



# Children and Families Act 2014

## 2014 CHAPTER 6

### PART 1

#### ADOPTION AND CONTACT

##### *Adoption*

#### **1 Contact between prescribed persons and adopted person's relatives**

- (1) In section 98 of the Adoption and Children Act 2002 (pre-commencement adoptions: information), after subsection (1) insert—

“(1A) Regulations under section 9 may make provision for the purpose of facilitating contact between persons with a prescribed relationship to a person adopted before the appointed day and that person's relatives.”

- (2) In each of subsections (2) and (3) of that section, for “that purpose” substitute “a purpose within subsection (1) or (1A)”.

- (3) In subsection (7) of that section, after the definition of “appointed day” insert—  
““prescribed” means prescribed by regulations under section 9;”.

#### **2 Placement of looked after children with prospective adopters**

- (1) Section 22C of the Children Act 1989 is amended as follows.

- (2) In subsection (7), after “subject to” insert “subsection (9B) and”.

- (3) After subsection (9) insert—

“(9A) Subsection (9B) applies (subject to subsection (9C)) where the local authority are a local authority in England and—

- (a) are considering adoption for C, or
- (b) are satisfied that C ought to be placed for adoption but are not authorised under section 19 of the Adoption and Children Act 2002

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(placement with parental consent) or by virtue of section 21 of that Act (placement orders) to place C for adoption.

(9B) Where this subsection applies—

- (a) subsections (7) to (9) do not apply to the local authority,
- (b) the local authority must consider placing C with an individual within subsection (6)(a), and
- (c) where the local authority decide that a placement with such an individual is not the most appropriate placement for C, the local authority must consider placing C with a local authority foster parent who has been approved as a prospective adopter.

(9C) Subsection (9B) does not apply where the local authority have applied for a placement order under section 21 of the Adoption and Children Act 2002 in respect of C and the application has been refused.”

### **3 Repeal of requirement to give due consideration to ethnicity: England**

- (1) Section 1 of the Adoption and Children Act 2002 (considerations applying when making decisions about the adoption of a child) is amended as follows.
- (2) In subsection (5) (due consideration to be given to religious persuasion, racial origin and cultural and linguistic background), for “In placing the child for adoption, the adoption agency” substitute “In placing a child for adoption, an adoption agency in Wales”.
- (3) In consequence of the amendment made by subsection (2)—
  - (a) in subsection (1), for “This section applies” substitute “Subsections (2) to (4) apply”;
  - (b) in subsection (6), for “The court or adoption agency” substitute “In coming to a decision relating to the adoption of a child, a court or adoption agency”;
  - (c) after subsection (8) insert—
    - “(9) In this section “adoption agency in Wales” means an adoption agency that is—
      - (a) a local authority in Wales, or
      - (b) a registered adoption society whose principal office is in Wales.”

### **4 Recruitment, assessment and approval of prospective adopters**

- (1) In Chapter 2 of Part 1 of the Adoption and Children Act 2002 (the Adoption Service) after section 3 insert—

#### **“3A Recruitment, assessment and approval of prospective adopters**

- (1) The Secretary of State may give directions requiring one or more named local authorities in England, or one or more descriptions of local authority in England, to make arrangements for all or any of their functions within subsection (3) to be carried out on their behalf by one or more other adoption agencies.

- (2) The Secretary of State may by order require all local authorities in England to make arrangements for all or any of their functions within subsection (3) to be carried out on their behalf by one or more other adoption agencies.
  - (3) The functions are their functions in relation to—
    - (a) the recruitment of persons as prospective adopters;
    - (b) the assessment of prospective adopters' suitability to adopt a child;
    - (c) the approval of prospective adopters as suitable to adopt a child."
- (2) In section 140(3) of that Act (statutory instruments containing subordinate legislation that are subject to the affirmative procedure), before paragraph (a) insert—
- “(za) under section 3A(2),”.
- (3) The Secretary of State may not make an order under subsection (2) of section 3A of the Adoption and Children Act 2002 (as inserted by subsection (1)) before 1 March 2015.

## **5 Adoption support services: personal budgets**

In Chapter 2 of Part 1 of the Adoption and Children Act 2002 (the Adoption Service) after section 4 insert—

### **“4A Adoption support services: personal budgets**

- (1) This section applies where—
  - (a) after carrying out an assessment under section 4, a local authority in England decide to provide any adoption support services to a person (“the recipient”), and
  - (b) the recipient is an adopted person or the parent of an adopted person.
- (2) The local authority must prepare a personal budget for the recipient if asked to do so by the recipient or (in prescribed circumstances) a person of a prescribed description.
- (3) The authority prepare a “personal budget” for the recipient if they identify an amount as available to secure the adoption support services that they have decided to provide, with a view to the recipient being involved in securing those services.
- (4) Regulations may make provision about personal budgets, in particular—
  - (a) about requests for personal budgets;
  - (b) about the amount of a personal budget;
  - (c) about the sources of the funds making up a personal budget;
  - (d) for payments (“direct payments”) representing all or part of a personal budget to be made to the recipient, or (in prescribed circumstances) a person of a prescribed description, in order to secure any adoption support services to which the budget relates;
  - (e) about the description of adoption support services to which personal budgets and direct payments may (and may not) relate;
  - (f) for a personal budget or direct payment to cover the agreed cost of the adoption support services to which the budget or payment relates;
  - (g) about when, how, to whom and on what conditions direct payments may (and may not) be made;

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- (h) about when direct payments may be required to be repaid and the recovery of unpaid sums;
  - (i) about conditions with which a person or body making direct payments must comply before, after or at the time of making a direct payment;
  - (j) about arrangements for providing information, advice or support in connection with personal budgets and direct payments.
- (5) If the regulations include provision authorising direct payments, they must—
- (a) require the consent of the recipient, or (in prescribed circumstances) a person of a prescribed description, to be obtained before direct payments are made;
  - (b) require the authority to stop making direct payments where the required consent is withdrawn.
- (6) Any adoption support services secured by means of direct payments made by a local authority are to be treated as adoption support services provided by the authority for all purposes, subject to any prescribed conditions or exceptions.
- (7) On the occasion of the first exercise of the power to make regulations under this section—
- (a) the statutory instrument containing the regulations is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament, and
  - (b) accordingly section 140(2) does not apply to the instrument.
- (8) In this section “prescribed” means prescribed by regulations.”

## **6 Adoption support services: duty to provide information**

In Chapter 2 of Part 1 of the Adoption and Children Act 2002 (the Adoption Service) after section 4A (as inserted by section 5) insert—

### **“4B Adoption support services: duty to provide information**

- (1) Except in circumstances prescribed by regulations, a local authority in England must provide the information specified in subsection (2) to—
- (a) any person who has contacted the authority to request information about adopting a child,
  - (b) any person who has informed the authority that he or she wishes to adopt a child,
  - (c) any person within the authority’s area who the authority are aware is a parent of an adopted child, and
  - (d) any person within the authority’s area who is a parent of an adopted child and has contacted the authority to request any of the information specified in subsection (2).
- (2) The information is—
- (a) information about the adoption support services available to people in the authority’s area;
  - (b) information about the right to request an assessment under section 4 (assessments etc for adoption support services), and the authority’s duties under that section and regulations made under it;

- (c) information about the authority’s duties under section 4A (adoption support services: personal budgets) and regulations made under it;
- (d) any other information prescribed by regulations.”

## 7 The Adoption and Children Act Register

- (1) The Adoption and Children Act 2002 is amended as follows.
- (2) In section 125 (Adoption and Children Act Register)—
  - (a) in subsection (1)(a), after “children who are suitable for adoption” insert “, children for whom a local authority in England are considering adoption”;
  - (b) in subsection (3), after “search” insert “(subject to regulations under section 128A)”.
- (3) In section 128 (supply of information for the register), in subsection (4)(b), after “children suitable for adoption” insert “or for whom a local authority in England are considering adoption”.
- (4) After section 128 insert—

### “128A Search and inspection of the register by prospective adopters

- (1) Regulations may make provision enabling prospective adopters who are suitable to adopt a child to search and inspect the register, for the purposes of assisting them to find a child for whom they would be appropriate adopters.
- (2) Regulations under subsection (1) may make provision enabling prospective adopters to search and inspect only prescribed parts of the register, or prescribed content on the register.
- (3) Access to the register for the purpose of searching and inspecting it may be granted on any prescribed terms and conditions.
- (4) Regulations may prescribe the steps to be taken by prospective adopters in respect of information received by them as a result of searching or inspecting the register.
- (5) Regulations may make provision requiring prospective adopters, in prescribed circumstances, to pay a prescribed fee to the Secretary of State or the registration organisation in respect of searching or inspecting the register.
- (6) On the occasion of the first exercise of the power to make regulations under this section—
  - (a) the statutory instrument containing the regulations is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament, and
  - (b) accordingly section 140(2) does not apply to the instrument.”
- (5) In section 129 (disclosure of information), in subsection (2)(a) after “suitable for adoption” insert “or for whom a local authority in England is considering adoption”.
- (6) In section 140(7) (power for subordinate legislation to make different provision for different purposes) after “purposes” insert “or areas”.

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(7) In section 97 of the Children Act 1989 (privacy for children involved in certain proceedings), after subsection (6) insert—

“(6A) It is not a contravention of this section to—

- (a) enter material in the Adoption and Children Act Register (established under section 125 of the Adoption and Children Act 2002), or
- (b) permit persons to search and inspect that register pursuant to regulations made under section 128A of that Act.”

(8) Schedule 1 (amendments to the Adoption and Children Act 2002 to provide for the Adoption and Children Act Register not to apply to Wales and Scotland and to remove the requirement to make provision for that register by Order in Council, and other related amendments) has effect.

### *Contact*

## **8 Contact: children in care of local authorities**

(1) Section 34 of the Children Act 1989 (parental contact etc with children in care) is amended as follows.

(2) In subsection (1), after “subject to the provisions of this section” insert “and their duty under section 22(3)(a)”.

(3) After subsection (6) insert—

“(6A) Where (by virtue of an order under this section, or because subsection (6) applies) a local authority in England are authorised to refuse to allow contact between the child and a person mentioned in any of paragraphs (a) to (c) of paragraph 15(1) of Schedule 2, paragraph 15(1) of that Schedule does not require the authority to endeavour to promote contact between the child and that person.”

(4) In subsection (8), before paragraph (a) insert—

“(za) what a local authority in England must have regard to in considering whether contact between a child and a person mentioned in any of paragraphs (a) to (d) of subsection (1) is consistent with safeguarding and promoting the child’s welfare;”.

(5) In subsection (11) after “Before” insert “making, varying or discharging an order under this section or”.

## **9 Contact: post-adoption**

(1) After section 51 of the Adoption and Children Act 2002 insert—

### *“Post-adoption contact*

#### **51A Post-adoption contact**

(1) This section applies where—

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- (a) an adoption agency has placed or was authorised to place a child for adoption, and
  - (b) the court is making or has made an adoption order in respect of the child.
- (2) When making the adoption order or at any time afterwards, the court may make an order under this section—
  - (a) requiring the person in whose favour the adoption order is or has been made to allow the child to visit or stay with the person named in the order under this section, or for the person named in that order and the child otherwise to have contact with each other, or
  - (b) prohibiting the person named in the order under this section from having contact with the child.
- (3) The following people may be named in an order under this section—
  - (a) any person who (but for the child’s adoption) would be related to the child by blood (including half-blood), marriage or civil partnership;
  - (b) any former guardian of the child;
  - (c) any person who had parental responsibility for the child immediately before the making of the adoption order;
  - (d) any person who was entitled to make an application for an order under section 26 in respect of the child (contact with children placed or to be placed for adoption) by virtue of subsection (3)(c), (d) or (e) of that section;
  - (e) any person with whom the child has lived for a period of at least one year.
- (4) An application for an order under this section may be made by—
  - (a) a person who has applied for the adoption order or in whose favour the adoption order is or has been made,
  - (b) the child, or
  - (c) any person who has obtained the court’s leave to make the application.
- (5) In deciding whether to grant leave under subsection (4)(c), the court must consider—
  - (a) any risk there might be of the proposed application disrupting the child’s life to such an extent that he or she would be harmed by it (within the meaning of the 1989 Act),
  - (b) the applicant’s connection with the child, and
  - (c) any representations made to the court by—
    - (i) the child, or
    - (ii) a person who has applied for the adoption order or in whose favour the adoption order is or has been made.
- (6) When making an adoption order, the court may on its own initiative make an order of the type mentioned in subsection (2)(b).
- (7) The period of one year mentioned in subsection (3)(e) need not be continuous but must not have begun more than five years before the making of the application.

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- (8) Where this section applies, an order under section 8 of the 1989 Act may not make provision about contact between the child and any person who may be named in an order under this section.

### **51B Orders under section 51A: supplementary**

- (1) An order under section 51A—
- (a) may contain directions about how it is to be carried into effect,
  - (b) may be made subject to any conditions the court thinks appropriate,
  - (c) may be varied or revoked by the court on an application by the child, a person in whose favour the adoption order was made or a person named in the order, and
  - (d) has effect until the child’s 18th birthday, unless revoked.
- (2) Subsection (3) applies to proceedings—
- (a) on an application for an adoption order in which—
    - (i) an application is made for an order under section 51A, or
    - (ii) the court indicates that it is considering making such an order on its own initiative;
  - (b) on an application for an order under section 51A;
  - (c) on an application for such an order to be varied or revoked.
- (3) The court must (in the light of any rules made by virtue of subsection (4))—
- (a) draw up a timetable with a view to determining without delay whether to make, (or as the case may be) vary or revoke an order under section 51A, and
  - (b) give directions for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.
- (4) Rules of court may—
- (a) specify periods within which specified steps must be taken in relation to proceedings to which subsection (3) applies, and
  - (b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that the court makes determinations about orders under section 51A without delay.”
- (2) In section 1 of the Adoption and Children Act 2002 (considerations applying to the exercise of powers relating to the adoption of a child), in subsection (7)(a) after “section 26” insert “or 51A”.
- (3) In section 26 of that Act (children placed, or authorised to be placed, for adoption: contact), omit subsection (5).
- (4) In section 96(3) of that Act (section 95 does not prohibit payment of legal or medical expenses in connection with applications under section 26 etc) after “26” insert “, 51A”.
- (5) In section 1(1) of the Family Law Act 1986 (orders which are Part 1 orders) after paragraph (ab) insert—
- “(ac) an order made under section 51A of the Adoption and Children Act 2002 (post-adoption contact), other than an order varying or revoking such an order;”.



- (6) In section 2 of that Act (jurisdiction of courts in England and Wales to make Part 1 orders: pre-conditions) after subsection (2B) insert—
- “(2C) A court in England and Wales shall not have jurisdiction to make an order under section 51A of the Adoption and Children Act 2002 unless—
- (a) it has jurisdiction under the Council Regulation or the Hague Convention, or
  - (b) neither the Council Regulation nor the Hague Convention applies but the condition in section 3 of this Act is satisfied.”
- (7) In section 9 of the Children Act 1989, in subsection (5)(a) (restrictions on making certain orders with respect to children) after “order” insert “or an order under section 51A of the Adoption and Children Act 2002 (post-adoption contact)”.
- (8) In section 17(4) of the Armed Forces Act 1991 (persons to be given notice of application for service family child assessment order) before paragraph (e) insert—
- “(db) any person in whose favour an order under section 51A of the Adoption and Children Act 2002 (post-adoption contact) is in force with respect to the child;”.
- (9) In section 18(7) of that Act (persons who may apply to vary or discharge a service family child assessment order) before paragraph (e) insert—
- “(db) any person in whose favour an order under section 51A of the Adoption and Children Act 2002 (post-adoption contact) is in force with respect to the child;”.
- (10) In section 20(8) of that Act (persons who are to be allowed reasonable contact with a child subject to a protection order) before paragraph (d) insert—
- “(cb) any person in whose favour an order under section 51A of the Adoption and Children Act 2002 (post-adoption contact) is in force with respect to the child;”.
- (11) In section 22A(7) of that Act (persons who are to be allowed reasonable contact with a child in service police protection) before paragraph (d) insert—
- “(cb) any person in whose favour an order under section 51A of the Adoption and Children Act 2002 (post-adoption contact) is in force with respect to the child;”.
- (12) In Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services)—
- (a) in paragraph 12(9) (victims of domestic violence and family matters), in the definition of “family enactment” after paragraph (o) insert—

“(xvi) section 51A of the Adoption and Children Act 2002 (post-adoption contact orders).”, and
  - (b) in paragraph 13(1) (protection of children and family matters) after paragraph (f) insert—

“(g) orders under section 51A of the Adoption and Children Act 2002 (post-adoption contact).”