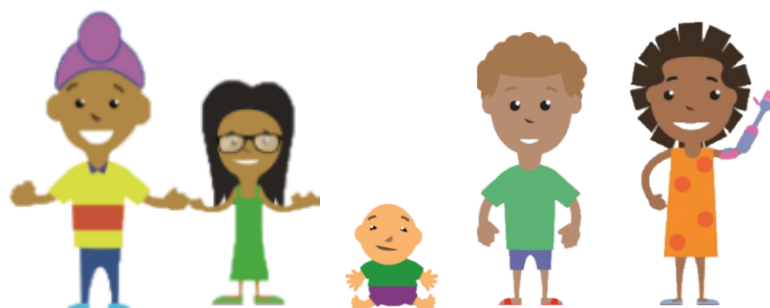




Practice Guidance:

Children relinquished for adoption



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Overview of Guidance

The purpose of this guidance is to inform regional and local authority/voluntary adoption agencies and Cafcass Cymru staff of best practice in cases involving children who are relinquished¹ for adoption. Where a parent approaches an agency and indicates that they wish to have their child placed for adoption (relinquished) a number of factors come into play to ensure the parent is properly informed of the process and supported with their decision.

This guidance provides information about:

- The legal obligations of Adoption Agencies and Cafcass Cymru Welsh Family Proceedings Officers, as set out in relevant legislation, regulations and guidance
- The procedures for obtaining consent to placement for adoption for relinquished babies and children under Section 19 of the Adoption and Children Act 2002
- The procedures for obtaining advance consent to adoption under Section 20 of the Adoption and Children Act 2002

Glossary of Legal References and Abbreviations

Throughout the document the following terms and abbreviations are used:

Adoption Agency	The local authority adoption agencies and voluntary adoption agencies
Guardian	Testamentary legal guardian(s) and special guardian(s) ²
Officer	Any Cafcass Cymru practitioner appointed in the role of Welsh Family Proceedings Officer under Regulation 20 of the Adoption Agencies (Wales) Regulations
Sections	Refers to sections of the Adoption and Children Act 2002 (ACA 2002)
AAR	Adoption Agencies (Wales) Regulations 2005
Statutory Guidance	The Adoption Agencies (Wales) Regulations 2005 Guidance
GPG	Working with Birth Parents Good Practice Guide (NAS)

¹ All local authorities have a statutory duty to respond to a request from a parent or guardian for their child to be placed for adoption, and a separate process to progress this, at least in the initial stages, outside of the Care Proceedings process should be established.

² Note that, in cases where a special guardianship order is in place, consent to adoption is required from birth parents and special guardians or the court must dispense with consent of birth parents and special guardians. See sections 19,20,52 & 144 Adoption and Children Act 2002 and 14C(2)(b) Children Act 1989

Introduction

All local authorities have a statutory duty to respond to a request from a parent or guardian for their child to be placed for adoption. This process is established in **Chapter 3 of the Adoption and Children Act 2002 and Part 3 of the Adoption Agencies (Wales) Regulations 2005**.

Since the establishment of the National Adoption Service for Wales some adoption agency functions of local authorities in Wales are delegated to and delivered through the relevant regional adoption agency in line with the 'Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) Directions 2015'. The range of services delivered by each regional adoption agency may vary and all practitioners involved in this process will need to clarify which elements of the adoption agency functions are delivered by the regional service and which remain with the local authority. Good communication and close working between the regional adoption agency and the local authority would therefore be essential.

Working with a request for a child to be adopted will be challenging for practitioners on the basis that most children's best interests are served by being brought up by their parent(s). It will be important to ascertain the reasons why the parent(s) wishes to relinquish their child and to carefully consider their wishes through a counselling and information sharing process. (See sections below on counselling and assessment).

Throughout this process it will remain important:

- That the child's welfare and best interests remains paramount
- To ensure there is minimal delay in securing the child's permanent future plan, and therefore, referrals to Cafcass Cymru, the Regional Adoption Agency and, if required an Application for a Placement Order, together with completion of all necessary documentation are made in a timely way
- That effective counselling¹ is offered to the parent(s) with regard to the decision
- Clear consideration is given to the parent(s) capacity to make the decision including their capacity to understand the lifelong implications of their decision
- The parent(s) are fully aware of their rights and options throughout the process with regard to the child
- That the Child Care Social Worker remains in contact with the parent(s) for *as long as is possible* (in these early stages) to 'get to know' the parent(s), so as to be able to provide information for the child later in their life (this is particularly important as some parents wish to have little contact with Children's Services and need to understand their input is seen as important for the child as they grow up)
- The child care social worker may however signpost or refer the birth parent to another practitioner or agency that could provide appropriate practical or emotional support during this stage
- Throughout the process it is imperative that the birth parents are provided with written information to assist with their understanding of the process and the meaning of adoption for their child.

A flowchart outlining the processes described for notification to CAF/CASS Cymru in this guidance is contained in Appendix 1.

Actions for Adoption Agencies

Whilst counselling is a requirement within adoption regulations as a starting point for work undertaken with birth parents who are considering relinquishing their child for adoption, this guide also acknowledges the need to begin to understand and assess the circumstances relating to this decision and as such these elements of the work run concurrently.

COUNSELLING

Counselling should be undertaken as promptly as possible following the referral, by an experienced practitioner who has knowledge and skills in adoption, and include a discussion about the issues adoption brings for both the parent/guardian and the child. The worker providing this counselling is usually independent of the social worker for the child; a referral should therefore be made to the regional adoption agency and an experienced adoption social worker will be allocated to undertake this work

The references to counselling are two-fold: within the adoption regulations counselling refers to the statutory duty by local authorities to provide information but there is also a duty on professionals to ensure birth parents seeking to place their children for adoption are provided with relevant emotional and practical support – see section 4 below.

Counselling as a duty to provide information

Information about adoption that must be provided to the parent(s) should include the following:

- The implications of adoption as being life-long for the child and the birth family/parents, (see Section 67 Adoption and Children Act 2002)
- The legal consequences of consenting to a placement for adoption (**Section 19**); advance consent to a future Adoption Order (**Section 20**); the withdrawal of these consents; the legal effect of adoption itself; the option of indicating they do not want to be involved in future proceedings once Sections 19 and 20 have been completed
- That birth parents retain the right to change their mind and withdraw consent until an application for adoption order has been made to the court
- The issue of contact, especially contact after the placement for adoption has been made
- Their wishes and feelings about the child's religious and cultural upbringing
- The need for the Local Authority to provide a 'Later Life Letter' and Life Story Book for the child and to seek to involve the parent(s) in assisting with this (providing information, photos etc.) including info re birth father (if not willing to share identity, may still share some information such as looks, interests, ethnicity).
- An understanding from the parent of any known health issues/family medical history within their family that might be relevant to the child - both physical, mental and emotional

- Whether the parent(s) want to be involved in a matching process including whether they wish to/would be willing to meet with the child's prospective adopters
- Information about the rights of the child to obtain information about their birth parents once they reach 18 years. and the possible implications of this for them as the parent
- The role of Cafcass Cymru in ensuring consent is provided unconditionally and that they have a full understanding
- The availability (providing details) of independent information and support to the parent(s) and their family (this could be via signposting or referral to an appropriate support service).
- Provision of written information about the adoption process. [See Annexe 7 attached: Children relinquished for adoption: Information for birth parents].

ASSESSMENT & CARE PLANNING

Assessing the Birth Parents

In assessing the request from the birth parent, the child care Social Worker working with the parent/guardian should ensure that they:

- Understand the reason(s) why the parent/guardian is seeking to relinquish their child for adoption
- Consider the parent/guardian's general situation and circumstances
- Are aware of the position of the birth father (see also below: Birth Father)
- Are aware of any communication requirements including as a result of a physical or learning disability, or of English being a secondary language
- Are aware of any issues around literacy skills the parent(s) may have
- Identify any cultural issues
- Know of any physical or learning disabilities that are impacting upon their circumstances
- Recognise any immigration issues
- Identify any other issues that may appear to the practitioner to be relevant

The Birth Father

- **In the event that the birth father holds Parental Responsibility (PR)**, his consent is required for the child to be placed for adoption. The consent of a birth father without PR is not required for a placement for adoption to go ahead however this does need very careful consideration when thinking about the child's right to 'family life' within the principles of Human Rights legislation. The law allows for 'fast-track' adoption with the consent of all those with parental responsibility, so in some cases the mother alone.
- **Where the mother opposes notification** being given to the child's father or relatives, her right to respect for her private life should be considered but may be infringed if considered necessary to do so to protect the best interests of the child.

- **If the birth parents are married**, the birth father will automatically hold PR. If the mother is not married to the birth father, the practitioner should check the birth certificate of the child to identify whether the birth father has acquired PR as a result of being named on the child's birth certificate.
- The practitioner should seek if possible to ascertain the father's identity from the birth mother, including his address, his known wishes and/or feelings, if he is seeking to acquire PR and if acquired, any part he may wish to play in the process.
- In the event that the birth mother refuses to divulge the identity of a father who does not have PR, the Adoption Agency must evaluate whether not informing and consulting the father and wider family would be in the child's best interests. The mother should be invited to discuss the implications of notifying the child's father or not, for her and the child. Where possible, the practitioner should gather details about the father's background and that of his family. The Adoption Agency should also seek to identify whether there are any family or community issues that may affect the decision of the mother, including any concerns she may have about how impact on her wider family
- The mother's reasons should be considered and the Adoption Agency should seek legal advice with a view to determining whether to seek guidance from the court. The Adoption Agency should seek legal advice in all cases where
 - the mother opposes notification of an identified father,
 - the mother knows the identity of the father but is unwilling to disclose this information,
 - there is reason to doubt the mother's claim that the father's identity is unknown
 - the mother is opposed to any notification of the father and/or his family
- No assurance should be offered to a parent during the social work visit/s that notice of the birth of the child will be withheld from the father and/or extended family members.

Where the mother continues to withhold the identify and she is the only person who is aware of it, then no further action can or should be taken to compel her to provide the information³. However, a mother should be encouraged to disclose the identity or give more details about the putative father. The mother's account cannot be taken at face value and needs to be carefully considered as to its accuracy and attempts should be made to investigate and discover more information from case records and from the mother about the father to see whether his identity can be established⁴.

³ Re L (Adoption: Contacting Natural Father) [2007] EWHC 1771

⁴ Re L (Adoption: Contacting Natural Father) [2007] EWHC 1771

- **Involving the Birth Father without Parental Responsibility:** The starting point for the Adoption Agency is that a father without PR should be notified of the existence of his child. Unless there are exceptional circumstances to the contrary, the Adoption Agency should make enquiries with a view to identifying the father^{5,6}.
- If the identity of the birth father becomes known, the local authority/adoption agency should decide if it is consistent with the child's welfare, to provide the father with information and counselling and to ascertain whether he wishes to obtain PR and/or a Child Arrangements Order. If the local authority/adoption agency is minded not to notify the father, it should make an application to the Court for an endorsement of its decision⁷. It should be noted that while the child's welfare is an important factor when deciding whether to accede to the mother's request for confidentiality, the child's welfare is not the paramount concern for either the local authority or the court in deciding whether to accept her decision. A decision about notification is not a decision relating to the adoption of a child under section 1 of the ACA 2002 or a decision relating to the upbringing of a child under section 1 of the Children Act 1989⁸
- Where the mother requests confidentiality, the Adoption Agency will need to decide at a very early stage whether an application to court should be made to determine whether or not the putative father or relatives should be informed and consulted. There will be cases where, applying the principles summarised within **Appendix 2**, the Adoption Agency can be very clear that no application is required and planning for placement on the basis of the mother's consent can proceed. But in any case that is less clear-cut, an application should be issued so that problems concerning the lack of notification do not arise when adoption proceedings are later issued.

If the Adoption Agency is unsure as to whether to notify a father either with or without parental responsibility, or has any doubts about identity it should make an application to the court under FPR Rule 14.21 to seek guidance as to how to proceed.

The application should be made under Part 19 of the FPR 2010, as there is no prescribed form and there is unlikely to be any substantial dispute about the facts of the case. The appropriate application form will be Form FP1 (Practice Direction 5A). The mother should be named as a respondent to the application.

An order authorising the LA not to notify a father or wider family should only be made in exceptional circumstances. If a father has parental responsibility, an order should only be made in highly exceptional circumstances. The balance will often fall in favour of notification, but decisions must be made according to the facts of the case

⁶ Re C (a child) (adoption: duty of local authority) [2007] EWCA Civ

⁷ A Local Authority v JK & Anor [2021] EWHC 33 (Fam)

⁸ A, B And C (Adoption: Notification of Fathers And Relatives) [2020] EWCA Civ 41
Children relinquished for adoption protocol/NAS/CAFCASS June 2021

Birth Fathers Who Acquire Parental Responsibility: Where a birth father acquires PR and the mother has already consented to adoption, and the child has been placed for adoption, (under Section 19, Adoption and Children Act 2002), it is considered that the father has also consented to the placement for adoption⁹.

- Where the Adoption Agency becomes aware that a father has acquired PR in the above circumstances, the father should be contacted and his wishes and feelings in relation to the care arrangements for his child ascertained. If the father wishes to maintain his consent for the child's placement for adoption, he should receive counselling in accordance with Section 1 above.

Extended family members

The principle that "nothing else will do" does not automatically apply to uncontested adoptions where parents have expressed a wish for adoption outside the birth family. However, local authorities remain under a duty to explore all realistic placement options for a child before settling upon a plan for adoption. As such, practitioners should give active consideration to placing the child within the extended family before proceeding to place a child with potential adopters. The factors set out above following the Court of Appeal decision in *Re A (Adoption: Notification of Fathers and Relatives)* apply equally to extended family members.

The Adoption Agency should discuss with the parent(s)/guardian: the likely views of the extended family (both maternal and paternal grandparents, siblings etc.) and the consequences of them both subsequently 'knowing' or 'not knowing' of the child's birth and plans for adoption.

The parents' wishes and feelings about their baby's future are likely to carry significant weight in the evaluation of the child's welfare, but they are not the only factors to be considered and the Adoption Agency cannot guarantee that the child's existence will be kept confidential from extended family¹⁰. The issue about whether there is a need to notify birth fathers/extended family members is a judgment call for the social work team working with the child and his/her parent. The allocated social worker must follow the *Re BS*¹¹ approach of giving consideration to all of the realistic options before settling on a plan of adoption. If professionals cannot rule out birth father and extended family as realistic options for assessment as carers and the mother disagrees, it will always be necessary to refer the case to the court.

It should be noted that any application for directions on whether to notify extended family members must be made to the High Court exercising its inherent jurisdiction.

⁹ S.52(9) & (10), ACA 2002

¹⁰ *JL (Babies Relinquished for Adoption)* [2016] EWHC 440

¹¹ https://www.familylaw.co.uk/docs/pdf-files/re_b-s-children_2013_EWCA_Civ_1146.pdf
Children relinquished for adoption protocol/NAS/CAFCASS June 2021

Options and alternatives to adoption

The work undertaken by the social worker with the birth parent should ensure that the parent/guardian has considered all other options for the child. These may include:

- Staying with the parent/guardian, with close support where possible (see section 5 on Support below)
- Staying with the other parent if parents are not in a relationship together
- Where the baby and parent(s) are accommodated with foster carers, training and support to care for the baby and parent(s) to help them overcome their anxiety and develop their parenting skills and confidence so that they are able to care for the child
- Short-term foster care, with the aim of returning the child with support
- Long-term placement within the child's wider family maternal or paternal (perhaps with a Child Arrangements Order or SGO). The Adoption Agency must have regard to the ability and willingness of any of the child's relatives to provide the child with a secure environment in which the child can develop and thrive, and otherwise to meet the child's needs and the wishes and feelings of any of the child's relatives regarding the child¹²
- In the case of children born to non-UK nationals, consideration should be given as to whether the consulate of the parents' country of origin should be involved with a view to determining whether the child should be brought up by relatives in that country. In this instance any application to the court for directions on how to proceed would have to be made to the High Court to exercise its inherent jurisdiction.

SUPPORT

As outlined above counselling and information about adoption is often provided by an experienced member of the adoption service who is independent of the child's social worker. However as well as the duty to provide information to the birth parent it should be remembered that in considering a decision to place their children for adoption there is likely to be an emotional impact on them and they will therefore require support in their own right. A care and support assessment may therefore be required under the Social Services and Well-being Act (Wales) 2014 and the child care social worker will be responsible for ensuring that this takes place. It may also become apparent through counselling the birth parent about adoption, and in considering their options for the child, that a particular element of support may be required to enable them to reach an appropriate decision for their child.

¹² ³ S.1(4)(f)(ii) & (iii) ACA 2002

CONSENT

- During the counselling sessions, care should be taken by the Adoption Agency in identifying whether the parent(s) are capable of giving informed consent, especially if there is evidence of: learning disabilities; mental health issues; cultural, ethnic or faith issues; consent being given conditionally, etc.
- Where there is concern as to the parent's understanding, an additional and specialist assessment should be sought from another professional - preferably someone who already knows the parent, such as an approved mental health social worker; a disabilities social worker; GP; midwife or health visitor; psychiatrist / psychologist or someone who can offer a faith or cultural perspective.
- If the issue of capacity is not known at the point of referral or at an early stage in the process, then the Local Authority should not ask Cafcass Cymru to witness consent, until any such issues are resolved.
- Where a parent is under 18 years (i.e. considered to be a 'child' themselves within the meaning of the Children Act 1989), they can be considered to give valid consent if assessed as competent by the counselling social worker). Please see **Appendix 3** for further advice re the issue of competence to give consent.
- Consideration should also be given to whether the parent might benefit from the assistance of an independent advocacy service
- In the case of a parent under the age of 18, Cafcass Cymru will require a written record of assessment, from the social worker, confirming that the parent is competent.
- Where it is indicated that a birth parent has a learning disability and this is likely to impact on their decision-making consideration must be given to the provision of an independent advocate for the parent
- Where it is considered that the parent is not capable of giving informed consent or doubt exists as to the parent's capacity, but the Adoption Agency decides to place the child for adoption following their counselling and assessment, an application for a Placement Order must be made before placement of the child proceeds.
- A capacity assessment can be undertaken outside of Court proceedings, if a parent has some learning difficulties or the LA is uncertain as to a parent's capacity to understand the implications of the decisions they are making. If they do lack capacity, they cannot sign consent.

Withdrawal of consent

- Either parent may withdraw their consent to the placement of their child for adoption and/or advance consent to adoption at any point prior to the prospective adopters issuing an application for an Adoption Order, either by using the 'Withdrawal of Consent Sections 19 and 20 of the Adoption and Children Act 2002' form or by written notice given to the Adoption Agency. Such a withdrawal of consent removes the authority of the Adoption Agency to place the child for adoption¹³.
- On receiving the Notice of Withdrawal, the Local Authority (as the agency) will lose the authority to place and there should be an immediate review of the child's plan for adoption. Following legal advice, the Local Authority may decide to apply for a Placement Order.
- Where the child is accommodated further to parental consent under Section 19 of the ACA 2002, but is not yet placed with adoptive applicants, and the parent or guardian informs the Local Authority/Adoption Agency that they wish the child to be returned to their care, the child should be returned to the parent(s)/guardian within 7 days, unless the Local Authority has either made an application for a Placement Order, a decision is made to apply for a Placement Order or other emergency steps are taken to ensure that the continued placement is legal. Should the birth parent require a few days to make arrangements to have the child home this should be considered and plans made accordingly.

Where the child is placed for adoption - and the parent or guardian requests the return of the child, the child must be returned to the agency within 14 days (or in the case of a child under the age of 6 weeks, within 7 days), beginning with the day on which the notice was given. However, if the Local Authority is of the view that the child would be at risk significant harm if returned, the Local Authority will need to follow the child protection process as per the Wales Safeguarding Procedures, including consideration of whether an application should be made to court for care and/or placement proceedings without delay.

- There is no obligation upon the Adoption Agency to return the child to the birth parent(s) when an application for a Placement Order has been made and is pending before the court. However further assessments will become a requirement and consent for the child to remain looked after will need to be considered¹⁴.
- Once an Adoption Order application has been issued, consent cannot be withdrawn and the parent's only recourse will be to apply for leave to oppose the adoption order.

¹³ Regulation 39, AAR 2005

¹⁴s.32, ACA 2002

DECISIONS OF LOCAL AUTHORITY

Following the counselling and assessment stage and if the parent(s) continue to express their need for the child to be adopted, a decision to proceed to Adoption Panel for the child to be considered for adoption as a relinquished child should be made by the appropriate children's social worker. (Note however, that it is the Adoption Panel recommendation and the Adoption Agency Decision Maker that will confirm the plan for the child).

Child Who is Already Born

- Where the child is already in the care of the parent(s), an assessment and decision should be promptly made as to the point at which the child should be accommodated, bearing in mind that separation will impact upon the child's developing attachment; this could be 'positively' if the parent(s)/guardian bond is poor, with the consequent impact upon the child's attachment. In many circumstances, the child will be accommodated promptly under Section 76 because of a parent(s)/guardian's circumstances and wishes.
- The parent should sign their consent to the placement for adoption - having been provided with all relevant information in respect of adoption, contact and support for them and their family.
- When the matter has been presented to Adoption Panel and agreed by the Agency Decision Maker and Cafcass have completed their role (see below), an adoptive placement should be sought.
- A referral to the Regional Adoption Agency should be made as soon as possible within the 'relinquished process' so that efforts can be made to identify an appropriate placement, including the possibility of a concurrent placement (Welsh Early Permanence placement).

Pre-Birth Child

The majority of children who are relinquished will come as a pre-birth request from the mother. Counselling processes/information gathering processes with the mother and, (where appropriate and known), putative father need to be undertaken and progressed as outlined above. Note however that formal consent by the mother for an adoption placement and advance consent to adopt cannot be obtained by Cafcass Cymru until the child is 6 weeks old. Any consent provided prior to this time will not meet the criteria for the making of an adoption order.

ACTIONS FOR THE ADOPTION AGENCY IN RELATION TO CAFCASS CYMRU

On receiving an indication from a birth parent that they are going to relinquish their child for adoption, the Adoption Agency will need to notify the Cafcass Cymru office located nearest to the parents' address. This will enable Cafcass Cymru to ensure a Welsh Family Proceedings Officer will be available to witness consent at the appropriate time, following a "should be adopted" decision being made. The Adoption Agency will need to send information to Cafcass Cymru about the case, as set out in Schedule 2 to the AAR. In addition it is important at this stage that the child's social worker and Team Manager seek the advice of their legal team. They may also wish to have a preliminary discussion with Cafcass Cymru to alert them to the case and share any information that may be relevant to the case.

The relevant Cafcass Cymru office address can be obtained from the Cafcass Cymru website.

Urgent referral to Cafcass Cymru ahead of ADM Decision

- Usually Cafcass Cymru will not be contacted to request the appointment of an officer to witness consent until the Adoption Agency has decided, after panel recommendation and agency decision, that the child should be placed for adoption as any other plan does not require Section 19 or Section 20 consent.
- The law permits consent to be given before the adoption panel has met and the Adoption Agency has decided that the child should be placed for adoption *if the child is at least six weeks of age*. This would be in circumstances, for example, where a parent is anxious to provide Section 19 consent as soon as their child reaches six weeks of age, and/or there is a risk that they will no longer be available to sign thereafter.
- If the Adoption Agency is satisfied that as much effort as possible has been made to counsel and advise the parent wishing to provide Section 19 consent, an urgent request for a Cafcass Cymru Officer to witness consent should be made to Cafcass Cymru before the panel meeting and agency decision. This urgency is necessary because the Adoption Agency must apply for a Placement Order if the parent does not provide consent, and the plan for the child remains one of adoption. This could result in considerable delay to the child's placement for adoption.

¹ Paragraph 186 of the Statutory Guidance; *Sandwell MBC v GC & Oths* [2008] EWHC 2555 (Fam)

¹ S.47(4)(b)(i) ACA 2002

PLACEMENT OF A CHILD UNDER 6 WEEKS OF AGE

- It is permissible for the Adoption Agency to place a child under 6 weeks of age in the care of prospective adopters with the consent of the birth parents¹⁵. However, consent taken before the child reaches 6 weeks is ineffective for the purposes of any subsequent application for an Adoption Order made by the prospective adopters^{*16}. This would mean that the court would have to seek fresh consent or else dispense with the consent of the parent(s) at the time of the hearing. This risks creating further delay for the child. [** the Adoption Social Worker for the adopters must ensure the prospective adopters have as full understanding of this before they agree to such a placement*].
- Additionally, Section 52(3) of the ACA 2002 states that advance consent to adoption under Section 20 is ineffective if it is given less than six weeks after the child's birth. Accordingly, advance consent to adoption should never be sought until the child has reached 6 weeks of age.
- To avoid potential delay, the following procedure should be employed in relation to the placement of children under the age of 6 weeks:
 - At the time of placement of the child, the Adoption Agency should obtain the written consent of the birth parents for the placement to go ahead using the form set out at Appendix 10
 - Upon the child reaching 6 weeks of age, Cafcass Cymru should be engaged to seek formal consent from the parents under Section 19 and, if applicable, Section 20.
- The Adoption Agency should provide additional counselling for the parent or guardian where it is seeking to obtain their signed agreement to the placement for adoption of their child aged under six weeks.

The agency should make it clear orally and in writing that the parent or guardian retains full parental responsibility until:

- **they give their consent under section 19 of the Act, after the child reaches the age of six weeks, or**
- **a placement order is made, or**
- **an adoption order is made.**

¹⁵ Paragraph 186 of the Statutory Guidance; Sandwell MBC v GC & Oths [2008] EWHC 2555 (Fam)

¹⁶ S.47(4)(b)(i) ACA 2002

- The parent or guardian may only have contact with the child by agreement with the agency or by order of the court;
- if the parent or guardian asks for the child to be returned, the child must be returned by the agency unless any of the following orders are applied for or made in relation to the child:
 - an emergency protection order or a care order under the 1989 Act;
 - a placement order or an adoption order under the Act,
- after the child is six weeks old, the agency will seek to arrange for them to give their formal consent to the child being placed for adoption.

It should be noted that if the child is placed with prospective adopters before they are 6 weeks old and they remain in that placement, consent being maintained and formalised at six weeks, then the adopters will be able to apply for an Adoption Order that much sooner, i.e. 10 weeks from the point of placement.

COMPLETION OF SCHEDULE 2 INFORMATION

A schedule of information (Schedule 2, AAR) must be provided to Cafcass Cymru (see Proforma at **Appendix 8**). The Schedule 2 information must include the following:

- a certified copy of the child's birth certificate, name and address or contact address of the parent(s)/guardian(s) whose consent is to be witnessed (Note: if parent is outside Wales, Cafcass Cymru is not able to witness consent and the adoption agency must request an officer from CAFCASS (in England), a JP or Sherriff in Scotland or N Ireland, or authorized person under AA(W) 2005 Reg 20A(2)(c) outside the UK, to witness consent).
- a chronology of actions and decisions taken by the Adoption Agency in respect of the child
- confirmation by the Adoption Agency that it has counselled and explained the legal implications of both consent to placement under Section 19 and, if applicable, Section 20, and provided the parent/guardian with written information about this together with a copy of the written information provided to the parent or guardian;
- Such information about the parent or guardian or other information as the Adoption Agency considers Cafcass Cymru may need to know.

Additional information **may include where appropriate:**

- whether the child is accommodated and in foster care
- whether the Adoption Agency has, with parental consent, placed the child with prospective adopters before the child has reached six weeks of age
- the date on which the Adoption Agency decided that the child should be placed for adoption, or the projected date for the adoption panel meeting and Agency Decision Maker decision

- whether another professional's views were sought about capacity, and confirmation that they considered the parent/guardian to be competent
- information about the awareness or otherwise of relatives about the child's birth or adoption plans; for example, if the birth of the child or the plan for adoption is not known to the birth father or relatives, what steps should be taken by the Welsh Family Proceedings Officer in arranging to meet the consenting parent/guardian to preserve their confidentiality.
- Whether the child has been placed with prospective adopters under six weeks of age
- Whether the adoption medical has identified any health concerns in respect of the child
- Minutes of the adoption panel and record of the decision of the Agency Decision Maker to proceed with the plan of adoption. If the decision has not yet been made, the projected date for the adoption panel meeting and adoption agency decision.

NOTIFICATION TO CAFCASS CYMRU

- Once the Agency Decision Maker has confirmed the plan for the child to be adoption, notification must be urgently sent to Cafcass Cymru. It should be expected that the Adoption Agency notify the birth parent about the role of Cafcass Cymru and that they will be getting involved and why.
- The principal role of Cafcass Cymru is to ensure that consent to place for adoption (Section 19) and advance consent for an Adoption Order (Section 20) has been made unconditionally and with a full understanding of all that this means in terms of those sections, of adoption and all its implications.
- Cafcass Cymru would seek to get signed consent from the birth mother and any birth father who has PR. If a birth father does not have PR, the Cafcass Cymru Reporting Officer should establish whether he has been notified and given counselling, or if not, be clear as to the reasons for this.
- It is not the role of Cafcass Cymru to challenge birth parents about their decision to relinquish the child, (as long as they are competent).
- Cafcass Cymru has a duty to safeguard the interests of children in Wales. A Welsh Family Proceedings Officer will not be able to obtain consent if they consider that a father or family member has been improperly excluded and the child's ECHR rights breached. If this issue is identified discussions will take place with a view to resolving any issues rather than the LA having to make an application to the court.

Relevant forms to accompany notification

The following documents must be sent to Cafcass:

- Notification of child to be relinquished for adoption;
- Schedule 2 Proforma

TYPES OF CONSENT SOUGHT BY CAFCASS CYMRU

Section 19 Consent to Placement for Adoption

- Section 19 of the Act provides that a parent/guardian may consent to the placement for adoption of their child, and that this consent may be to placement with any prospective adopter chosen by the agency, or to a specific prospective adopter. In the latter case, the consent may (but is not required to) provide that, in the event of the placement with a specific prospective adopter being terminated before an Adoption Order is made, the agency may place the child with a prospective adopter of its own choosing.
- Consent provided under s.19 has similar effect as the court making a Placement Order in respect of a child. It allows the Adoption Agency to place the child with prospective adopters who can then go on to make an application for an Adoption Order after the child has resided with them for the required 10 week period. Upon consent, parental responsibility for the child is given to the Adoption Agency and, upon placement, to the prospective adopters.

Depending on the circumstances of the case, the parent(s)/guardian will be asked to sign one of the following forms in relation to s.19:

A100	Consent form to placement for adoption with any prospective adopters chosen by the Adoption Agency - under Section 19 (Adoption and Children Act 2002)
A101	Consent form to the placement of adoption with identified prospective adopter(s) - under Section 19 (Adoption and Children 2002 Act)
A102	Consent form to the placement of adoption with identified prospective carers and, if the placement breaks down, with any prospective adopters chosen by the Adoption Agency - under Section 19 (Adoption and Children 2002 Act)

Section 20 Advance Consent to Adoption

- Section 20 of the Act allows a parent or guardian of a child who consents to their child being placed under s.19 to consent to the making of a future Adoption Order in favour of the prospective adopters with whom the child is placed. At the same time the parent/guardian has the option of making a statement that they do not wish to be informed of any application for an Adoption Order (although they may retract such a statement later).
- A consent provided under s.20 will be valid for the purposes of any subsequent application by prospective adopters for an Adoption Order in respect of the child.

Statement with Section 20 Advance Consent

- Section 20 (4) of the ACA 2002 allows a parent or guardian to make a statement that they do not wish to be notified of the application for an Adoption Order under s.20. This statement can be given at the same time as giving consent under s.20 or at any time afterwards after the application is made. The effect of the statement is that the parent/ guardian will not receive notice of the application and an Adoption Order may be made in their absence.

In seeking consent under s.20, Cafcass Cymru will ask the parent(s)/guardian to sign one of the following forms:

A103	A103: Advance consent to adoption - Section 20 (Adoption and Children Act 2002)
A104	Consent to Adoption (Adoption and Children Act 2002)

Cafcass Cymru Outcome/Response

Consent to place for adoption (Section 19)

Consent has been unconditionally and properly given with full knowledge and comprehension of adoption and the process.

Consent to place for adoption (Section 19) and Advance consent to the making of an Adoption Order (Section 20):

Consent has been unconditionally and properly given to both placement and Adoption Order with full knowledge and comprehension of adoption and the process.

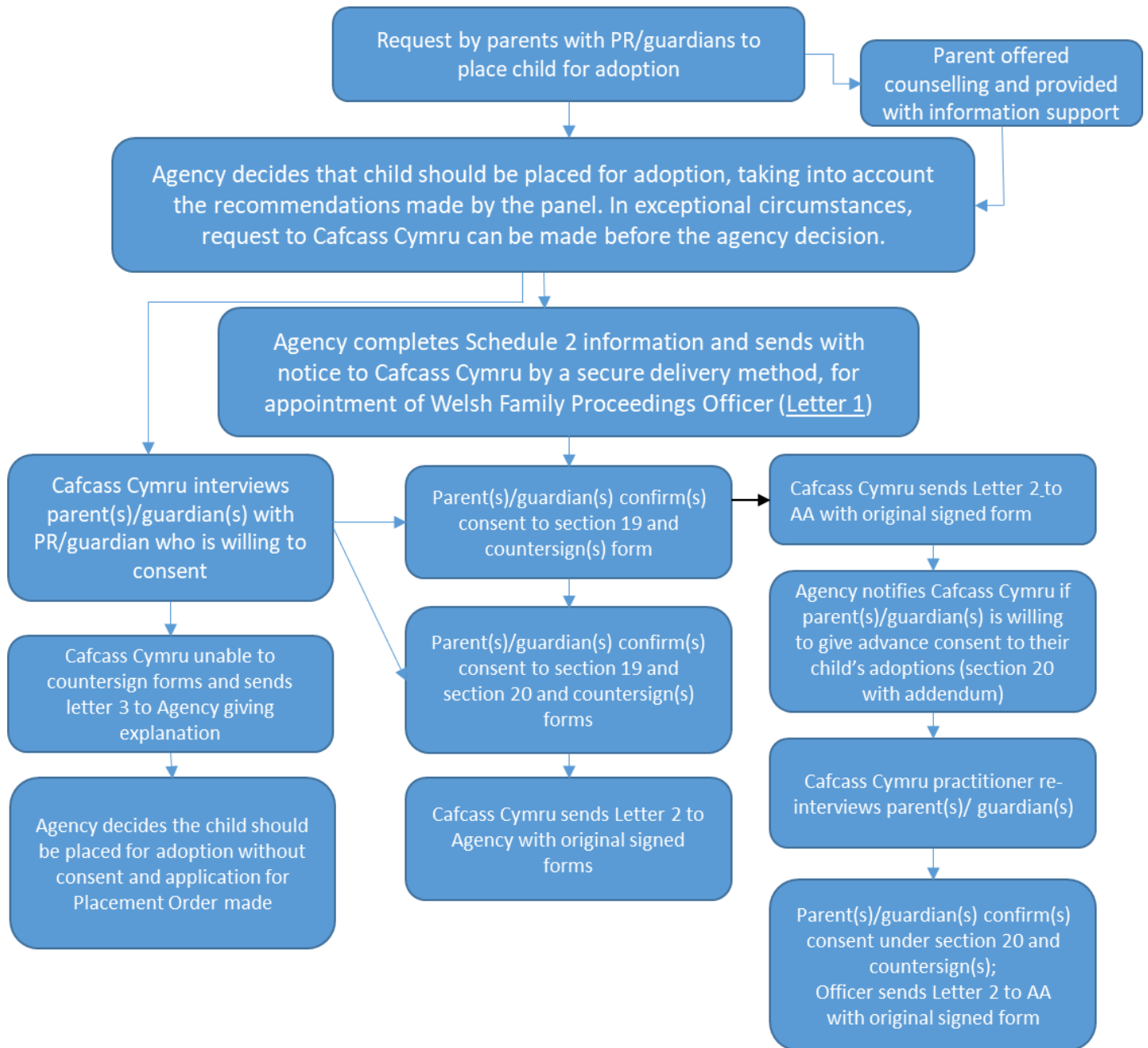
Where the parent(s)/guardian(s) has identified and given notice that they do not wish to be notified when an application for an Adoption Order is made, Section 20(4) Adoption and Children Act the letter should also acknowledge this and attach a 'Statement' to this effect.

CAPACITY TO GIVE CONSENT

If there are concerns about the parent(s)/guardian(s) capacity to give consent unconditionally and with full understanding of what is involved which prevent the Cafcass Cymru officer from countersigning the form(s), letter 4 should be completed, giving a full explanation of the reasons as to why the form(s) cannot be countersigned.

If the Cafcass Cymru Reporting Officer has concerns, they would not proceed with acquiring consent until an assessment has been undertaken and / or the issue of how to proceed has been determined by the Court. One indicator of whether the birth parent understands, might be their capacity to comprehend the Reporting Officer role.

Appendix 1: Workflow



Appendix 2: Informing the birth father and other family members

The Adoption Agency will need to consider and weigh all the relevant factors in a case. The following, not exhaustive, list of factors are likely to be relevant:

- Parental responsibility. If the father has PR, compelling reasons are required to withhold notification, because the father would have automatic party status in an adoption application.
- The existence of an established or potential family life with the mother or child under Article 8 of the European Convention on Human Rights (ECHR). Whether this exists will be a question of fact. A marriage, marriage-like relationship, cohabitation, length of relationship, intention to found a family, and a commitment to the child before and after birth would make it more likely that there is family life. An established or potential family life engages the father or relative's right to a fair hearing under Article 6 of ECHR, therefore strong reasons are required to justify not notifying them.
- The substance of the relationship. Questions around the circumstances of the conception and the significance of the relatives should be asked. The purpose is to provide the silent person with a notional voice and allow the LA and court to consider any objective justification for the person to complain if they later discover that they were excluded.
- The likelihood of a family placement being a realistic alternative to adoption. The Adoption Agency should not rely only on the mother's view about whether there is a potential carer in the family, the physical, psychological or social impact will notification have on the mother or others. Short-term difficulties, embarrassment or social unpleasantness should not be given excessive weight.
- Cultural and religious factors. These may increase the risk of notification but may also allow a birth tie to be maintained through a family placement.
- Availability and durability of confidential information. Notification can only take place if there is someone to notify. In cases where a mother declines to identify a father she may face persuasion, if that is thought appropriate, but she cannot be coerced. In some cases the available information may mean that the father is identifiable, and maternal relatives may also be identifiable. The extent to which identifying information is pursued is a matter of judgement. Conversely, there will be cases where it is necessary to consider whether any confidentiality is likely to endure. In the modern world secrets are increasingly difficult to keep and the consequences, particularly for the child and any prospective adopters, of the child's existence being concealed but becoming known to family members later on, sometimes as a result of disclosure by the person seeking confidentiality, should be borne in mind.
- The impact of delay. An application to court for a decision on notification will delay when the child will have a confirmed permanent placement. Delay may cause damaging consequences for the mother or the child. It may cause a prospective adoptive placement to be lost.

Appendix 3: Competence in giving consent (Gillick competence)

The test for whether a parent under 18 has the necessary competence is set out in *Gillick v West Norfolk and Wisbech Health Authority* [1985] 3 WLR 380, supplemented by the Mental Capacity Act 2005. The parent is required to have "a sufficient understanding and intelligence to enable them to comprehend fully what is proposed" and:

- Understand the nature and implications of the decision and the process of implementing that decision.
- Understand the implications of not pursuing the decision.
- Retain the information long enough for the decision-making process to take place.
- Be of sufficient intelligence and maturity to weigh up the information and arrive at a decision.

The determination of a child's competence had to be decision-specific and child-specific. It is necessary to consider the specific factual context when evaluating competence. The fact that a child lacks litigation competence did not mean that they lack subject-matter competence to consent to adoption. The competence assessment has to be made on the evidence available.

An important distinction has to be drawn between the determination of competence to make the decision, and the exercise by that young person of their competent decision-making

The parent must also understand the following information about adoption:

- The child will live with a different family forever. She is unlikely to be part of the choosing of the new family
- The child will have new legal parents. The child will legally no longer be her child.
- Adoption is final and non-reversible.
- Decisions about who the child lives with and sees will be made by other people.
- They will have no right to see the child. Direct contact is unlikely and any indirect contact will be limited.
- In the future, the child may try to find them; any future contact will only happen if the child wants it.
- There are two stages to adoption. The child will be placed with the new family for adoption, and then there is the formal adoption stage.
- The time to change their mind and the right to change her mind once the child is placed is limited. There is no right to a change of mind once the adoption order is made
- They may get legal advice before making her decision

Applying s.1 (3) of the 2005 Act, when determining the competence of a child parent in those circumstances, "all practicable steps to help" the parent make the decision, must have been taken. Applying s.3(2), a young person under the age of 16 would be treated as understanding the information relevant to a decision if they were able to understand an explanation of it given in a way appropriate to their circumstances, using simple language, visual aids or any other means.

All practical steps must be taken to help the parent understand what they consenting to at the decision-making stage. This requires age-appropriate information about adoption, and the use of simple language, visual aids, or other means. Where possible, the information should be given over two or more sessions with time for the parent to assimilate the information. The parent should understand the information in the consent forms for placement for adoption and for adoption¹⁷.

¹⁷ [Re S \(Child as parent: Adoption Consent\) \[2017\] EWHC 2729 \(Fam\)](#)
Children relinquished for adoption protocol/NAS/CAFCASS June 2021

Appendix 4: Letter 1

AA logo &
address Case
reference no

Team Manager
Cafcass Cymru
Office nearest to parent/guardian

Dear

Re: Notification of child to be relinquished for adoption

Name and date of birth of child:

I enclose the completed Schedule 2 Information with associated documents and request the appointment of an officer to witness Section 19 consent and advance Section 20 consent to the making of an Adoption Order: *[delete as appropriate]*

- a) With specific adopters
- b) With any adopters chosen by the agency

And confirm the parent/guardian wish: *[delete as appropriate]*

- a) To give advance consent to the making of an Adoption Order
- b) Do not wish to be notified of the Adoption Order application in respect of their child.

Name of mother: *[if willing to consent]:*

Name of father *[if he has PR and is willing to consent]:*

Name of guardians *[if willing to consent]:*

Addresses for correspondence:

Mother:

Father:

Guardian(s):

Home

addresses

Mother:

Father:

Guardian(s):

I have enclosed the Schedule 2 Information, which contains the following:

- certified copy of the child's birth certificate

- names and addresses or preferred contact addresses of the child's parents/guardians who are willing to give consent
- Chronology of actions and decisions taken by the agency, including the date or projected date when the agency decided or will decide, that the child should be placed for adoption.

I confirm that:

- The agency has counselled and explained to the parent(s)/guardian(s) the legal implications of both consent to placement under section 19 of the Act and consent to the making of an Adoption Order under section 20 of the Act.
- a copy of the above written information has provided to the parent(s)/guardian(s)
- All such other additional information as the AA considers the Welsh Family Proceedings Officer needs to know has been provided to Cafcass Cymru.

At the time of writing there are no known unresolved concerns about the parent's or guardian's capacity to give consent unconditionally and with full understanding of what is involved.

Yours sincerely

Name of Manager

Appendix 5: Letter 2

Cafcass Cymru address

Name of Social
Worker [AA]
Address
Case reference no

Dear

Relinquished child; Name and Date of Birth Re: Countersigning Consent Forms

With reference to your request for the appointment of an officer to witness consent to placement for adoption and advance consent to the making of an Adoption Order *[delete if not appropriate]*, I am writing to inform you that I have witnessed and countersigned the following:

Section 19 consent Form *[delete if not appropriate]*

Section 20 consent Form *[delete if not appropriate]*

The parent/guardian gave me notice that they do not wish to be notified of the Adoption Order application in respect of their child *[delete if not appropriate]*

The original signed consent forms and notice are enclosed and relate to: Name of mother:

Name of father:

Name of guardian[s]:

Yours sincerely

Name of Manager

N.B. Please return the original consent forms to AA by a secure delivery method

Appendix 6: Letter 3

Cafcass Cymru address

Name of officer [AA]

Address

Case reference no

Dear

Relinquished child; Name and Date of Birth

Re: Inability to Countersign Consent Forms - Section 19 and 20

With reference to your request for the appointment of a Welsh Family Proceedings Officer to witness consent to placement for adoption and advance consent to the making of an Adoption Order *[delete if not appropriate]*, I write to inform you that I have not been able to countersign the following:

Section 19 consent Form *[delete if not appropriate]*

Section 20 consent Form *[delete if not appropriate]*

In relation to:

Name of mother:

Name of father:

Name of guardian[s]:

:

The reasons that I do not consider that the parent(s)/guardian(s) are able/willing to give consent unconditionally and with full understanding of what is involved are:-

Yours sincerely

Name of manager

Appendix 7: Letter 4

AA Logo and address
Case reference no

Practice Manager
Cafcass Cymru
Office nearest to parent/guardian

Dear

Relinquished child; name and Date of birth
Re: Countersigning of Advance Consent for Adoption

With reference to your correspondence of *[insert date]* witnessing the signing of a Section 19 consent form in relation to:

Name of mother: *[if appropriate]*:
Name of father *[if appropriate]*:
Name of guardian(s) *[if appropriate]*:

Addresses for correspondence:
Mother:
Father:
Guardian(s):

I am writing to request that you witness the signing of a Section 20 advance consent to the making of an Adoption Order and, if it is given to you by the parent(s)/guardian(s), receive from them notice that they do not wish to be informed about the Adoption Order application in respect of their child.

I have enclosed an addendum to the Schedule 2 Information previously sent to you on *[insert date]*.

Yours sincerely

Name of manager

Appendix 8: Schedule 2 Proforma

Section 19 or Section 20 Consent - Adoption Agencies (Wales) Regulations 2005

Name of Agency:

Address:

Telephone Number:

Fax Number:

Date form completed:

Name of Social Worker completing this form

Telephone Number:

E-mail address:

Name of Team Manager:

Telephone Number E- mail:

Signature and date:

Date (or projected date) of adoption panel recommendation that the child should be placed for adoption:

Date (or projected date) of agency decision that the child should be placed for adoption:

N.B. A certified copy of the child's birth certificate MUST be attached

The child

Surname:

First Names:

Other names child is known by:

Gender:

Date of Birth:

Information about the parent(s)/guardian(s) whose consent is to be witnessed:

Mother

Surname:

First Names:

Date of birth:

Marital Status:

Address for contact by Cafcass:

Tel no

Father (if known)

Surname:

First names:

Date of birth:

Address for contact by Cafcass:

Tel No:

Guardian(s)

Surname:

First names:

Address for contact by Cafcass:

Tel No:

Additional information:

- Is the child accommodated (section 76 Social Services of Well-being (Wales) Act 2014)? Yes/No
- Is the child in foster care? Yes/No
- Is the child placed with identified carers who may wish to adopt? Yes/No
- Confirmation by AA that it has counselled or attempted to counsel the consenting parent(s)/guardian(s) and explained the legal implications of consent to placement under section 19 and section 20, and provided the parent(s)/guardian(s) with the information in writing. A copy of the information must be attached to this document.
- Chronology of actions and decisions taken by agency. This should include actions and decisions taken in relation to extended family and birth fathers without PR.

Other relevant information, including;

- If another professional's views were sought about capacity, confirmation that they considered the parent/guardian to be competent to make the request for adoption.
- Issues about the non-awareness of relatives about the child's birth, e.g. a concealed pregnancy.
- If the birth of the child or plan for adoption is not known to the parent(s)/guardian(s)' relatives what steps should be taken by the Welsh Family Proceedings Officer in arranging to meet parents/guardians giving consent to preserve their confidentiality?
- Issues around, for example, aggression, hostility, cultural or ethnicity issues, child conceived by rape or any other risk issues
- Any other information about the parent(s)/guardian(s) or any information the adoption agency considers the Welsh Family Proceedings Officer may need to know.

Appendix 9: Information for Birth Mothers

What exactly is adoption?

Adoption is a way of providing a child with new legal parents and enabling a child to become a legal member of a new family for life when they cannot remain within their birth family. It permanently ends the legal relationship between the child and the birth parents.

Adoptions are arranged by adoption agencies but are made legally binding by the court making an Adoption Order. Once an Adoption Order has been made by the Court, it is final and cannot be over turned.

How do I find out more about adoption?

In addition to the information provided by adoption agencies, advice can also be sought from:

- Social workers from the Children's Services Department of your local authority.
- Hospital social workers who work with maternity clinics.
- Websites like www.education.gov.uk; www.baaf.org.uk; www.adoptionuk.org

How is an adoption arranged?

If you decide that adoption is right for your child or just want some help with considering it further, a social worker or other adoption worker will spend some time with you to help you to help you think through your decision. You will be offered 'counselling' which means support to think through what adoption means, the processes, and whether there might be any alternatives. You will also be offered support from a social worker independent of the adoption agency. Preparations for the adoption can begin before your child is born, however, nothing will be definitely arranged until after the birth. You will be free to change your mind up until the time when you sign a form giving your consent (agreement) to the placement of your child for adoption, which usually takes place six weeks after the child's birth. Following that, it is possible to change your mind until a Court order is made, but it would become more complicated and the Court may get involved.

Should you decide to go ahead with adoption you will, in due course, need to give some personal information about yourself, your family and your family's health, for the adopters to be able to share with the child as he/she grows up. You will be asked to sign to agree that any information you have provided can be shared with the child. By doing this, you will be helping your child to have a better sense of their origins and who they are.

Must the father of the baby give his permission?

If the birth father of the child has parental responsibility (PR) then his permission is necessary for the child to be placed for adoption. To clarify, the father of the baby will have PR if;

- He is married to you
- He has been named on the baby's birth certificate

- Or if he has since applied for and been given a PR certificate

If a birth father of a child does not have PR, his permission for the child to be placed for adoption is not needed. However, it is important to note that the father may wish to apply for PR at any time before the adoption, and should this be granted, he will need to also consent to the adoption. He could choose to withdraw his consent to the adoption, at any stage up until an application for an Adoption Order has been made. The social worker may need to contact the father, if considered appropriate, as the adoption agency will want some information about the father's health, family and medical history so they can pass it on to the adopters and the child.

The baby's father may not agree with the adoption plan of the birth mother and may want to bring up the child himself or within his own family. If this is the case, and the birth father has PR or is likely to apply for it, the adoption agency and the court will need to know about it. If you and he are unable to agree about what should happen, then the court will have to decide whether it thinks adoption or a life with the father or his family is likely to be best for the child in the long term.

If you are married but your husband isn't the father, the law will still consider the husband the legal father of the child unless he has signed, or the court makes, a declaration otherwise. In this case your husband's consent to placement for adoption is necessary, but the adoption agency will also want, if possible, some information about the birth father so they can pass it on to the adopters and the child.

What sort of people will adopt my child?

The social worker will discuss with you the kind of family you want your child to grow up in. The greatest care will be taken to find a family who will give a safe and loving home to your child. The person or couple selected will have been through a thorough assessment to make sure that they will be able to understand and support the needs of an adopted child throughout their life. You should talk to the social worker about the possibility of meeting the family, if you want to, or about other sorts of contact such as exchanging letters and if agreed, some photographs. The adopter(s) will have been spoken to about the importance of making sure the child understands about their adoption and the option of maintaining some communication with their child's birth parent(s).

What happens after my baby is born?

Before you leave the hospital you will be asked to sign a form to agree to your child going to foster carers (this is not a consent form for adoption). In most cases the baby will be looked after by a temporary foster carer until you sign consent to placement for adoption when your child is six weeks old; up until this time, you are able to change your mind. If you change your mind, your child could be returned to you. If the Local Authority had any worries and wanted to continue the adoption process, they would need to apply for an Interim Care Order and Placement Order and write a statement clearly explaining their reasons.

Children's services agreement is required if you wish your baby to be placed for

adoption under six weeks of age. You should discuss this with the social worker who has given you independent advice and the child's social worker. You will be asked to sign a written agreement. The social worker will make regular visits to the child to check everything is going well and offer support. You will be kept up to date with your child's progress

When your baby is at least six weeks old

The social worker will arrange for you to be interviewed by a Cafcass Cymru officer who will make sure that you understand what adoption involves. Cafcass Cymru is a completely separate organisation from the Local Authority. They will ask you to sign a formal document consenting to your child's placement for adoption, and you may also give advance consent to an Adoption Order being made when the adopters apply for it. They will want to make sure that you understand what you are signing and that that is your choice.

You can, if you wish, be involved in the process of helping to decide what kind of family your child should grow up with, and the adoption agency and your social worker will make every effort to find a family that both meets your wishes and the needs of your child. However, the adoption agency and your social worker will always need to place the needs of your child first when choosing a family.

Once the child has been placed with adopters and has lived with them for 10 weeks, they can then apply for an Adoption Order (in some cases the adopters apply for an Adoption Order many months after the child has gone to live with them). If you wish to oppose (not agree with) the making of the Adoption Order once an application has begun, you will need to ask the court for permission to do so. The court may give its permission if it is satisfied that there has been a change of circumstances since you consented to your child being placed for adoption. The agency will provide a report to the court about the child's circumstances, and if the court is satisfied that an Adoption Order is in the best interests of the child, the Adoption Order will be granted.

You will be notified about the adoption application and when and where it will be heard, unless you request specifically not to be told.

Can I arrange the adoption myself?

There are circumstances in which you can make a private arrangement for the placement of your child but the Local Authority would still need to look into this arrangement. This would be a private adoption which is entirely different and beyond the scope of this leaflet. To protect the child, all other adoptions must be arranged by an adoption agency. All adoption orders have to be granted by a Court to be legally binding.

What if I change my mind?

Once you have signed your consent to your child being placed for adoption, your right to change your mind will be limited and may be lost altogether. You will be able to withdraw your consent at any time until the people who want to adopt your child start

an adoption application in the court. If you do withdraw your consent and want your child to be returned, you will need to notify the adoption agency. However this does not mean that your child will automatically be returned to you. If the adoption agency has *not* placed your child with prospective adopters and agrees that your child should be returned to you, they will return the child within 7 days, unless you need more time and agree that with them. If they have already placed the child with prospective adopters and they agree that your child should be returned to you, they should return the child within 14 days and will agree this with you. However if the child is under 6 weeks old s/he will be returned within 7 days.

However, if the adoption agency considers that your child ought still to be adopted they will have to apply for a Placement Order and Interim Care Order, with a view to asking the court for permission to place your child for adoption. If that happened, they would have to make their reasons very clear to the Court and the Court would appoint an independent professional from Cafcass Cymru to become involved and report back about what would be best for the child. They would consider the circumstances and speak with you and the prospective adopters. They would also appoint a solicitor to represent the child's needs and rights in the court process. This would all have to happen before the Court could make a final decision.

When the people who want to adopt your child have made an application to the court for an Adoption Order you will not be able to ask for your child to be returned. Unless you have said that you do not wish to be informed, you will be told when they make their application but you will have to ask the court for permission to oppose it. You will have to show the court that there has been a change of circumstances since you gave your consent to your child being placed for adoption and that asking the Court to consider what has changed is in your child's best interests.

Will I see my child again?

Once you have given consent to the child being placed with prospective adopters it may be possible to have contact with your child through arrangement with the adoption agency or by getting a court order, but you will not have an automatic right to contact. You will have a right to apply to the court for an order for contact with your child at any time until the Adoption Order is granted. Adoption can sometimes involve continuing contact between the birth parents and the adoptive family, either face to face or by letter. Any arrangements would need to be agreed between you and the adopters, and would usually be supported by the adoption agency.

The agency will usually try to find a family for your child who are happy with having the sort of contact that you would like, as long as this is also in your child's best interests. Although it would not be usual for a very young child to have face to face contact with his/her birth parents on an on-going basis, the level and type of contact that would best meet with your child's needs will be discussed with you. The contact you have with your child may change over time depending on the child's needs.

Will my child be told about me?

Adoptive parents are expected to make sure that their adopted child grows up understanding that they are adopted and they receive training and support to know how to do this. Adopted children have a Life Story book provided for them which helps them to understand the story of why they came to be adopted. You will have the opportunity to provide information and pictures for this and whatever you feel able to share will help your adopted child to develop a sense of their origins.

Adopted children also have more detailed information prepared for them, usually called a Later Life Letter, for when they are older and may have more questions. You can speak to the social worker about writing this yourself if you choose. Otherwise, a social worker will prepare this, explaining why a new family had to be chosen for them. You may also want to provide a keepsake for your child which will be passed to the adopters for your child.

Can I keep it a secret?

Who you tell will be up to you. Adoptive parents are advised to tell children from an early age that they are adopted. As they grow up, most adopted people are curious to know something about their background.

Adopted people can obtain their original birth certificate when they are 18 years old (16 in Scotland), and if you were registered as a parent, your name will be on the certificate. Using that information the adopted person could try to trace you. There are adoption contact registers covering England and Wales, Scotland and Northern Ireland to facilitate contact between adult adopted people and their birth relatives. Where a birth parent and adopted adult have both registered, the adoption contact registers will inform the other party. The contact register will not share contact details it will be up to the parties to decide if they wish to pursue contact following counselling.

Adopted young people and adults or birth family members may make contact or obtain information from social media sites on the internet. This is not the best way of contact being established because contact for both birth families and adopted adults without preparation and the support of an adoption agency can be distressing. Advice and support is available free from your local authority adoption support service. Advice and support would also be offered to your child if the adoption agency were contacted about this happening, to try and make sure that everyone can think through what would be best for all concerned.

Can I contact my child again when they become an adult?

You can request an adoption support agency, local authority adoption agency or certain voluntary adoption agencies to act as an intermediary for you once your child becomes an adult. You can also place your details on the Adoption Contact Register. There may be circumstances in which the agency does not accept an application to facilitate contact, and it is important to note that contact would only be re-established if it is what the adopted adult wants.

Making the decision

The decision you make about your baby's future is so important that you should not rush into it. Get all the advice you can before you make up your mind and try to ensure that this includes legal advice. Speak to your child's social worker if there is an issue with paying for this. You need to be sure that you are doing the best for your child so that you will feel comfortable that your decision is the right one for your child.

Will I get support?

You will be encouraged to see a specialist adoption worker to assist you in making your decision but there are also services available for birth parents after their child has been adopted.

There are many agencies who provide support groups and workers who know a lot about adoption. You can ask the social worker for details about this and other support services available.

Local authorities also provide support to everyone involved in adoption throughout a child's childhood and beyond. They will be there to assist if any difficulties arise in relation to contact with your child or if you have any queries at all.

As a birth parent, you would be able to ask for support at any time. One issue that many people welcome support with is about what to write in a letter to your adopted child and there is help available with that.

What exactly is adoption?

Adoption is a way of providing a child with new legal parents and enabling a child to become a legal member of a new family for life when they cannot remain within their birth family. It permanently ends the legal relationship between the child and the birth parents.

Adoptions are arranged by adoption agencies but are made legally binding by the court making an Adoption Order. Once granted an Adoption Order is final and cannot be over turned.

How do I find out more about adoption?

In addition to the information provided by adoption agencies, advice can also be sought from:

- Social workers from the Children's Services Department of your local authority.
- Hospital social workers who work with maternity clinics.
- Websites like www.education.gov.uk; www.baaf.org.uk; www.adoptionuk.org

How is an adoption arranged?

If a birth mother decides that adoption is right for her child or just wants some help with considering it further, a social worker or other adoption worker will spend some time with her to help her think and talk through what adoption means, the processes, and whether there might be any alternatives. She will also be offered support from a social worker independent of the adoption agency.

Preparations for the adoption can begin before the child is born, however, nothing will be definitely arranged until after the birth. She will be free to change her mind up until the time when a consent form agreeing to placement of the child for adoption is signed, which usually takes place six weeks after the child's birth.

Should she decide to carry on with adoption you will, in due course, need to give some personal information about yourself, your family and your family's health, for the adopters to be able to share with the child as he/she grows up.

As the father of the baby, do you have to also give permission?

If you have parental responsibility (PR) for the child, then your permission is necessary for the child to be placed for adoption. If you are unsure whether you have PR, you will have it if any of the following apply;

- You are married to the birth mother
- You have been named on the baby's birth certificate (if you are unsure about this, you can request a copy of the birth certificate)
- Or if you have since applied for and been given a PR certificate

If you do not have PR, your permission for the child to be placed for adoption is not needed. However, you may wish to apply for PR, and if this is granted, will need to consent to the adoption.

You could choose to withdraw your agreement to the adoption, at any stage up until an application for an Adoption Order has been made.

The social worker may decide to try and contact you, even if you do not have PR, so that the adoption agency can have some information about your ethnicity, and the medical history of you and your family, to pass on to the adopters and the child. For many adopted children, any information is welcome, even what hobbies you have or an idea about what you look like. You will be asked to sign to agree that any information you have provided can be shared with the child

You may not agree with the adoption plan of the birth mother and may want to bring up the child yourself or within your own family. If this is the case, and you have PR or plan to apply for it, the adoption agency and the court will need to know about this. If you and the birth mother are unable to agree about what should happen, the court will have to decide whether it thinks adoption or a life with you or your family is likely to be best for the child in the long term.

If the birth mother is married to someone else and her husband isn't the birth father, the law will still consider the husband the legal father of the child unless he has signed, or the court makes, a declaration otherwise. In this case the husband's consent to placement for adoption is necessary, but the adoption agency will also want, if possible, some information about you so they can pass it on to the adopters and the child.

What sort of people will adopt my child?

The social worker will discuss with you the kind of family you want your child to grow up in. The greatest care will be taken to find a family who will give a safe and loving home to your child. The person or couple selected will have been through a thorough assessment to make sure that they will be able to understand and support the needs of an adopted child throughout their life. You should talk to the social worker about the possibility of meeting the family, if you want to, or about other sorts of contact such as exchanging letters and if agreed, some photographs. The adopter(s) will have been spoken to about the importance of making sure the child understands about their adoption and the option of maintaining some communication with their child's birth parent(s).

What happens after the baby is born?

Before the birth mother leaves the hospital, she will be asked to sign a form to agree to the child going to foster carers (this is not a consent form for adoption). In most cases the baby will be looked after by a temporary foster carer until you and her sign consent to placement for adoption when your child is six weeks old; up until this time, you or she are able to change your mind and your child could be returned to you or her. If either you or she changed your mind and the Local Authority had any worries about

returning the child and wanted to continue the adoption process, they would need to apply for an Interim Care Order and Placement Order and write a statement clearly explaining their reasons.

Children's services agreement is required if the baby's mother wishes the baby to be placed for adoption under six weeks of age. She will have to discuss this with the social worker who has provided independent advice and the child's social worker. She will be asked to sign a written agreement. The social worker will make regular visits to the child to check everything is going well and offer support. She, and you should you request, will be kept up to date with your child's progress.

When your baby is at least six weeks old

The social worker will arrange for you to be interviewed by a Cafcass Cymru officer who will make sure that you understand what adoption involves. Cafcass Cymru is a completely separate organisation from the Local Authority. They will ask you to sign a formal document consenting to your child's placement for adoption, and you may also give advance consent to an Adoption Order being made when the adopters apply for it. They will want to make sure that you understand what you are signing and that that is your choice.

You and / or the birth mother can, if you wish, be involved in the process of helping to decide what kind of family your child should grow up with, and the adoption agency and your social worker will make every effort to find a family that both meets your wishes and the needs of your child. However, the adoption agency and your social worker will always need to place the needs of your child first when choosing a family.

Once the child has been placed with adopters and has lived with them for 10 weeks, they can then apply for an Adoption Order (in some cases the adopters apply for an Adoption Order many months after the child has gone to live with them). If you wish to oppose (not agree with) the making of the Adoption Order once an application has begun, you will need to ask the court for permission to do so. The court may give its permission if it is satisfied that there has been a change of circumstances since you consented to your child being placed for adoption. The agency will provide a report to the court about the child's circumstances, and if the court is satisfied that an Adoption Order is in the best interests of the child, the Adoption Order will be granted.

You will be notified about the adoption application and when and where it will be heard, unless you request specifically not to be told.

Can I arrange the adoption myself?

There are circumstances in which you can make a private arrangement for the placement of your child but the Local Authority would still need to look into this arrangement. This would be a private adoption which is entirely different and beyond the scope of this leaflet. To protect the child, all other adoptions must be arranged by an adoption agency. All adoptions orders have to be granted by a Court to be legally binding.

What if I change my mind?

Once she or you have signed your consent to your child being placed for adoption, your rights to change your minds will be limited and may be lost altogether. You or she will be able to withdraw your consent at any time until the people who want to adopt your child start an adoption application in the court. If you do withdraw your consent and want your child to be returned, you will need to notify the adoption agency. However this does not mean that your child will be automatically returned to you or her. If the adoption agency has *not* placed your child with prospective adopters and agrees that your child should be returned to you, they will return the child within seven days. If they have already placed the child with prospective adopters and they agree that your child should be returned to you, they will return the child within fourteen days. If the child is under six weeks they will return the child to the mother within seven days.

However, if the adoption agency considers that your child ought still to be adopted they will have to apply for a Placement Order and Interim Care Order, asking the court for permission to place your child for adoption. If that happened, they would have to make their reasons very clear to the Court and the Court would appoint an independent professional from Cafcass Cymru to become involved and report back about what would be best for the child. They would consider the circumstances and speak with you and the prospective adopters. They would also appoint a solicitor to represent the child's needs and rights in the court process. This would all have to happen before the Court could make a final decision.

When the people who want to adopt your child have made an application to the court for an Adoption Order you will not be able to ask for your child to be returned. Unless you have said that you do not wish to be informed, you will be told when they make their application but you will have to ask the court for permission to oppose it. You will have to show the court that there has been a change of circumstances since you gave your consent to your child being placed for adoption and that asking the courts to consider that is in your child's best interests.

Will I see my child again?

Once you have given consent to the child being placed with prospective adopters it may be possible to have contact with your child through arrangement with the adoption agency or by getting a court order, but you will not have an automatic right to contact. You will have a right to apply to the court for an order for contact with your child at any time until the Adoption Order is granted. Adoption can sometimes involve continuing contact between the birth parents and the adoptive family, either face to face or by letter. Any arrangements would need to be agreed between you and the adopters, and would usually be supported by the adoption agency.

The agency will usually try to find a family for your child who are happy with having the sort of contact that you would like, as long as this is also in your child's best interests. Although it would not be usual for a very young child to have face to face contact with his/her birth parents on an on-going basis your child's social worker will discuss with you a plan of contact that would meet your child's needs. The contact you have with

your child may change over time depending on the child's needs.

Will my child be told about me?

Adoptive parents are expected to make sure that their adopted child grows up understanding that they are adopted and they receive training and support to know how to do this. Adopted children have a Life Story book provided for them which helps them to understand the story of why they came to be adopted. You will have the opportunity to provide information and pictures for this and whatever you feel able to share will help your adopted child to develop a sense of their origins.

Adopted children also have more detailed information prepared for them, usually called a Later Life Letter, for when they are older and may have more questions. You can speak to the social worker about writing this yourself if you choose. Otherwise, a social worker will prepare this, explaining why a new family had to be chosen for them. You may also want to provide a keepsake for your child which will be passed to the adopters for your child.

Can I keep it a secret?

Adoptive parents are advised to tell children from an early age that they are adopted. As they grow up, most adopted people are curious to know something about their background. Who you tell will ultimately be up to you.

Adopted people can obtain their original birth certificate when they are 18 years old (16 in Scotland), and if you were registered as a parent, your name will be on the certificate. Using that information the adopted person could try to trace you. There are adoption contact registers covering England and Wales, Scotland and Northern Ireland to facilitate contact between adult adopted people and their birth relatives. Where a birth parent and adopted adult have both registered, the adoption contact registers will inform the other party. The contact register will not share contact details it will be up to the parties to decide if they wish to pursue contact following counselling.

Adopted young people and adults or birth family members may make contact or obtain information from social media sites on the internet. This is not the best way of contact being established because contact for both birth families and adopted adults without preparation and the support of an adoption agency can be distressing. Advice and support is available free from your local authority adoption support service. Advice and support would also be offered to your child if the adoption agency were contacted about this happening, to try and make sure that everyone can think through what would be best for all concerned.

Can I contact my child again when they become an adult?

You can request an adoption support agency, local authority adoption agency or certain voluntary adoption agencies to act as an intermediary for you once your child becomes an adult. You can also apply to have your name added to the Adoption Contact Register¹⁸. There may be circumstances in which the agency does not accept an

¹⁸ [Adoption records: The Adoption Contact Register - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/topics/adoption)
Children relinquished for adoption protocol/NAS/CAFCASS June 2021

application to facilitate contact, and it is important to note that contact would only be re-established if it is what the adopted adult wants.

Making the decision

The decision you make about your baby's future is so important that you should not rush into it. Get all the advice you can before you make up your mind including legal advice.

You need to be sure that you are doing the best for your child so that you will feel comfortable that your decision is the right one for your child.

Will I get support?

You will be encouraged to see a specialist adoption worker to assist you in making your decision but there are also services available for birth parents after their child has been adopted.

There are many agencies who provide support groups and workers who know a lot about adoption. You can ask the social worker for details about this and other support services available.

Local authorities also provide support to everyone involved in adoption throughout a child's childhood and beyond. They will be there to assist if any difficulties arise in relation to contact with your child or if you have any queries at all and you can contact them at any time after the Adoption Order has been granted.

**Appendix 10: Statement That I Do Not Wish to be notified of the Application
for an Adoption Order for my Child**

Section 20 (4) Adoption and Children Act 2002

Before signing this form you are advised to seek legal advice about consenting to adoption and the effect on your parental rights. Publicly funded legal advice may be available from the Community Legal Service. You can get information about this or find a solicitor through CLS Direct on www.clsdirect.org.uk or by telephoning 0845 345 4 345

Name of child:

Child's Date of Birth:

Name and Address of Adoption Agency:

I have given my consent in advance to the making of an Adoption Order for my child.

I understand that I must be informed by the court when the application for an Adoption Order is made unless I give this notice that I do not wish to be informed of the application.

I give notice that I do *not* wish to be informed of the application.

I also understand that I may withdraw this notice at any time by telling the Adoption Agency and that I will then be informed when the Adoption Order is applied for.

I understand that the court will notify me when the Adoption Order is made.

Name

Signature

Date

Appendix 11: Agreement to place a child for adoption where the child is less than 6 weeks old

Childs name:

Childs date of birth:

I,

of,

as the parent or guardian of the child state that:

I agree to the adoption agency placing the child for adoption with:

(a) the following prospective adopter(s):

name (or agency reference) (and)

name (or agency reference) ; or

(b) any prospective adopters who may be chosen by the agency.

I understand that:

- I may inform the adoption agency that I wish to withdraw my agreement and ask for my child to be returned to me. If I do so, I may not myself 57 remove my child from the prospective adopters as this would be the responsibility of the agency, which must comply with my request within seven days, unless any of the following orders are applied for or made in respect of the child:
 - an emergency protection order or a care order under the Children Act 1989;
 - a placement order or an adoption order under the Adoption and Children Act 2002.
- I retain parental responsibility for the child.
- I may only have contact with the child by agreement with the agency or by order of the court.
- After the child is six weeks old, the agency will seek my/our formal consent to the child being placed for adoption.

Name and address of the adoption agency

Name of the adoption agency social worker and contact details

If you are in any doubt about your legal rights, you should obtain legal advice before signing this form

Signed

Date

Witnessed

Date .