



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 placing 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 England and Wales, 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 England and Wales, 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 England and Wales 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, 30th December 2005 being the cut-off date. For the purpose of this information leaflet only 'pre-' commencement adoptions will be covered. Where the Adoption Order was granted after 30th December 2005, the adopted adult should seek services from their Local Authority Social Services Department.

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 separate legislation introduced on 31st October 2014, a descendant of a deceased adopted person as well as anyone with a prescribed relationship to the deceased adopted person, which includes all relatives from children and grandchildren to civil partners and adoptive relatives, including by marriage, can also apply the same service.

Whilst all adoption agencies are required to bear in mind the principles of the Data Protection Acts and General Data Protection Regulations in releasing information identifying particular individuals, adoption records are exempt from this legislation (under Data Protection (Miscellaneous Subject Access Exemptions) Order 2000, SI 2000/419 as amended). Information about where to find adoption agencies and support is available on the websites operated by CoramBAAF, www.adoptionsearchreunion.org.uk, and Family Connect, www.familyconnect.org.uk. These websites have 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 may not always be 100% accurate but will always be a helpful starting point. 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 adoption agency involvement, the enquirer should, in the first instance, approach the Local Authority where they now live. Even if no adoption agency was involved, there may be records with the Local Authority where the adopters lived and/or with the court where the Adoption Order was granted. 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.

Baptismal records

Catholic children are usually baptised prior to their adoption and the baptism certificate will be in their birth name. It is not possible to be baptised twice into the Roman Catholic church, so, after the adoption, a blessing may be held in the parish where the adoptive family lives. A new baptismal certificate, endorsed by the archbishop of the diocese, will be issued by the Catholic Children's Society. 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 currently have no legal right to know their birth name or identifying background information, though the Adoption Authority of Ireland and TUSLA, do assist adopted adults and birth relatives by providing a Tracing Service.

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, who holds the Register of Adopted Children, 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), was replaced by the Data Protection Act 2018 and General Data Protection Regulations, all of which have had a significant impact on the kind of information provided to former care adults.

Adults who have spent time in care homes as children are able to apply for access to personal information held in care records under the Data Protection Act. 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. The Care Leavers Association, <https://www.careleavers.com/>, provides very useful information and advice as well as support.

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. 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. 'Decisions made by the Local Authority must explicitly balance one individual's right to have information about their childhood and adolescence, and the entitlement to privacy of any individual whose information is also on the adult care leaver's file' *Good Practice Guide, Access to Information for Adult Care Leavers, a Guide for Social Workers and Access to records Officers*, by Julia Feast and Leonie Jordan, CoramBAAF 2016, pg 10, ISBN 979 1 910038 48 9

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 first issued by BAAF in 2009 and updated in 2016, 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* pgs 11-12).

Records relating to Catholic former child migrants to Canada and Australia are held by the local Catholic Children's Societies, a central database of Canadian migrants sent under the auspices of the Catholic Emigration Society being held by the Catholic Children's Society (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

Tel: 00353 1230 9300.
<https://aai.gov.ie/en/>

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

CoramBAAF,
41 Brunswick Square,
London,
WC1N 1AZ

Tel: 020 7520 0300
<https://corambaaf.org.uk>

Care Leavers' Association
1st Floor,
Swan Buildings,
20 Swan Street,
Manchester,
M4 5JW

www.careleavers.com

General Register Office
PO Box 2
Southport.
Merseyside
PR8 2JD.

Tel: 03001231837

<https://www.gov.uk/general-register-office>

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 1231113

<http://ico.gov.uk>

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