



**PUBLIC LAW WORK GROUP – INTERIM REPORT: RECOMMENDATIONS FOR BEST PRACTICE  
IN RESPECT OF ADOPTION**

The PLWG have published an [interim report](#) for the purposes of consultation. The report covers recommendations for best practice in respect of adoption. There are five distinct areas:

1. International adoptions
2. Consensual adoption
3. Access to adoption records
4. Processes and procedures in Court
5. Contact.

The report is lengthy, and this summary is not written as a replacement to reading the report in full. There are many footnotes in the report relating to the recommendations which should be considered.

The report also provides a table of post-adoption case law and various [flowcharts](#) to assist those working in family justice

There are a lot of recommendations. Some relate to major policy issues and some to the granular detail of the application process. Many recommendations fall between these two extremes.

The consultation opens on 26 September 2023 and closes on 30 November 2023.

This summary will focus on chapter 1, adoption and contact.

## BACKGROUND

The advent of the [ACA 2002](#) led to a clear requirement that the issue of contact be considered before an adoption order was made – [s.46\(6\)](#).

In 2012 – 2013, the [House of Lords Select Committee on Adoption Legislation](#) stated: *The Adoption and Children Act 2002 sought to address issues of contact in recognition of the fact children were much older at adoption than had previously been the case, and therefore were more likely to have established links to their birth families. Sections 26 and 27 of the Act place a duty on the court to consider contact arrangements for birth families and their children when making a placement order; [section 46 \(6\)](#) comprises a duty to consider such arrangements when an adoption order is made. The intention is for contact arrangements to be agreed by the parties. If agreement is not possible, an application can be made to the court for a contact order; it is unusual for the court to make such an order, especially against the wishes of adoptive parents.*

Decisions about contact need to be based on what is right for the individual child rather than blanket decisions being made. Facilitated contact could play a role in assisting a child to integrate their past, allowing them to form a coherent narrative and more robust sense of self.

The role and impact of social media has the potential to jeopardise the security of a placement. This perhaps is most effectively dealt with by communication and openness between adoptive parents and their children.

[Section 9 of The Children and Families Act 2014](#) provided a further legislative framework for post-adoption contact with the insertion of [section 51A](#) into the Adoption and Children Act 2002. However, there is little reported case-law to suggest that these provisions are being actively used.

[The House of Lords Children and Families Act 2014 Committee](#) concluded in December 2022 that - *Contact, where safe, appropriate and properly managed, can be valuable for an adoptive child, their new family and their birth family, including siblings and other relatives. However, contact orders and support can vary, and the current system of letterbox contact is outdated. The failure to modernise contact threatens to undermine the adoption system.*

The President of the Family Division has given lectures on the issue. He discussed the case of [Re B \(A Child\)\(Post Adoption Contact\) \[2019\] EWCA Civ 29](#) where he gave the lead judgment. The headline point from the case, as he described it, was that it reaffirmed the previous approach that ‘the imposition on prospective adopters of orders for contact with which they were not in agreement is extremely, and remains, unusual.’ He explained that the view of the court was that the insertion of s51A into the Adoption and Children Act 2002 did not intend to vary the approach to be taken as to imposing contact on unwilling adopters, but on the contrary, to enhance the position of adopters rather than the contrary, as the only order the court was empowered to make of its own motion was to prohibit contact. The introduction of s51A and the development of understanding through research of the importance of post adoption contact were not linked.

The message given was that any move towards greater openness and flexibility in post-adoption contact must come on a case-by-case basis, in a manner which brings prospective adopters along on a consensual basis.

## CHAPTER 1: ADOPTION AND CONTACT

The main recommendation is that there should be a tailor-made approach to the issue of contact for each adopted child which includes and promotes face-to-face contact with important individuals in that child’s life if it can be safely achieved.

### General recommendations

1. There needs to be a sea change in the approach to the question of face-to-face contact between the adopted child and the birth family or other significant individuals. It is

recognised this will not be safe for all children, however the current system whereby face-to-face contact is the exception rather than the rule is outdated.

2. There should be consistent training for prospective adopters throughout England and Wales.
3. There should be ongoing training for social work practitioners and lawyers as to the benefits of open adoption.
4. Birth parents should be signposted to independent support which can provide support workers to enable birth parents to understand how they can continue to be involved in their child's life through different types of contact as soon as adoption is identified as a possible outcome.
5. Consideration should be given to a best practice guidance which deals specifically with the approach of practitioners to post adoption contact and encompasses the recommendations contained within this report.

#### Recommendations – pre-proceedings

1. Identification of those persons who are / may be important to a child should be undertaken at the Family Group Conference and during any pre-proceedings kinship assessment stage.
2. When preparing the mandatory genogram for the SWET, there should be an eco-map for important relationships.
3. There should be specific guidance as to the prospective roles of child protection social workers and adoption social workers including a clear expectation of when they will begin liaising.

#### Recommendations for practice during proceedings

1. The full range of contact options (including digital options) should be actively considered by professionals and the court during care and placement proceedings rather than an assumption that contact will be via letterbox only.

#### ***What does this mean for social workers?***

- An investigation of the family members who may be able to contribute positively to contact after the subject child is adopted. This should be undertaken during the proceedings described best as follows: *“The personal circumstances, wishes, and resources of birth family (and foster family) members need to be explored. Attention should be paid to considering who in the child’s existing network has something to offer in terms of providing background information or ongoing news of how significant people are doing. Who can reassure the child that they are cared about and remembered? Which individuals are most able to support the child as a member of their adoptive family? What help might birth parents need to manage adoption-related loss, anger, and shame so they can focus on their child’s needs (Neil, 2006)?”*
- An assessment of the ability of any identified person to maintain contact post adoption should be undertaken within the final care / placement order statement (potentially by the adoption social worker)
- Additional paragraphs in the final statement where there is a consideration of all possible forms of contact and a balancing of its welfare benefits for the subject child against any safeguarding issues so that the social worker can provide a recommendation which meets the needs of the child. It should evidence that a range of possibilities have been considered in terms of contact and the reasons why these different types of contact are seen to be suitable or ruled out. If direct contact is not considered to be beneficial, it should recommend whether this can be reconsidered at a later stage.
- Any recommendation needs to consider the potential practical arrangements along with a recommendation as to the level of contact after the placement order is made but before the adoption order. If face-to-face contact is recommended, the presence of the adopters will need to be considered. In line with the research, it is considered in most cases they should be present. This should be along with who should be present from the birth family and what the expectations would be.
- Should letterbox contact be recommended, there should be exploration of the digital platform and other digital options which may better support the process. At the time the adoption order is being considered, there should be a clear plan which has been

drafted which has been discussed with and approved by the adopters and all parties involved.

- A renewed emphasis on post-adoption contact in the final care plan including a section setting out important relationships and the support that may be necessary to the child, the prospective adopters and the identified birth family member to enable any contact to be safe and meaningful. This will require input from the adoption social worker.
- A specific consideration of sibling contact will need to be undertaken. Targeted work may need to be undertaken with the siblings and their carers.
- The additional support plan should encompass a contact support plan and should be available in draft before making a placement order. A completed adoption support plan with input from the adopters will form part of the papers before the making of an adoption order.
- There should be agreement between social work practitioners as to who should complete the life story work / book and the timescale for completion.

#### ***What does this mean for children's guardians?***

- The final analysis should address whether the investigation of post-adoption contact has been broad enough and should consider the welfare benefits of any recommendations made both at the stage where the placement order is being made and into the future.

#### ***What does this mean for the Courts?***

- The Courts should consider how they can use s.26 ACA 2002 to set out clearly the assessed needs of the child to stay in touch with relevant members of their birth beyond the point of the placement order (where prospective adopters may or may not yet be identified), particularly in cases where it would be detrimental for the child to have contact cut off at this stage. Any such orders end when the adoption order is made but they may set the tone for what is planned will happen after the adoption order is made, ensure that long gaps in the planned contact do not occur, and allow

for a period of time for the proposed contact to be actively supported by the adoption agency.

- The Courts should consider, in the right case, the use of s.51A ACA 2002 which contemplates the making of a contact order now or at any time after the making of an adoption order. This may be used to facilitate a review of contact by the court at a suitable time after the making of the adoption order, for example where direct contact is not appropriate at the time of the order but may be indicated at a time in the foreseeable future. It is recognised that imposing an order on unwilling adopters is a very serious matter and the decision of the Court of Appeal in *Re B* outlines the limits in which it is appropriate.

#### Additional recommendations

1. Adoptive parents should, as a matter of course, write a settling-in letter to the birth family.
2. Consideration should be given in every case to a meeting between the adopters and members of the birth family.
3. Later life letters from the birth family to the adopted child should be considered and timetabled subject to the view of the child at the stage when the letter is to be sent.
4. Life story books should be available by the time the adoption order is made and should include reference to all those people who have been identified as important to the child.
5. Examples of post adoption agreements and future contact plans should be drawn up and circulated nationally.
6. There should be a continued line of communication between the adoption social worker and the birth parents so that the adoption social worker can reassess the ability of a relative/other to have contact post proceedings.
7. Any documents shared with prospective adopters about the birth family should be balanced in their approach.
8. After the adoption order is made, periodic reviews of contact plans should be offered by the adoption social worker to ensure the plan is still meeting the child's needs and to consider any changes to the contact or support that may be needed.

9. Exploration of use of digital platforms to enable indirect contact to be undertaken if appropriate.
10. Direct contact should be expected to continue in early permanence planning (concurrency, fostering for adoption) where it has been working well. Any obstacles should be fully explored and addressed.
11. Social workers should where necessary manage and support direct contact.
12. Adoptive and birth families should have a named worker they can approach in respect of letterbox contact provisions.
13. More court judgments to be published in full when contact has been a feature.
14. As a minimum, all siblings who are not placed together should receive the information suggested in the 'Charter for Siblings' set out in Beckett's Beyond Together and Apart practice guide.

The chapter concludes with examples of contracts for family members at Appendix B.

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