

Catholic Archives Society Publications

Archive Advice Leaflet No. 10

Access to Adoption and Care Records

Catholic Social Welfare Agencies were established in the UK at various times from the mid-nineteenth century, co-ordinating the work being carried out within particular dioceses by a range of religious orders, parishes, and individual clergy.

Until the 1930s, the only system of state welfare was operated by the Local Boards of Poor Law Guardians, based on unions of Anglican parishes, with workhouses the only form of care for children and families unable to support themselves. From the 1840s, there was increased Irish immigration to the United Kingdom, the majority of the immigrants being Roman Catholic, which placed greater strain on the poor law system.

From the late nineteenth century, workhouses began to keep religious creed registers, and it was then that the Roman Catholic hierarchy of bishops became concerned about the danger to the faith of the Catholic workhouse inmates, and began to set up their own Catholic residential homes. These were usually large institutions, housing hundreds of children, run by a religious order in its own right or on behalf of the diocese.

Later the practice of fostering children began, and where this became a long-term arrangement, the child might take the name of the foster parents, often referred to as 'de facto' adoption. However, it was not until 1926 that a process of formal adoption was introduced in the UK, involving a legal transfer of the rights and duties of a parent, and a new name

for the child, who was also issued with a new birth certificate in the adoptive name.

The Registrar General maintains a list of all those adopted in the UK, and also administers the Adoption Contact Register, where all parties to an adoption can register their interest in being contacted.

Access to adoption records began in the UK in 1976. Since then adopted adults have had a right to obtain a copy of their original birth certificate, following discussion with a qualified professional. In practice in the years since, this has developed into adoption agencies sharing identifying background information from the file.

Access to records of those who have been in care of the state or charities began in the 1980s, in part as a response to the growing understanding that people separated from their families have a fundamental human need to know about the circumstances which led to the separation.

Access to the records held by agencies of adults who were adopted or in care are regulated by different legislation and will be covered separately in this leaflet.

Access to Adoption Records

This is governed by the Adoption and Children Act 2002, enacted December 2005, as well as the related statutory regulations and guidance. The 2002 Act distinguishes between ‘pre-’ and ‘post-’ commencement adoptions, December 2005 being the cut-off date. For the purpose of this information leaflet only ‘pre-’ commencement adoptions will be covered.

The 2002 Act introduced new terminology which will be used throughout this leaflet. These are The ‘Appropriate Adoption Agency’ (AAA) and ‘Adoption Support Agency’ (ASA). The AAA is the agency which arranged the child’s adoption,

usually following the child having been in the care of the agency for a period of days or months. This agency will hold the original records. An ASA is an agency which is registered and authorised to carry out work under Schedule 2 and Section 98.

It is an offence under the Care Standards Act 2000 for any individual or body not registered as an ASA to carry out tracing and intermediary work in adoption cases.

The process by which an adopted adult (i.e. an adopted person over 18 years of age) can obtain access to their original birth certificate and background records is regulated by Schedule 2 of the 2002 Act. The process by which a birth relative can request that an agency search for an adopted relative is outlined in Section 98 of the 2002 Act, which describes the role of a tracing and Intermediary Service. Under this legislation a descendant of a deceased adopted person has no right of access to information, but many AAAs will try to assist.

Whilst all adoption agencies are required to bear in mind the principles of the Data Protection Acts (implementing EU directive 95/46/EC) in releasing information identifying particular individuals, adoption records are exempt from this legislation.

Information about where to find adoption agencies and support is available on the website operated by the British Agencies for Adoption and Fostering (BAAF) www.adoptionsearchreunion.co.uk This website has information about former mother and baby homes lay and religious, children's societies, voluntary agencies and local authorities and is searchable by name and area. It is updated regularly. Adopted adults and birth relatives can either approach the AAA which arranged the adoption or an ASA near to where they live.

Where the adoption was a private arrangement, with no agency involvement, the enquirer should, in the first instance, approach the Local Authority where they now live. Local Authority adoption case files may be held by the Social Services department, voluntary agencies, or in some cases have been transferred to the local record office.

A non-UK resident, whether an adopted adult or birth relative, will need the services of a UK registered ASA.

If an adopted adult already knows their birth name they do not need to seek the service of an agency to obtain a copy of their original birth certificate, but it is always advisable to seek the support of an approved agency if they are considering trying to establish contact. They will also be advised to review the background information available through their AAA prior to embarking on tracing and establishing contact with birth relatives.

Archivists receiving enquiries about adoption records should refer people to the BAAF website, or they might wish to consult it themselves if the enquirer does not have internet access.

Baptismal records

Catholic children are usually baptised prior to their adoption and the baptism certificate will be in their birth name. After the adoption a blessing may be held in the parish where the adoptive family lives. A new baptismal certificate will be issued by the child welfare agency for the diocese. When an adopted adult wishes to marry and they need an updated baptismal/freedom letter, the Parish Priest will refer the adopted adult to their Adoption Agency to receive this.

Irish Adoption Records

The process of legal adoption began in Irish Republic in the 1950s. The legislation governing access to birth records is

entirely different in Ireland, where adopted adults have no legal right to know their birth name or identifying background information, though adoption agencies and Health Boards, the equivalent to our Local Authorities, do assist adopted adults and birth relatives in tracing .

Historically, significant numbers of Irish Catholic birth mothers gave birth to their babies in England, and many of these infants were subsequently adopted in Ireland. Several UK Catholic agencies which took part in these arrangements will today offer the same access to birth records service to an English born, Irish adopted person as is offered to UK adopted people.

The Irish equivalent of the UK's Registrar General is the Adoption Board, Dublin, holding a central register of all Irish adoptions. There is also an Irish Contact Preference Register administered by the Adoption Board.

Access to Care Records

This work has received much less legislative attention, and comes under a more generalised legal framework. The Data Protection Act 1998, (which came into effect in 2000), has had a significant impact on the kind of information provided to former care adults. The Access to Personal Files Act 1987 and the associated Access to Personal Files (Social Services) Regulations 1989, although aimed at Local Authority records, also impact on the practice of voluntary agencies and religious orders in the release of information to adults who grew up in their care.

The DPA broadly gives individuals the right of access to information held about them and provides a legal framework for handling personal information. It also gives individuals the right to complain to the Information Commissioner when they do not agree with a data controller's decision regarding disclosure.

Reference should also be made to the Freedom of Information Act (2000), though this is used more to discover, for example, the policies and procedures of an agency or local authority, rather than personal data relating to an individual.

Agencies holding care records operate very differently. ‘It is a common misperception that the Act should be used by organisations to restrict access to information.’ (Julia Feast, *Good Practice Guide, Access to Information for Post Care Adults, A Guide for Access to Records Officers (ARO’s)*. (BAAF, 2009) p.10. ISBN 978 1 905664 67 2)

In some agencies the task of preparing (redacting) records is carried out by the Legal Department, in others it is regarded as a Social Work task. The interpretation of what constitutes third party information differs widely, with some agencies withholding e.g. the names of former care adults’ siblings, and others regarding this information as intrinsic to the applicant’s own life story.

The Data Protection Act itself gives wide ranging discretion to the access to records officer. The *Good Practice Guide* aimed at those giving access to care records, referred to above, was issued by BAAF in 2009 in an attempt to provide some clarity, or at least to highlight the complexities. In general a former care adult will be invited to see an access to records officer who will go through the information with them. Whilst the Information Commissioner’s Office (ICO) recommends that a supportive meeting is offered to a person requesting such information, which has of course the potential to cause distress, this is not a legal requirement, and a request for information to be sent is legally acceptable (see *Good Practice Guide* p.5).

Records relating to Catholic former child migrants to Canada and Australia are held by the local Diocesan agency, a central

database of Canadian migrants sent under the auspices of the Catholic Emigration Society being held by the Catholic Children's Society in Westminster.

Local Authority record offices will generally hold the records of the Poor Law Boards of Guardians, but more recent files on individuals are generally held by Social Services departments.

Useful addresses

The Adoption Board
Shelbourne House
Shelbourne Road
Dublin 4
Ireland
www.adoptionboard.ie
Tel: 00353 1230 9300.

The British Agencies for Adoption and Fostering
(BAAF)
Saffron House
6-10 Kirby Street
London
EC1N8TS
Tel: 020 7241 2600.
www.adoptionsearchreunion.co.uk

Catholic Children's Society Westminster
73 St Charles Square
London
W10 6EJ
Tel: 020 8969 5305.
www.cathchild.org.uk

Care Leavers' Association
Unit 11, Phase 1 Express Networks
1 George Leigh Street
Manchester M4 5DL.
Tel: 0161 236 1980
www.careleavers.com

General Register Office
PO Box 2
Southport.
Merseyside PR8 2JD.
www.direct.gov.uk/gro

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 08456 306060 or 01625 545745.
<http://ico.gov.uk>

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