

CVAA Practice Workshops in collaboration with Julia Feast OBE: disclosure of information and intermediary services, June 2018.

Please find below a summary of CVAA's Practice Workshops led by Julia Feast OBE in London on 6th June and in York on 13th June 2018. These notes are purely supplementary to the slide pack presented by Julia at each workshop and which, along with case studies, formed the basis for the content of the day.

CVAA are grateful to Julia for leading two highly informative workshops around access to adoption records for CVAA member practitioners and other independent professionals. The workshop covered training in both post-commencement adoptions and pre-commencement adoptions, this was an opportunity to take part in two days' worth of training in one day. Julia helped practitioners to feel more confident in their ability to describe requirements of new regulations in relation to descendants and those with a prescribed relationship to an adopted person, and to identify the issues the new regulations may raise in practice. Julia welcomes questions and queries from all delegates who took part in the workshops. Contact [Leah Mair](#) at CVAA to connect with Julia.

If you are a CVAA member and interested in connecting with colleagues and receiving regular updates on this topic, please email [Leah Mair](#) to enquire about joining CVAA's *Community of Practice* on this subject area.

Disclosure of information: legislative context

- Be brave and sensible when making decisions around disclosure of information. It is important to be able to **account for your decision making and professional judgement**, however remember that where you have made a professional decision based on facts, you have done your job.
- In the age of **social media** much of the access to information which happens is beyond our control. However, our role is still about protecting our service users and we need to be aware of the risks social media poses.
- It is important that we lobby to get this work on the agenda of government and RAAs, to ensure our services are recognised and survive. **In the past, practice has led the way for changes in legislation and this can still be possible.** Statutory Guidance needs to be reviewed; it is now 15 years old.
- The **Adoption and Children Act** came into effect on 30 December 2005, introducing major changes to adoption legislation to improve the information and support services available to people affected by adoption. In relation to a person adopted before the commencement of the Act (30 December 2005), a framework for facilitating contact between adopted persons aged 18 or over and their adult birth relatives was established by the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 (ISR), enabling these people to apply for an intermediary service from intermediary agencies. For adoptions that took place post commencement of the Act (on or after 30 December 2005) a new legal framework was established for retaining and disclosing information which is set out in: The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 (AIRs).
- Take a look at the following in your agencies:

- Legal and Practice Framework for post commencement adoptions – adoptions orders made on or after 30th December 2005
- Adoption and Children Act 2002, Sections 56-65 & s79
- Adoption Agencies Regulations 2005 (as amended) [AAR]
- Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 [AIR]
- Statutory Guidance on Adoption July 2013, Chap 11 – please note that this guidance from 2013 has not since been updated
- National Minimum Standards (as amended 2014)
- Adoption: Access to Information and Intermediary Services Practice Guidance
- Where unsure, follow legislation before you follow GDPR.
- Adoption data falls outside of data protection but it still needs to follow the basic principles.

Access to Information

- **Rights of adopted people:** Under section 60(2) adopted person on reaching the age of 18 has the right to receive certain information from the adoption agency: Birth record information, Information disclosed to the prospective adopters i.e. the information contained in the child's permanence report (CPR) which will include identifying information, the adoption support plan and the placement plan. The Agency will need to consider how best to disclose information to adopted person. – the agency has to notify the birth family that child has asked for info, even if the child does not want contact.
- The 2005 regulations explain what information adoption agencies must keep about a person's adoption – identifying (protected) and non identifying information. The storage of and length of time information should be kept – 'at least' 100 years.
- **Background information includes:** The child's birth details and medical history, the child's educational needs and progress, details of hobbies and interests and other contextual information
- **Additional information an adoption agency is required to keep includes:** letters, cards, photographs, videos and objects and mementos of the child's early life, any info supplied by the birth parent & relatives, information from adoptive parents and others relevant to adoption order.
- Life story books are really important however lots of children are still not getting these, due to capacity amongst social workers, or because birth family's relationships with social workers have broken down, so they don't get to influence the life story books
- Adoptive parents can be very varied in their views on what is appropriate for their children, and they hold the power to make a final decision. Later life letters, or saving correspondence from birth relatives to be shared at an appropriate time are recommended practice where adoptive parents don't feel information is appropriate for their children at certain times. Sending inappropriate letters back to birth parents will only make your relationship with them more difficult.
- When unsure of whether to share information or a piece of correspondence, it can be helpful to ask yourself whether or not the information could pose a risk to any person's mental health.
- If something is in the public domain – you can make the decision to share it because they can find the information anyway.

Intermediary Services for Descendants and Other Relatives with a Prescribed Relationship to an Adopted Adult

- In October 2014, following public consultation, the Government inserted section 98(1A) to the Act, to enable the remit of ISR regulations to extend the availability of intermediary services to a wider range of people, namely 'persons with a prescribed relationship' to an adopted person. The Intermediary Services Regulations (ISRs) define a "prescribed relationship" so that it includes any person related to an adopted person by blood (including half-blood), marriage or civil partnership or by virtue of the adopted persons adoption (except birth relatives, who already had a right to apply to an intermediary service). If the adopted person is alive then they must be contacted for their view before an intermediary service is provided. If the adopted person has registered a veto then they cannot proceed with an application.
- Many agencies do not have relevant information on their websites, especially for descendants.
- Do all agencies have an independent review mechanism/arrangement in place?
- Intermediary agencies also have the discretion to proceed with an application, without the adopted person's consent, providing applicant is either the adopted person's spouse, child, grandchild or great grandchild when the aim of the application is solely to obtain information about the medical history of the adopted person's birth relatives.
- Descendants or prescribed persons that come forward should be treated like a birth relative, not like an adopted person.
- **Applications must be from people over the age of 18 years. The adoption must have taken place before 30th December 2005.** Identity checks are important. It is best practice to **carry out identity checks in person**, via email it is very easy to get the wrong information.
- We need to let adopters know when they adopt that as soon as their child is 18 if a birth parent comes back and asks for a section 61 application, contact will automatically be made with the adoptee. We need to address this issue with the government and express that the legislation is going to cause serious difficulties; why have a law which gives people the opportunity to ask, when we don't have the resources to fulfil requests?