibiting contact – may, where section 51A applies, also be made at any time after the adoption order has been made. The adopters or the child may apply for such an order without the leave of the court, while any other person, including the child's birth parents and other birth relatives, e.g. grandparents or siblings, would need the court's leave to apply for such an order.

Applications under section 51A(2)(b) prohibiting contact are unlikely to be necessary in the majority of cases and are only likely to be appropriate to stop unwanted, unsolicited and potentially harmful contact with the child, or to prevent such contact happening.

The circumstances in which a birth parent, relative or other person are most likely to seek the court's leave to apply for a section 51A order after adoption are likely to be those where an agreement for some form of continuing contact had been made, but was not adhered to. Where a section 51A contact order has been made, whether at the time of the adoption order or subsequently, it is open to those named in the order to apply to the court for the order to be varied.



Department
for Education

© Crown copyright 2014

You may re-use this document/publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v2.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2 or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at www.education.gov.uk/contactus.

This document is available for download at www.gov.uk/government/publications.