

PRACTICE NOTE 59

The provision of information to Fostering for Adoption carers

This Practice Note covers the provision of information to prospective carers of children placed under section 22C(9B)(c) of the Children Act 1989 by local authorities in England.

The development and increased use of Fostering for Adoption placements has raised questions and challenges about the information that should, and can legally, be provided to Fostering for Adoption carers, i.e. any dually-approved carers, including Regulation 25A carers, considering a placement under s.22C(9B)(c) of the Children Act (CA) 1989 in England.

All these placements fall within s.22C(9B)(c) as placements where the local authority *is considering* adoption; as such, the Adoption Agencies Regulations 11–17 are triggered (CA 1989 Guidance and Regulations, Care Planning, Placement and Case Review (CPPCR) 2015 3.154). The local authority must set up a case record in respect of the child, gather information, including health information, about the child, the parents, siblings and his/her family, and offer information and counselling to the parents. The local authority must also commence preparation of the Child's Permanence Report.

Personal information about parents

Personal information about a child's parents (their health, upbringing, criminal record, etc) is confidential without consent for disclosure; however, s.35 of the Data Protection Act 1998 provides an exemption from the requirement for confidentiality if disclosure is:

required by or under any enactment, by order of a Court, or by rule of law, or if it is necessary for the purpose of, or in connection with, any legal proceedings, including prospective legal proceedings.

This provides for the local authority to share confidential information where that is necessary and relevant in order to meet the needs of the child. Local authorities are required (CPPCR 2015 3.160) to provide information about s.22C placement to parents. The information provided to parents and discussion with them and their legal adviser must include the reasons why information about background, health, etc, has to be shared with prospective Fostering for Adoption carers. Furthermore,

parents must be told what information is to be shared with the carers. While some parents may consent to the sharing of information, others may object; however, parental consent to the sharing of information with prospective carers is *not* a requirement.

A record should be kept of the information that has been shared with Fostering for Adoption carers.

The Child's Permanence Report

In most cases, the Child's Permanence Report (CPR) will not have been prepared when the Fostering for Adoption placement is discussed with prospective carers. However, where the CPR has been completed, it can be shared with prospective Fostering for Adoption carers provided that information that is personal to the parents or other family members, *and that does not need to be shared with carers at this stage*, is redacted. In some cases, parents may agree to all the information within the CPR being shared.

Where the CPR has been completed, the social worker should consult the local authority legal adviser about content that should be redacted before sharing the document with prospective Fostering for Adoption carers.

Identifying the placement most appropriate for the child

Section 3.160 of the CPPCR 2015 states that before approving the decision for a s.22C placement, the local authority nominated officer must 'be sure that the placement is the most appropriate one for the child', and in s.3.161, the adoption agency must identify 'a prospective adopter who can meet the needs of the child'. In respect of s.25A placements, s.3.175 states that the local authority can only approve a prospective adopter as a temporary foster carer for that child if:

they are satisfied that placing the child with that particular carer is the most appropriate placement for the child, and it is in the child's best interests to be placed with them.

Information that must be provided to foster carers

Section 3.179 of the CPPCR 2015 requires the local authority to provide the carer with essential information about the child's 'health, educational, emotional and behavioural needs' within the Placement Plan. Section 3.188 of the CPPCR 2015 details information that has to be in the Placement Plan and sets out the level of detail in respect of the child's health and care needs that a carer must be provided with.

The information to be provided to foster carers ahead of a placement is set out in s.3.183 of the CPPCR 2015:

The carer will need to know about the child's family, his/her race, religion and culture, the language spoken at home and any disabilities or other special needs. The carer will generally need to know the circumstances leading to the child becoming looked after, and the child's previous experiences both before and during the care episode. In particular, the carer needs to know what the long-term plan is for the child and its time frame, what the objectives are for the specific placement being offered and how these fit with the care plan. The carer should be given a copy of the care plan when it is completed and be clear about his/her role in implementing it. Within the context of the care plan, the carer needs a realistic estimate of how long the placement is expected to last.

Information that should be provided to Fostering for Adoption carers

In a Fostering for Adoption placement, the child is placed under Fostering and Care Planning Regulations, and the final decision may be for the child to return to his/her parents or to a member of the wider family or connected person, and not for adoption by the carers. **However, the possibility of adoption by the carers is fundamental to Fostering for Adoption placements. It cannot be consistent with either identifying the placement most appropriate for the child, or safeguarding his/her best interests, if, at the point of matching for adoption, carers were to become aware of information profoundly relevant to the child's future development, health or well-being that was available before the placement was made, but had been withheld.**

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Caution, therefore, should be exercised where the decision is made to *withhold* information from Fostering for Adoption carers. Information should only be withheld where it is personal to the parents, and can have no impact on the future health or development of the child. Furthermore, prospective Fostering for Adoption carers should be informed where information within the child's background is likely to be particularly challenging to discuss with an adopted young person.

Fostering for Adoption carers must be offered a discussion with the local authority or agency medical adviser before a placement is agreed. All known health and medical history must be provided to the medical adviser prior to the discussion with prospective carers.

All health and medical information in respect of the child must be shared with prospective carers:

- illnesses, injuries, routine childhood screening and immunisations, including anything that has been missed;
- experiences of disrupted attachment, domestic violence, abuse and neglect, including all known details;
- exposure to alcohol or substances pre-birth;
- possibility of transmission of blood-borne infections;
- pre-birth exposure to sustained maternal stress;
- potentially heritable conditions, including:
 - genetic vulnerability to mental illness
 - genetic conditions in other family members
 - parents' learning disabilities.

In addition, where there is particularly difficult or distressing background information that, in the event of adoption, would have to be shared with the child or young person, this should be indicated as part of discussions to determine whether these Fostering for Adoption carers are appropriate for this child.

Confidentiality

Training and preparation of Fostering for Adoption carers includes, as part of the discussion of the fostering role, the requirement to maintain confidentiality in respect of information about the child and his/her parents. However, the importance of respecting the confidentiality of the personal information in respect of the child and his/her parents and siblings should be underlined by the inclusion of a confidentiality clause within the fostering agreement.