

Access by Birth Relatives to Adoption Case Records

1. Adoption Orders made before 30 December 2005

Where a birth relative requests access to an Adoption Case Record, there is no entitlement on their part to such access and it is for Adopt North East to decide whether information contained within the records may be disclosed. Any decision to disclose such information can only be taken after discussion with and with the agreement of the Team Manager for Adoption Support.

In all cases, a balance must be struck between the confidentiality of the information, the enquirer's need to know, the relevance of the information to the enquirer and, when considering a request by a birth parent or relative, whether the anonymity of the adoptive placement can be preserved.

Information which would enable the birth relative to identify the adopted person should not be given, for example whether or not there was a change of name on the adoption, or the name of the adoptive family. However, sometimes the records include information received in the intervening years such as news of progress made at school, health problems, achievements, requests for post-adoption support. Careful consideration needs to be given as to whether it may be appropriate to disclose any of this information to a birth relative.

Where the birth relative makes an enquiry in relation to an adopted child who is still under 18, consideration should be given to approaching the adopters to request up-to-date information about the child and/or to offer to pass on information about the birth family and/or to seek the views of the adopters about any future exchange of information. Adopters may also be asked to clarify whether the adopted child is to be told of the birth family's request although there should be no implied expectation that they should do so against their wishes - and they should be given information about independent support agencies which may be able to assist them.

The response to a birth relative should take into account any contact between the birth family and the agency since the child was adopted and any arrangements/agreements for post-adoption contact and how these have worked.

Birth Family Support is provided by Adopt North East who commission PAC-UK to provide this support.

2. Adoption Orders made on or after 30 December 2005

Any person may apply to the appropriate adoption agency for the disclosure of protected information about any person involved in adoption. Applications for the disclosure of protected information may therefore be made by adopted people, birth relatives or any other person involved in an adoption. The adoption agency has discretion not to agree to the requested disclosure. It must record its decision and the reasons.

Protected information is defined as information which is about a person and contains identifying information about that person.

Adopt North East will consider the following matters before deciding whether to disclose protected information to the applicant:

- The welfare of the adopted person;
- The views of the person to whom the information relates and if this is a child, their parents;
- All the circumstances of the case.

Adopt North East cannot disclose identifying information about an adopted person to birth relatives without the consent of the adopted person.

Where the request relates to an adopted child, the obtaining of consent will depend on the child's age and understanding and the consent of the prospective adopters will also be required.

Persons involved in adoptions can provide their consent in advance to the disclosure of identifying information about them at some point in the future.

Decisions made in relation to applications for disclosure of protected information must be communicated in writing both to the applicant and the subject, and the reasons for the decision must be outlined.

Where an application for disclosure of information relating to an adult is refused, this is a Qualifying Determination and the applicant may apply to the Independent Review Mechanism in relation to the decision.

Where an application for disclosure of information is agreed despite the objection of the subject, this is also a Qualifying Determination and the subject of the information may apply to the Independent Review Mechanism (see also: [Prepare for a Review Panel \(GOV.UK\)](#)).

The person requesting an Independent Review must apply within 40 working days of receiving notification of the decision.

There is no similar right to an Independent Review where the application relates to information held on a child and is refused.

Where a matter is referred to an Independent Review Panel, the Independent Review Panel will send their recommendation to the Adoption Service. Adopt North East is not obliged to follow the recommendation but must take it into account when reconsidering the application. Adopt North East will notify the applicant, the subject and the Independent Review Panel of the decision and reasons.