

19 March 2026

s9(2)(a)

Tēnā koe s9(2)(a)

Thank you for your email, received on 20 February 2026, to Oranga Tamariki—Ministry for Children (Oranga Tamariki) requesting information on social work reports on applications to inspect the court adoption record under section 23 of the Adoption Act 1955 (the Adoption Act). Your request has been considered under the Official Information Act 1982 (the Act).

I have responded to each part of your request below.

1. *All internal policies, operational guidelines, practice notes, manuals, training materials or written instructions used by Oranga Tamariki social workers when preparing welfare reports for the Family Court concerning adult adopted persons seeking access to adoption records under section 23.*

Oranga Tamariki guidance for social workers providing reports to the Court on section 23 applications to inspect court adoption records is set out in Chapter 12 of the 2003 Adult Adoption Information Act Manual. This information is attached as Appendix One.

The Oranga Tamariki factsheet on how to apply for access to adoption court records under section 23(3)(b)(iii) of the Adoption Act can be found on the Oranga Tamariki website [here](#).

Attached as Appendix Two is the resource provided to Oranga Tamariki Adoption Service staff on key considerations in Section 23 Social Work Reports.

Attached as Appendix Three are the training notes on section 23 applications that were used in October 2025.

Please note that some information in Appendix Three has been redacted under the following grounds of the Act:

- section 9(2)(a), to protect the privacy of natural persons
- section 9(2)(g)(ii), to maintain the effective conduct of public affairs through the protection of Ministers, members of organisations, officers, and employees from improper pressure or harassment

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2. *Any standard templates, report structures or required content frameworks used in preparing such welfare reports.*

There is no specific format or template for preparing such reports for section 23 applications.

We are aware that different courts around the country have different standard templates for the making of section 23 applications. Attached as Appendix Four is the template that is contained in the Oranga Tamariki Adult Adoption Information Manual.

3. *Any guidance provided to social workers regarding:*
 - a) *The purpose of these reports in the context of adult applicants*

Section 23 of the Adoption Act prohibits the inspection of adoption records, except for the limited purposes it describes, or where a Court determines there are special grounds for granting inspection of the court adoption record.

Section 23 also allows the Court to request a social work report to assist the Judge to decide whether to grant an applicant's request to inspect the court adoption record.

Where a report is requested, the social worker will speak with the applicant to understand the context of their application and what they are seeking. They will then review the Court adoption record to provide information to assist the Court to determine whether there are special grounds and the privacy implications for the various parties should the application be granted.

- b) *The criteria or factors to be assessed*

The criteria and factors to be considered are set out in the documents attached in response to part one of your request.

- c) *The weight to be given to the privacy interests of adoptive parents, natural parents or other parties*

The social worker will consider on a case-by-case basis the distinctive circumstances of the application and the particular factors that could be relevant for the Court's determination of whether special grounds exist.

The social worker is asked to address the privacy implications for the various parties involved. This is particularly relevant when the applicant to inspect the court record is not one of the parties whose information is contained on the record – for example, a birth sibling of the adopted person.

- d) *The relevance of the applicant's age, mental health, stability or support systems*

The social worker will address any distinctive factors that will help the judge to understand the reason for the application as well as what the person is hoping to achieve if their application is granted – for example, whether they have any entitlements under the Adult Adoption Information Act, whether they seeking to identify

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an unknown relative for the purpose of tracing and locating them, or whether any other party should be consulted as part of determining whether their information is released

- e) *Whether historical file material may be relied upon without the applicant's knowledge*

Section 23 specifically states that the social worker cannot consider information that was obtained by the department before the application was made, as addressed under section 23A(2)(b) of the Adoption Act. This has the effect of limiting what the social worker can include in their report from Oranga Tamariki records.

Having discussed the reasons for the application and what they are hoping to achieve, the social worker will explain to the applicant broadly what they will be saying in the report.

4. *Any internal communications, circulars or memoranda from the past two years discussing the preparation of section 23 welfare reports for adult applicants.*

In addition to the material outlined above, Oranga Tamariki circulated examples of anonymised section 23 social work reports as part of the training module that was delivered to staff in October 2025. We are unable to release this material, as these reports were commissioned by the Court and are subject to the restrictions put in place by section 23(3) of the Adoption Act. As such, this part of your request is refused under section 18(c)(i) of the Act, on the grounds that that the making available of the information requested would be contrary to the provisions of a specified enactment.

5. *Statistical information for the past two years showing:*
 - a) *The number of section 23 applications involving adult adoptees where Oranga Tamariki was directed to prepare a welfare report*

In the 2023/24 financial year, 80 section 23 social work reports were provided to the Court.

In the 2024/25 financial year, 94 section 23 social work reports were provided to the Court.

Please note that, while applications are to inspect a court adoption record, they may be from a person who has personal involvement in that record, or they may be from someone who is not a party to the original adoption application, such as a birth sibling, a birth grandparent, etc. In that sense, the application may not be from the adult adoptee directly.

- b) *The number of cases in which access was recommended without restriction*
- c) *The number of cases in which supervised viewing only was recommended*
- d) *The number of cases in which access was opposed*

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Providing the information requested for parts 5b, 5c, and 5d of your request would require a manual review of all such reports, as this information is not held centrally in a format that can be filtered. As such, these parts of your request are refused under section 18(f) of the Act, on the grounds that providing the information would require substantial manual collation.

6. *Any policy or guidance addressing whether adult applicants are to be treated differently from minors in the preparation of such reports.*

Oranga Tamariki does not have any policy or guidance addressing whether adult applicants are to be treated differently from minors. As such, this part of your request is refused under section 18(g)(i) of the Act, on the grounds that the information requested is not held by Oranga Tamariki and we have no reason to believe it is held by another department.

7. *Where a welfare report is commissioned under section 23 of the Adoption Act 1955 concerning an adult applicant:*
 - a) *Is the adult applicant informed that a welfare report is being prepared?*

The social worker is carrying out their task as an officer of the Court and is responding to the specific direction of the Judge. The social worker's first step will usually be to discuss the application with the applicant, so that the applicant will know that the report has been directed. Occasionally the Court may request a specific piece of information that does not require discussion with the applicant.

- b) *At what stage are they informed?*

Applicants will usually be informed as the first step in providing the report for the Court.

- c) *Are they provided with the terms of reference or scope of the report?*

The social worker will explain their information-gathering role for the Court and the expectation of the Court that the report will explore the question of special grounds and the implications of inspection for the parties involved.

- d) *Are they required to participate in interviews or provide information?*

Oranga Tamariki staff can only request applicants' participation – their participation is not required.

- e) *Can an adult applicant decline to participate in the preparation of such a report? If so, what are the procedural consequences?*

Applicants have the right to decline to participate in the process. The social worker is still required to provide a report on the direction of the Court, whether or not the applicant considers this a chance to elaborate on their application. Given the discretionary nature of the judicial decision-making, it would be in the applicants' interests to use this opportunity to have relevant information considered by the Court.

8. *Does Oranga Tamariki consider that an adult applicant has the right to:*

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- a) *View the completed welfare report prior to the court making its decision?*
- b) *Receive a copy of the report?*
- c) *Respond to or challenge the contents of the report before the court determines the application?*

As the Court commissions these reports and are therefore responsible for them, this means the Court is responsible for matters relating to access and response to the reports. Oranga Tamariki has no formal stance on this matter, and providing such a stance would constitute the creation of information, which is not covered under the Act.

9. *Please provide any internal policy, legal advice, guidance documents or practice notes addressing:*
 - a) *The consent of adult applicants to the preparation of welfare reports*
 - b) *The interaction between such reports and the legal presumption of adult competence*
 - c) *Whether an adult's refusal to engage with a welfare report may be treated adversely in the determination of "special reasons"*

Legal advice was provided in the preparation of the documents attached alongside this letter, and other items that relate to the Adult Adoption Information Act but are not within the scope of the rest of your request. However, this information is legally privileged and, as such, the draft versions of these documents which include the legal advice has been withheld in full under section 9(2)(h) of the Act, to maintain legal professional privilege.

Otherwise, Oranga Tamariki does not have any written policy, guidance, or practice notes on the questions set out at questions 9a, 9b, and 9c. As such, these parts of your request are refused under section 18(g)(i) of the Act.

Oranga Tamariki may make the information contained in this letter available to the public by publishing this on our website with your personal details removed.

I trust you find this information useful. Should you have any concerns with this response, I would encourage you to raise them with Oranga Tamariki. Alternatively, you are advised of your right to also raise any concerns with the Office of the Ombudsman. Information about this is available at www.ombudsman.parliament.nz or by contacting them on 0800 802 602.

Nāku noa, nā



Paula Attrill
Director Programmes
Tamariki and Whānau Services

12 Application to the Court under s23 of the Adoption Act 1955

S23 of the Adoption Act 1955 (amended in 1985 by the Adult Adoption Information Act) states in ss3 that

'Adoption records shall not be available for production or open to inspection except -

- To the extent authorised by ss(1) or ss(2) of this section or by s11(4)(b) of the Adult Adoption Information Act 1985; or

- On the order of a Family Court, a District Court, or the High Court, made---

(i) For the purposes of a prosecution for making a false statement; or

(ii) In the event of any question as to the validity or effect of any interim order or adoption order; or

(iii) On any other special ground.

Any person can apply to the Court for the Court records to be open to their inspection 'on any special ground'.

12.1 Applications can be made to local Court –

(refer to guideline application (Letter 26), explanation (Letter 27) and flowchart (Letter 28)).

Applications can be made through the Registrar of the District Court in the area in which the applicant is living, rather than the Court in which the adoption order was made. This is in order that the applicant may be available to speak to his or her application if required.

For all applications it is important that the fullest possible information on the adoption situation is put before the Court –

- The personal biographical details of the person applying
- The known biographical details of the person about whom information is sought, and the relationship to that person of the applicant.
- The 'special ground' upon which the application is being made. Again there are variations between jurisdictions, but basically the Court has to be satisfied that there exist 'special' grounds for the opening of the records, and not merely the general ground of natural curiosity.

People considering applying should be advised to attach copies of relevant evidence eg. Medical reports, No Trace letters, registrations of any relevant births, deaths or marriages.

12.2 Social Work Role

The Adoption Amendment Act 2000 states that, The principal Act ie the Adoption Act 1955, is amended by inserting, after s23, the following section:

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23A Report on application for inspection

- A Court may require a Social Worker to prepare a report following an application for an order under section 23(3)(b) on a ground referred to in subparagraph (iii) of that paragraph (“any other special ground”)
- A Social Worker preparing a report required under subsection (1) -
 - a) may consider any information obtained for the purpose, including information in the adoption records concerned and the application for the order; but
 - b) may not consider information relating to any party to the adoption or application that was obtained by the Department before the application was made.”

It is not appropriate for social workers to write a support letter or an affidavit to accompany a client’s application as the Department may be requested to write a report by the Court.

There may be situations where assistance may be required to help the applicant to write his or her application, but this should not be the general rule.

Consideration needs to be given to a situation where the social worker has an involvement with a client or knowledge of adoption records that a conflict of interest will exist. The request for a Court report would, in these cases, need to be allocated to another social worker.

S23 implies that people are applying to have access to adoption records held at the Court. Social Workers writing the report to the Court should refer to the “access to the information on the Court records” not offer themselves as mediators. The practice should be around empowerment of clients and giving people the opportunity to act on this process themselves

**Adult Adoption Information National Training (2025)
Pre-Workshop Reading**

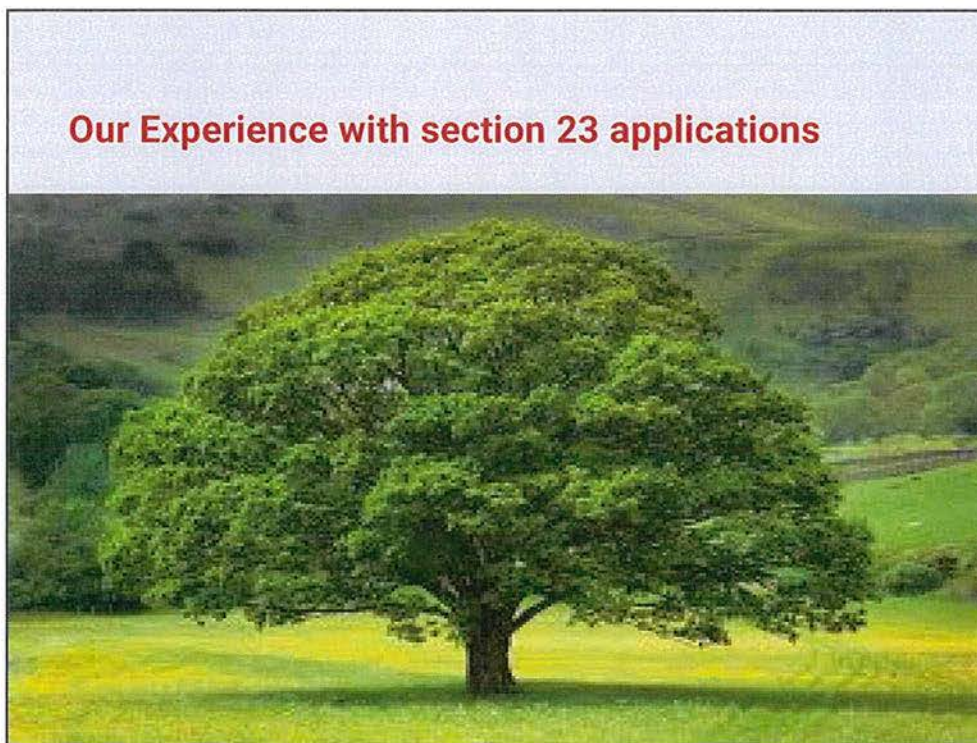
Section 23 Social Work Reports – Key Considerations

- S23 Adoption Act 1955 limits and outlines the basis on which adoption records can be opened for inspection and/or production.
- Most applications made to the Family Court under this provision are based on “any other special ground” (S23(3)(b)(iii) Adoption Act 1955).
- The Adoption Act 1955 does not define the term “adoption records”. In practice, the term “adoption records” in this context means:
 - the adoption order,
 - a court’s adoption register, and
 - all papers filed in court and on the court file in relation to an adoption application.
- At the time this Act was implemented, this provision was based on principles that were related to closed adoption practice, that is, to preserve the confidentiality and anonymity of the parties.
- We now consider this provision in a contemporary context, taking into account changes in social values, greater openness in adoption, and the impact of other legislation.
- Our clients can apply to the Family Court themselves, and don’t need to engage a Solicitor. Whilst a social worker can provide general guidance, it is generally not appropriate to draft the application, nor provide a letter or affidavit of support.
- Under S23A Adoption Act 1955, the Court may require a social worker prepare a report in relation to an application that has been made “on any other special ground” (S23(3)(b)(iii) Adoption Act 1955).
- The social worker’s role is to provide information and advice to the Court and to provide whatever specific information is requested.
- This provision doesn’t specify the content of the report which is based on the special grounds of the S23 application and the court documents.
- It is important that as ‘information givers’, the social worker assist the Court by using research/rangahau of the impact of adoption to provide insight and a rationale for their recommendation.
- In general terms, the social worker’s report should include:
 - a summary of the application, the applicant’s special grounds and supporting documentation,
 - a summary of the court records of the relevant adoption,
 - an assessment of the privacy considerations of the respective parties’ personal information contained in the court records,
 - consideration and discussion of the relevant issues,
 - address any specific requests / direction of the court, and
 - a recommendation on the application to inspect the record.
- It can be helpful to consider the following:

- What is the motivation of the applicant? Where might the request be justified and where does extra caution need to be taken?
- What are the privacy considerations in relation to the parties to the adoption? Are the parties to the adoption deceased or alive and how does the Privacy Act 2020 apply?
- Are there other avenues for the applicant to obtain the information sought? Does the applicant have entitlement under the Adult Adoption Information Act and if so, has this entitlement been exercised? – and what relevance this has to the application’s analysis and recommendation.
- Whether the court records contain the information sought,
- Whether there is a veto in place under the Adult Adoption Information Act 1985,
- The impact on the applicant and the parties to the adoption, if the Court grants access, and
- The social worker’s conclusion and recommendation(s), having carefully considered and balanced the respective rights of the parties impacted by the Court’s decision.
- Careful consideration needs to be exercised where the applicant is a third party to the adoption, taking into account:
 - whether full access to the court records is material to the reason for their application and whether the reason for their application could be achieved by partial access to the court records.
 - the potential impact on the parties to the adoption, if contacted by the applicant, particularly where the parties themselves are unaware of the information contained in the court records.
 - Does the adopted person know they are adopted? Is there any evidence of this in our Ministry’s file? In respect to ‘wider family’ applications, has the adopted person made enquiries with our Ministry about connecting with birth family?
 - If the social worker is not able to support the S23 application, can the social worker make another suggestion in their report for the Judge to consider.
- In relation to this, the Social Worker needs to keep in mind that the application is for access to the court records of the adoption.
- Where the applicant is seeking to trace and contact their birth relative, the social worker should carefully consider in conjunction with their supervisor, the benefits of the applicant undertaking these steps themselves or whether there are particular reasons for us to inform the Court of our availability to search for and approach the adopted person / birth relative – for the purpose of ascertaining their views to convey to the Court.

Adoption Service

July 2025



9.45am Scene setting

We completed 94 sect 23 court reports in the 12 months ending June 2025

While we don't know exactly the outcomes of these applications, we can say that courts are often considering them favourably.

We've seen courts reflect principles of whakapapa and whanaungatanga in their judgements.

While our role is 'information provider' to the Court, we also have the opportunity to practice relationally, to help the applicant to develop their understanding.

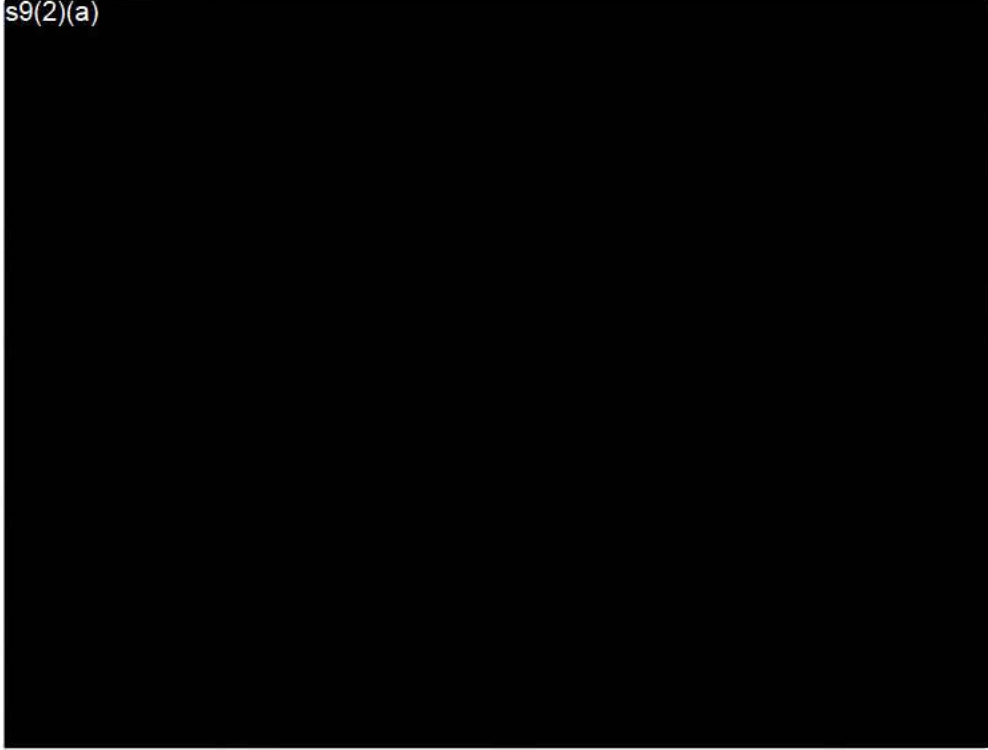
Thinking about how many s23 applicants are already known to us before we are asked to report, can you put into the chat what % of applications you think are already known to us when we are asked to provide a report?

BRAINSTORM *We provided the Key Considerations document as part of our session preparation.* From reviewing that doc – and from your own practice / experience, ***What are the questions and issues you have had to address in this area of work...***

- What are the relevant factors when we assess the privacy implications for the various parties of making the court record available for inspection?

- What should we take into account when considering what information from our record to include in the report? (including BF name and updates / enquiries from relevant parties.)
- when should we offer / suggest it is important that the court 'ascertain' the view of another party?
- What does relational practice with s23 applicants comprise? How do I manage role clarity? boundaries?

s9(2)(a)



Peter,

9.50 – 10.45

Thank you for the preparation done before coming together today – hoping that you've all been able to review three reports that we sent out as part of our preparation.

Special thank you to s9(2)(g)(ii) for agreeing to share these with us as part of encouraging our learning and development.

People have had the chance to review one of these reports and to discuss them in light of their own approach / practice. We'd like to consider these four questions to share / develop our thinking (4 groups to present back,)

- *What are the relevant factors when we assess the privacy implications for the various parties of making the court record available for inspection?*
- *What should we take into account when considering what information from our record to include in the report? (including BF name and updates / enquiries from relevant parties.)*

- *when should we offer / suggest it is important that the court 'ascertain' the view of another party?*
- *What does relational practice with s23 applicants comprise? How do I manage role clarity? boundaries?*

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Considering the example reports



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TAMARIKI
Ministry for Children

Work-Based Learning

Four groups to report back

The idea is that we share our thinking – so each group will have three or four minutes to highlight their discussion / takeaways.

1. What are the relevant factors when we assess the privacy implications for the various parties of making the court record available for inspection?
2. What should we take into account when considering what information from our record to include in the report? (including BF name and updates / enquiries from relevant parties)
3. When should we offer / suggest it is important that the court 'ascertain' the view of another party?
4. What does relational practice with s23 applicants comprise? How do I manage role clarity? Boundaries?



ADOPTION INFORMATION

ADULT ADOPTION INFORMATION ACT 1985

OFFICIAL INFORMATION ACT 1982

PRIVACY ACT 1993

SOCIAL WORK HANDBOOK

CHILD YOUTH AND FAMILY

MINISTRY OF SOCIAL DEVELOPMENT

WELLINGTON

NEW ZEALAND

REVISED EDITION

JANUARY 2003

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1. INTRODUCTION

1.1 Legislative Background

The principal purpose of New Zealand's first adoption legislation, the Adoption of Children Act 1881, was to give some security to the adopted child and the adoptive parents. Prior to this Act, adoption in New Zealand, as in other Commonwealth countries, had been a rather informal process, akin to fostering. Nothing in the 1881 Act, or in the Infant's Act 1908, limited access to birth records.

The Births and Deaths Registration Act of 1875 contained the forerunner of the present system for the registration of birth information of children who were adopted. Under that Act, the particulars of an adoption order were to be forwarded to the Registrar-General, the original birth certificate noted accordingly, and the birth re-registered with the new details replacing the old.

S8(4) of the Births and Deaths Amendment Act 1915 required the Registrar-General to supply an applicant with the re-registered birth certificate unless the applicant certified that the particulars recorded in the original entry' were 'material for the purpose for which the copy is required'.

The Births and Deaths Registration Act 1924 made it a little more difficult to obtain a copy of the original entry. In addition to the applicant's certificate, s27 (4) required the Registrar-General to be satisfied that the particulars in the original entry were material for the purpose for which the copy was needed.

Subsequent Births and Deaths Registration Amendments closed off access to information, which had once been readily available.

The Adoption Act 1955, for the first time, allowed a birth parent to give consent to an adoption without knowing the identity of the adoptive parents. The regulations under that Act provided for two forms for consent - one to be used where the identity of the adoptive parents was known and the other where it was not.

S23 of the Adoption Act stated that 'Adoption records shall not be available for production or open to inspection except on the order of the court' - except for limited access to estate administrators and marriage celebrants. This section has been seen to reflect the secrecy surrounding adoptions; it applies to documents held by the Court, but does not apply to all of the information held by Child, Youth and Family. It does, however, include the copies of the report prepared for the Court by the social worker, and retained on file.

Josh Shawyer's book Death By Adoption (Cicada Press, 1979) made it clear that the assumptions about birth parents were not valid. A growing number of adopted people and adoptive parents began to point out that the limitations imposed on the adopted person's natural need for a complete sense of

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self were unjust and discriminatory, even if the original intent had been to protect the adoptive family's privacy.

The climate of secrecy surrounding the adoption process encouraged a number of erroneous assumptions about the people involved. For example:

- Birth parents gave their children away because they did not care about them.
- The less birthparents had to do with the baby, the placement and the adoptive parents, the easier it would be to put the whole experience behind them
- If adopted people were happy with their adoptive parents, they would not want to know anything about their birth parents.
- Secrecy was necessary to protect everybody concerned

Changing attitudes to adoption, and in particular the undesirability of assuming absolute secrecy in adoption matters led to the introduction of Jonathan Hunt's private member's bill in 1977. Seven years later the Adult Adoption Information Act 1985 finally became law.

The assumption of secrecy was so great at that time, it was considered that new legislation was necessary to rebut that assumption, and establish a statutory scheme for granting access. The passage of the Official Information Act in 1982 had had limited effect on the Ministry's policy, with regard to adoption records.

Non-identifying information had continued to be made available to the immediate parties to the adoption, but the names of the other parties were not available unless those other parties had left a record of their agreement to this on department files. The High Court has ruled that the Ministry may be under a statutory duty not to disclose identifying information, apart from by the procedure set out in the Adult Adoption Information Act.

The Privacy Act was enacted in 1993. It contains 12 Information Privacy Principles, which cover how the Ministry may collect, use and discloses personal information. The Act takes over the parts of the Official Information Act that used to deal with an individual's rights of access to personal information. It also imposes restrictions on the disclosure of personal information to third parties. The Official Information Act still applies in respect of information held about somebody else other than the requester.

1.2 Three Acts of Parliament regulate access to information

There are three acts of Parliament relevant to access to adoption information held by the Service.

- **Adult Adoption Information Act 1985**
- **Privacy Act 1993**
- **Official Information Act 1982**

The combination of these three acts and different Court rulings on issues of disclosure of adoption information make it difficult to state definitively what the law will be in all cases. The following paragraphs are intended as a guide. If a social worker is in doubt as to what information should be made available in a particular case, the matter must be discussed with the supervisor, and advice should be sought from Child, Youth and Family's legal advisers.

1.2.1. Guidelines

In carrying out the tasks under each of the Acts, the following guidelines should be observed:

- Information about one's natural background is basic to the development of self-identity.
- Information about a child placed for adoption helps birth parents come to terms with their loss, and move forward in their own lives.
- Requests for information and contact are part of a normal developmental process, and counselling should take account of this.
- Contact and the exchange of information, in general, enhance existing relationships.
- Most adopted people, adoptive parents and birth parents are responsible and sensitive in their use of information and when making contact.
- Adoption Support and self-help groups have an important role to play.
- Issues addressed by the Adult Adoption Information Act are relevant to all other aspects of adoption practice.
- Birth parents who gave children for adoption before 1986 did so on the understanding that their identity would not be disclosed in the future.
- Every precaution should be taken to protect the privacy of people requesting or exchanging information under the provisions of the Acts.

1.3 Receiving requests for information

It is important to note that each of these Acts only applies when a request or application is made. There is no justification for giving or sending information that has not been requested.

Social workers need to make an initial assessment, on receipt of a request for information, of which statutory scheme applies. Formulating an appropriate response to a request might involve more than one of the Privacy, Adult Adoption Information or Official Information Acts.

In order to decide which Act(s) apply to a request, an understanding of the following terms is required:

- Identifying information
- Non-identifying information
- Personal information
- Official information

1.3.1 Identifying information

The definition of identifying information in the Adult Adoption Information Act is given as ‘in relation to any person, that person’s name or address; and includes any information that is likely to enable any other person to ascertain that person’s name or address.’

Where the Adult Adoption Information Act prohibits disclosing a name, extreme care should be exercised in deciding whether or not to disclose a first name only, depending on whether or not it is likely to identify a particular person.

The Adult Adoption Information Act prohibits the disclosure of a name:

- In Section 3(1) relating to a birthparent’s right to veto. This means that a name is never released if there is a veto in place.
- In Section 8 (2) (d) (iii) which states that the name of the adopted person shall not be communicated to the applicant unless that person has indicated to the social worker that that person is willing’ in Section 9(3) (a) in which identifying information relating to a birthparent shall be disclosed ‘if, and only if, details of that parent appear in the original birth certificate.

- Section 11 (6) in which it is stated that no doctor shall disclose any identifying information obtained as a result of this section.

It is important to remember that, in addition to ‘name and address’, the definition of identifying information includes any information that is likely to enable any person to ascertain that person’s name and address.

While the Adult Adoption Information Act does not limit or restrict the Ministry’s ability to disclose non-identifying information, it is probable that the more seemingly non-identifying information which is given out, the more likely it is that the enquirer will be able to ascertain, by further enquiry, the name and address of the person.

Dates of birth, place names and very specific occupations or associations may well enable the diligent enquirer to identify the other person, and should not be given. Making the information more general will reduce the likelihood of identification of the individual. To decide whether any information is identifying, it is necessary to scrutinise each bit and decide whether it would give any leads for further enquiry. 5.1.2 details the reason for the disclosure of a first name only to applicants under section 8, where no veto has been placed.

1.3.2 Non-identifying information

S14 of the Adult Adoption Information Act says ‘Nothing in this Act shall affect the disclosure to any person of any information relating to any other person that is not, in relation to that other person, identifying information.’ This section of the Act notwithstanding, social workers must have regard to the personal privacy provisions of the Privacy Act when providing non-identifying information from Child, Youth and Family’s records.

In general terms, an adopted person can be given information about the physical characteristics of his or her birth parents and family members, their general health, education, ethnic origins and general family circumstances. This information has a direct bearing on his or her own personal knowledge about himself or herself, and should not infringe the rights to privacy of the birth parents concerned.

There may be other information recorded, however, which is of such a nature that to give it out would possibly cause embarrassment to the parent concerned, and which is plainly his or her own information, and not the adopted child’s.

Similarly, when birth parents request information about the family in which their child was placed, consideration has to be given to enabling the person to obtain a realistic picture of the circumstances as they affect the child, without passing on information that is personal to the adoptive parents only.

1.3.3 Personal information

This term is defined by the Privacy Act. It means 'information about an identifiable individual, and includes information contained in any register of deaths kept under the Births, Deaths and Marriages Registration Act 1995'

The key part of the definition is 'about an identifiable individual'. In the context of requests for information, this means information about the person making the request. An adopted person requesting information about himself or herself is a request for personal information. A birthparent requesting information about himself or herself from the form SW581, 'Report on Child Available for Adoption', is a request for personal information.

To determine whether or not a request is for personal information, it may be helpful to ask, 'What does this information say about the requester?' Keep in mind that the personal information can be (and often is) about more than one person. For the adopted person's enquiry for information about his or her birthparents, see Chapter 9 **Requests for information under the Privacy Act**

1.3.4 Official Information

This term is defined very broadly in the Official Information Act 1982. It means '...any information held by a department.....'

A request for personal information about a third party, i.e. somebody other than the requester, is a request for official information.

The Official Information Act sets out the law relating to access to information about other people. However, neither the Official Information Act nor the Privacy Act overrides other Acts (such as the Adult Adoption Information Act) which authorise, require, prohibit or restrict the availability of official information

1.4 Processing requests for information

When a request for information is received, the social worker handling it must decide what category the request falls into. If the request is one that appears to be governed by the Adult Adoption Information Act, that Act must apply. If the request falls outside the Adult Adoption Information Act, the Privacy Act, or the Official Information Act will apply, depending on who is making the request and what information they are requesting. The following examples might be helpful:

- A request by an adopted person over the age of 20, for the current name and address of a birth parent must be processed under the Adult Adoption Information Act.
- A request by the birthparent for the current name and address of an adopted person over 20 must be processed under the Adult Adoption Information Act.

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- A request by an adopted person of any age for non-identifying information about the birthparent is a request for personal information, and is processed under the Privacy Act.
- A request by the birthparent for non-identifying information about his or her adopted child is a request for information about another person and must be considered under the Official Information Act.
- A request from other relatives about an adopted person will be handled under the Official Information Act.

If the Adult Adoption Information Act does not apply, and it is difficult to decide whether the request is one for personal information or official information, the tests for whether the information may be released under each Act should be applied. To protect the privacy of either party, the information should not be released unless it passes the tests under both the Official Information Act and the Privacy Act.

When a decision is made to withhold information, the person requesting the information should be advised of his or her right to request an investigation of the matter by the Ombudsman or the Privacy Commissioner as the case may be.

1.5 Release of first names

The knowledge of a name, even a first name, is of great importance to family members who have been separated by adoption. For birthparents and for adopted people, whether adult or young people, to have a name to attach to the missing person who is in their thoughts helps, if only a little, to reduce feelings of unreality about that person.

The Ministry cannot release even the first name of an adopted adult, or of a birth parent, if the disclosure of identifying information has been vetoed under the Adult Adoption Information Act.

In cases where the veto does not apply, the Ministry may release a first name, but has a responsibility to consider the right to personal privacy of the person whose name is sought. A first name should not be released without the consent of the named person when, because of its unusual nature, or for other reasons (such as the combination of the name with other biographical details) it does identify a particular person.

The importance of knowing a name is such that the Ministry's position is to take the most liberal view in order to meet a strongly felt need. Social workers must consider their responses to requests for information very carefully, and have regard to balancing the competing rights to personal privacy and to freedom of information that are at issue. If the first name is particularly distinctive, perhaps a second name may be given in its place. If there is a chance of a requester, through combining a first

name with biographical information, determining the identity of the person, the biographical information may be edited or omitted. These options may be able to be discussed with the requester.

1.5.1 When a name may be given

- The first name(s) given to the adopted person by the birthparent(s) in the original birth registration may be disclosed to the adopted person or the adoptive parents. This is no longer identifying information.
- The first name only of a birthparent may be disclosed to an adopted person, or in the case of an adopted person under the age of 20, to the adoptive parents, where that first name, when taken in context with other biographical information about the birthparent, does not, or is not likely to, identify a particular person.
- The name, including first name, of an adopted person may be disclosed to a birthparent of that adopted person, when there is specific permission from that adopted person, in terms of an application under s8.
- The first name only of an adopted person may be disclosed to a birthparent of that adopted person, where that first name, when taken in context with other biographical information about the adopted person, does not, or is not likely to, identify a particular person.
- There is no justification for the disclosure of the names of any other persons concerned with the adoption, e.g. adoptive parents or siblings, unless their permission for this has been given. Again, Section 23 can be suggested if people want to pursue the matter.
- A first name may not be disclosed to an adopted person when a birthparent has placed a veto or to a birthparent when the adopted person has placed a veto.

1.6 Confidentiality

Every precaution should be taken to protect the privacy of people requesting or exchanging identifying information under the provisions of the Acts.

Letters for Adoption Information staff often include personal details, which the writer wants passed on to a particular person.

Sealed letters enclosed with other correspondence or handed to Adoption Services staff for passing on to another person should not be opened by social workers unless the writer invites them to do so.

1.6.1 Security of Files

- The Ministry of Social Development has a responsibility under the Privacy Act to protect the privacy of personal records. The less often entire files are sent about the country, the more they are kept secure. This means though, that when staff are asked to send copies of certain documents, and to check for up-dates, they must be trusted to do a thorough job. Valuable information may be located in different sections of a file, and may have to be searched for. When information from a file is requested from another Unit, specify the requester, and what information is required, with sufficient clarity to enable the full information to be provided.
- In the case of a 'no trace' file, the office responsible for the file must follow up the trail until it is found - not the office requesting the information.
- Inquiries from the public for information from an adoption file should be dealt with in the district in which the requester lives. Clients should not be referred to another district for information.
- When entire files are posted, they should be in sealable plastic envelopes, very carefully addressed, and with the sender's address included.

Adoption Services no longer accepts letters to keep on file. (Refer to Section 9.7)

2. COUNSELLING

2.1 The Counselling task

Counselling is available from Adoption Services social workers from Child Youth and Family and from approved individuals and organisations. Those providing adult adoption information counselling should be trained for the task, which is principally an information giving and supportive one. This concept of the task accords with the wishes of the client groups consulted prior to the implementation of the Act about the type of counselling they thought should be available to them.

Adult adopted people and birth parents of adopted adults are emotionally healthy people who are no more likely to be in need of counselling than any other section of the community. It is generally acknowledged, however, that participating in counselling is not unusual, is not an indication of failure, but is a normal and healthy way of responding to a crisis or a deeply emotional experience. A significant section of the community will seek counselling at some time in their lives; it is important to keep a sense of proportion about this.

People who feel they need therapy may decide to consult a therapist in addition to using the counselling services available under the Act. The adult adoption information social worker could then help them choose the most appropriate person to provide therapeutic counselling.

2.2 Ongoing information and support

Social workers will be available to provide supportive counselling prior to an application under the Act, while the search and contact processes are under way, and during or after meetings between adopted people and birth parents.

In many instances, the social worker will be the first point of contact for anybody making enquiries relating to the operation of the Adult Adoption Information Act. This will include receiving enquiries from adoptive parents, siblings, grandparents and other members of the extended family. While the Act makes no provision for counselling for members of the wider adoptive family, social workers should respond sympathetically to any requests for advice or assistance that they receive in the field of adult adoption information.

3. RESTRICTIONS ON ACCESS TO IDENTIFYING INFORMATION S3 & S7

Birthparents whose names are entered on the original birth registration can restrict access to identifying information about themselves (s3) and adopted people 19 years and over can register their wish to have no contact with either or both of their birthparents (s7)

3.1 Endorsement on original birth entry is known as veto

The veto is actually made with a rubber stamp, imprinted on to the original birth entry of the adopted person, at the Central Registry Office in Wellington. It is not imprinted on the original birth entry in the Registry in the district in which the child was originally registered, and it is not recorded in the Adoption Services files. There are different colours of stamps for a birthparent and an adopted person. Each shows the date on which the veto was placed, and there is provision to add to or cancel the veto at any time. If this is not done it will expire after 10 years.

The veto will automatically expire if the person who placed it has died. (S.5(3)(b) Adult Adoption Information Act). If the Registrar General is satisfied that the birthparent has died, he may issue an original birth certificate with the birthparent's name on it even though a veto may not have expired.

3.2 Only birthparents and adopted people can veto

Only birth parents of people adopted before 1 March 1986, and adopted people aged 19 and over can ask for a veto to be placed. People who are adopted after 28 February 1986 may register vetoes once they are 19, but no similar provision exists for the birth parents of this group.

For the adopted person, the veto may be applied in respect of either or both birthparents, the endorsement stating that the adopted person does not desire any contact with the specified birthparent. In practice, when the birthparent applies under s8 of the Adult Adoption Information Act, and the Wellington Unit refers the application to the Registrar-General, the veto has the effect that the adopted person is not contacted by Adoption Services and the name is not passed on to the applicant. If, however, the adopted person has died, the name can be given. (s8(2)(a)).

For the birthparent the veto relates to the child on whose birth entry the endorsement is made, to the effect that the child is not to have access to identifying information relating to that parent. i.e. when the adopted person applies for an original birth certificate, that birthparent's name will not be included on it.

Note: - A veto can only apply to a birthparent whose name is actually on the birth entry. If a birthfather's name was not included on the birth entry, as was often the case, there is no record to endorse.

3.3 Veto procedure is the same for birthparents and adopted people

To place a veto, the adopted person or birthparent writes to:

Adult Adoption Information Officer
Central Registry
P.O.Box 10 526
Wellington
NEW ZEALAND

Adopted people should supply the following facts to allow the birth entry to be located

- the adoptive name in full,
- date and place of birth
- adoptive parent's names.

Birthparents are required to supply

- mother's name at the time of the birth, (and father's if applicable),
- sex of the child,
- name given the child (if any)
- date and place of birth.

If some of these details have been forgotten, the Registrar-General's Office will search using the best information that can be provided.

3.3.1 Registrar-General advice that counselling is available but not mandatory

The Registrar-General advises applicants of counselling services available from Child, Youth and Family Adoption Services social workers and independent counsellors. If the applicant advises the Registrar-General that she or he does want counselling but does not confirm that the veto should be

entered, or does not reply at all, the Registrar-General takes no further action until the applicant makes her or his wishes known.

If the applicant advises the Registrar-General that counselling is not wanted, or simply reiterates that the veto be entered, the Registrar-General endorses the original birth entry accordingly.

This effectively means that an applicant wishing to place a veto is required to contact the Registrar-General twice, unless, when they first apply they advise the Registrar-General that they are aware of the counselling available but want the veto to be placed anyway.

It is important to ensure that anyone intending to place a veto is aware of these provisions.

3.4 The counselling interview

Counselling with respect to placing vetoes can be given in person or on the phone, by a social worker from Adoption Services or by an Independent Counsellor.

The counselling is not to be used as a means of influencing the birthparent or adopted person in any way, but rather of trying to ensure that a veto is the best way of achieving the purpose that person has in mind.

3.4.1 The veto and the adopted person

It may be useful for the adopted person to know the differences in the Adult Adoption Information Act between applications from birthparents and from adopted people. Whereas the adopted person can obtain an original birth certificate (if there is no veto), and have full control of the search and contact process, the birthparent has to apply through Child, Youth and family for the adopted person's permission for his or her name to be given.

In practice this means that if the adopted person places a veto, and the birthparent applies, Adoption Services will not approach the adopted person. He or she will not know that there has been any enquiry. If, however, there is no veto, Adoption services will endeavour to trace and approach the adopted person, and ask if he or she wishes to have any communication. He or she can then give a considered reply according to the circumstances.

3.4.2 The veto and the birthparent

The birthparent, too, may find that knowledge of procedures will help in determining the best course of action, to achieve the degree of privacy they are seeking. It may be that an application under S8 gives a birthparent more control of the situation, than waiting for the adopted person to act, or than placing a veto and leaving a letter of explanation.

Social workers will deal with any approaches for veto counselling with respect and sensitivity. Birthparents who placed children 20 or 30 years ago did so in a very different social climate. Many still carry the guilt and hurt of that time, and need the acceptance and support of the social worker at what may be a painful and difficult time for them.

3.5 Absolute secrecy cannot be guaranteed

Social workers should warn those intending to place vetoes that, while vetoes prevent identifying information from being released by the Registrar-General and by this Ministry, they do not provide absolute protection from identification or contact.

Vetoes do not prevent a person from applying to the Court for the name of the birthparent under s23 of the Adoption Act 1955, or from obtaining information from solicitors' files or from random sources such as friends and relatives.

3.6 Letters of explanation for vetoes

It is possible for those placing a veto to leave a letter with Adoption Services explaining the reasons for the veto to the person whose access to identifying information has been restricted. (only a few hundred people have ever done so.) This may help the other person accept and understand the situation, as well as giving the person placing the veto an opportunity to explain their reasons for doing so. Any other non-identifying information about health and genetic history can be usefully included.

Such a letter may help maintain that person's privacy, because it is more likely that people, having been given a reason, will respect the other person's wishes.

Letters of explanation for vetoes are held at Wellington Adoption Services, and any such letters handed in at local offices should be sent there, clearly identified with the names of both parties at the time of adoption. On receipt of a letter Wellington office will add a note on TRIM so that other sites will be aware that there is a letter on file.

When the Central Registry forwards original birth certificates with vetoes to adult adopted people, the accompanying letters suggest they can enquire if a letter of explanation is held by the Ministry.

Adopted people may enquire in writing, quoting the Registrar-General's reference number, which appears at the top right hand corner of the letter. This is the number of their original birth certificate. They need to give their full adoptive name (first name(s) and surname), date and place of birth, and the full names of their adoptive parents. They will receive a written reply to their enquiry, with letter, if any.

Birthparents do not need to make a separate enquiry to the Wellington Office because they process all applications for identifying information received from birth parents. Searchers will automatically check for a letter of explanation from the adopted person once they have ascertained that a veto is in place.

3.7 Veto removed before expiry date

The Central Registry Office advises the Wellington Unit of any vetoes which are removed before expiry. Wellington searchers will cross-check the list of enquiries received for letters of explanation, and will attempt to notify applicants whose access to identifying information is no longer restricted. Their ability to do this depends on their having a current address for these applicants.

3.8 Requests for information from those who place vetoes.

Most people who place vetoes wish for no further contact. However, in some instances adult adoption information social workers may be required to act where the person who placed the veto has also indicated that she or he would be interested in receiving information about the other party, or having some kind of contact in the future.

When carrying out this task, social workers must take care that they do not inadvertently release any identifying information about the person who has placed the veto to the other party.

3.9 Adopted people not wishing to have a vetoed OBC sent direct to them

S5 of the Adult Adoption Information Act gives the Registrar-General no discretion in this matter. If there is an un-expired endorsement on the original birth entry the Registrar-General 'shall send the applicant an original birth certificate from which all details relating to the birth parent have been omitted.

If an adopted person expresses a wish to have the support of a counsellor when receiving information that has been subject to a veto, she or he may give the only address on the application as C/0 the

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counsellor of their choice (it will not be effective for the adopted person to give a home address, and request the Registrar - General to send the certificate to the counsellor. - the law does not allow this). The certificate must be addressed to the adopted person, and not the counsellor. This may be pertinent to someone who has had a prior veto. It is not standard practice.

4. APPLICANTS RECEIVING ORIGINAL BIRTH CERTIFICATES - S 4, 5 & 6

Adopted people aged 20 years and over can apply for copies of their original birth certificates, and, if no veto has been placed, receive them following counselling. If a veto has been placed, the adopted person receives the certificate directly, the details of the person placing the veto having been omitted. Adopted persons living permanently outside New Zealand are sent their certificates directly.

4.1 **Adult adopted person may apply to the Registrar-General.**

- If no details relating to the birth parent(s) can be included on the original birth certificate because a veto has been placed, the Registrar-General will send the birth certificate directly to the adopted person. (but see 3.9)
- If details about one or both birthparents can be included on the original birth certificate the Registrar-General sends the original birth certificate to the social worker or approved counsellor of the applicant's choice, who then gives or sends it to the applicant after the applicant has received counselling.
- Adopted people born and adopted in New Zealand who are now resident overseas apply to the Registrar-General for their original birth certificates in the normal way. Overseas applicants are not required to have counselling before receiving original birth certificates containing details about their birth parents. In all instances birth certificates will be sent directly to them, with the address of the Wellington Unit to whom they can apply for any additional information.
- Counselling will not be mandatory for people adopted after 28 February 1986 who apply for their original birth certificates.

4.2 **Counselling for adult adopted people receiving original birth certificates**

Counselling is mandatory for adult adopted people receiving original birth certificates, which contain details of one or both birthparent's (s5). The adopted person asks the Registrar-General to send the birth certificate to the counsellor of choice (either Child, Youth and Family or Independent), and that person gives the birth certificate to the adopted person. There is only one mandatory counselling session. Any further counselling is at the request of the adopted person, and this may take place prior to the receipt of the certificate, and after it has been obtained, and as other pre- or post- reunion issues emerge.

The Act provides for the Registrar-General to send original birth certificate's which do not contain any identifying information directly to the applicant. For adopted people who feel they

will need support if faced with an original birth certificate which contains no details of their birth parents see 3.9.

4.3 The counselling session

This session could include:

- Discussion of any concerns the person may have about the information, about making contact with birth relatives, or about effects on existing relationships.
- How to search and where to go for any additional information.
- The way to make an approach which would achieve the best results.
- An offer of any support and guidance the person may want.

It is important to make the point, however that the counselling is client-driven and will consist of the topics and issues which the client wishes to address in the time.

The counselling may be given by telephone or face-to-face, depending on the wishes of the adopted person.

The counsellor does not have the right to withhold any information that the applicant is legally entitled to, even in exceptional cases where the counsellor may be worried about possible consequences.

From time to time complaints are received from adopted people, who are concerned that they, as mature adults, must receive their original birth certificates containing identifying information through a third party. It is important that all applicants understand that the counselling task is to provide as much (or as little) information and support as each individual wants, and that they are not required to participate in lengthy counselling sessions they do not want.

At the same time there are no time limits, as such, on the counselling that is available. Those who wish to, may talk over a number of sessions, or return at some later points in the progress of their reunion to revisit ongoing issues and discuss new developments.

5. ACCESS BY BIRTHPARENT TO IDENTIFYING INFORMATION - S 8

Birthparents can apply for the adoptive name of their child placed for adoption, once that child has attained the age of 20 years. That adopted person is to be located and consulted before his or her name may be given to the birthparent.

5.1 Birthparent may apply to Chief Executive Officer

(See Appendix for the application (letter 03), the flowchart (Appendix B) and, sample form letters accompanying this process)

While an adopted person may apply for a copy of his or her original birth certificate, which, if no veto has been placed, will be given to him or her following counselling, a birthparent has no corresponding right to apply for the copy of the amended or adoptive certificate. The birthparent may apply to the Chief Executive Officer (CEO) of the Ministry of Social Development for the adopted person to be approached to ask if he or she is willing for his or her name to be communicated to the birthparent.

It is important to note that, just as the adopted person may obtain his or her original birth data and choose not to proceed with contact, so may the birthparent.

S8(2)(d)(iv) of the Adult Adoption Information Act states that if the adopted person has indicated that that person is willing to have that person's name and address communicated to the applicant, the CEO shall communicate them to the applicant and inform both of them of the effect of s10. Although most birthparents wish to make contact, and the Ministry's procedures have been developed to take account of this, the social worker must have a clear understanding of the statutory requirements of the Act.

A birthparent may make written application to the CEO for identifying information. From any part of New Zealand and from overseas, the enquiry should be addressed to:

Adoption Services
Child, Youth and Family
Private Bag 6901
Marion Square
Wellington
NEW ZEALAND

The application should include the following information as at the time of the birth – see a copy of an application letter (Letter 03)

Mother's Name:

Father's Name (if applicable)

Child's Name: (if any)

Sex of child:

Child's date of birth:

Child's place of birth:

Applicant's current name and address:

5.1.1 Details can be verified.

If, as is quite common, the applicant is uncertain of any of these details, it is usually possible for the Registrar-General to locate the registration if the best known information is provided.

The CEO is required to be satisfied that an applicant under s.8 is a birthparent of the adult adopted person concerned. When that satisfaction has been attained, and there is no reason to doubt that the applicant is a birth parent of the adopted person, this information is referred to the Central Registry Office (CRO) on form SW677 (Appendix A) 'Adoption Information Inquiry', for the original birth entry to be located, and a letter of acknowledgement is sent to the applicant. (Letter 04)

5.1.2 When a first name may be given

In the Introduction to this manual I.3.1 outlines the Adult Adoption Information Act's definition of identifying information. This definition notwithstanding, the decision has been made to release the first name only of the adopted person to an applicant under s.8. There are very good reasons for this, which have the potential to benefit the adopted person whose identifying information is being sought and the birthparent applicant.

The latter may have registered her/his child with a particular first name which has usually been superseded by a new forename chosen by the adoptive parents. For the birthparent who wishes to introduce herself or himself to the adopted person by letter, the use of the original name is inappropriate. It does not help the birthparent to move forward emotionally to a realisation of the now adult son or daughter he or she knew as a baby, and it can be confusing to the adopted person's sense of self.

Unless the adopted person has lodged a veto, the birthparent applicant will usually receive correspondence in connection with the s.8 application referring to the adopted person by first, and, therefore, not fully identifying name.

5.1.3 Veto/No Veto

If the adopted person has placed a veto on the birth entry, the Wellington Unit is advised by the Registrar-General on form SW677 (Appendix A), and in turn advises the applicant of the fact of the veto and the date of expiry. A personal letter is written, advising whether or not a letter of explanation is available, and referring the applicant to the nearest Adoption Services social worker if counselling and support are required.

5.1.4 Searching process may include asking adoptive parents

If there is no veto, the applicant is advised of this in a form letter (Letter 05) The adoptive name having been given to the Wellington Unit by the CRO, on form SW677 (Appendix A), the Unit's searchers then attempt to locate the adopted person's current whereabouts. The Ministry's records, electoral rolls, marriage registrations, and updates from adoption files are commonly consulted. In the last resort, if no address can be found, the applicant is asked if he or she is agreeable to the adoptive parents' being requested to provide one. (Letters 06 to 11)

5.1.5 Form letter to applicant when adopted person is located

When the adopted person is located the applicant is advised that the social worker is now able to make contact on his or her behalf, and asked if they wish to provide any information at that point concerning their situation, their wish for contact and how that may be effected. Please note that the applicant is not in any way required to provide information, her/his application is to obtain information. (see 5.1) Any social worker counselling an applicant has the responsibility to make this clear. The birthparent may choose to provide information about herself or himself in order to provide reassurance the adopted person, if she or she wishes. (Letter 12 , and reply letter 13)

5.1.6 Referral to District. (Refer to appendix B for flowchart)

The enquiry is referred, on form SW677 (Appendix A), to the district in which the adopted person is living. The adoption social worker is asked to contact that person to ascertain his or her response to the birthparent's application. It is important to do this with thought and care to communicate directly with the adopted person, without disclosing the information to anyone else. It is common practice to

write to the adopted person in the first instance, usually on letterhead (Letters 14). This gives the adopted person the choice of circumstances, time and place to respond.

If there is no reply to this letter, it is necessary to establish whether or not the adopted person is at the address given by Wellington. One or more visits to the address in the early evening may encounter someone who can verify the facts or provide a forwarding address. It is very important that the local social worker make every effort to contact the adopted person, or, failing that, to obtain another address.

If there is no response to the first letter (i.e. letter 14) and the social worker is clear that the address is correct, a second letter can be sent (letter 15) this will explain in more detail the reason for trying to contact the adopted person.

If a second address is in the same area, the contact can proceed. If, however, the new address is in another district, this new address should be recorded on the SW 677 (Appendix A), and the form returned to the Wellington Unit for re-allocation.

5.1.7 Contact with the Adopted Person

The social worker is in the role of mediator and facilitator, rather than advocate for the birthparent, when discussing the application with the adopted person. Although the birthparent is 'the client' in that she or he has made a statutory application for service, s 8 (2) (d) (ii) is specific about our responsibility under the Act, namely to ascertain whether or not the adopted person is willing to have that person's name and address communicated to the applicant.

The social worker's role in relation to the adopted person is to give whatever information, assistance and support is requested to enable him or her to make an informed consent to the disclosure or not of his or her name. It is important that the adopted person is not placed under any pressure in the making of this decision.

5.1.8 Positive responses

There will often be no need for the social worker to contact the applicant on the adopted person's behalf when the response is positive. If the birthparent has provided the information to enable contact to be made directly, the adopted person can do this independently.

Where the adopted person has not been given the applicant's name, he or she will be asked for permission for his or her name and address to be passed on to the applicant, who may then choose to initiate contact. There may well be a mediating role for the local social worker at this point, depending on what (if any) instructions the applicant has given with respect to contact. If the applicant wishes to be contacted directly with a view to direct communication with the adopted person, the local social worker can facilitate this reunion.

If the applicant has expressed a wish for contact, the social worker notes the adopted person's response on the back of the SW 677 (Appendix A), including the specific permission for the name to be disclosed, writes a final letter to the applicant (letter 16) , posts it to the applicant and returns the form with a copy of the letter to the Wellington Unit.

5.1.9 Interim replies

There may have been some delay in being able to contact the adopted person, or she or he may need extra time to consider the approach. In these cases the applicant needs to be advised of this in an interim reply.

In this circumstance, the social worker should consult the adopted person, to determine how this is to be done. It is easier for the social worker who has spoken with the adopted person to convey the sense of the response, and the amount of information to be transmitted. If the adopted person has no objection to his location being disclosed, the local social worker may write or phone the applicant to explain the delay, and send a copy of the letter, or a record of the action to Wellington, for their file.

If the adopted person does not agree to his or her location being made known, the local social worker will send a draft of the letter to Wellington for forwarding on. This can be e-mailed to the appropriate searcher with a copy to the Unit Supervisor.

5.1.10 Negative replies

When the adopted person's decision is to refuse permission for his or her name to be given, careful consideration has to be given to how the applicant is to be informed, and what information can be passed on. The adopted person is assured that his or her decision is accepted, and asked if there is non-identifying information that may be passed on to the applicant.

It is for the adopted person to decide whether the response may be communicated by the local social worker, thus disclosing the location, or only through the Wellington Unit. In either case, it is preferable that the local social worker write the letter, containing only that information which the adopted person has sanctioned, and either forward it to Wellington for posting on to the applicant (see letter 17), or write directly to the applicant, with a copy to Wellington. If the letter is to be sent by Wellington you can send the draft by email to the searcher dealing with the application, and a copy to the Unit Supervisor. It must be noted on the returned SW677 (Appendix A) if the draft reply has been emailed to Wellington.

5.1.11 SW677 Adoption Information Inquiry to be returned to the Wellington Unit when enquiry is complete.

SW677 (Appendix A) should be returned to Wellington as soon as the enquiry is complete, with a copy of the final letter sent to the applicant. There is no need to send copies of the case notes. The site may retain these.

If there is a delay in contacting the adopted person, or he or she needs time to make a decision, Wellington should be kept up with the state of affairs, either with brief memos or copies of letters to the applicant. It is in no way sufficient to inform Wellington that as the social worker is in touch with both parties, the enquiry can be completed. It is not completed as a statutory application until the birthparent has been given the adopted person's name and address or informed that the adopted person refuses permission for this information to be disclosed. Again, any draft update letters to be sent by Wellington to the applicant can be emailed to the appropriate searcher with a copy to the Unit Supervisor.

5.2 Birthfathers' rights

In many instances, only one birthparent's name appears on an adopted person's original birth entry, and that name is, of course, the birthmother's. Although the Adult Adoption Information Act makes no distinction in the definition of birth parent, it is necessary to clarify the situation when there is no evidence of paternity.

The Adult Adoption Information Act states that 'Any person may make a written application to the Chief Executive Officer for identifying information relating to an adult adopted person whose birth parent the applicant is' (s 8.1). The CEO has to be satisfied, however, that an applicant is a birthparent of the adult adopted person to whom the information sought relates, before proceeding with the application.

5.2.1 Birthfathers named on the original birth entry

Obviously, when a birthfather's name is on the original birth entry, his rights under the Act are those of the birth parent as set out in ss3 and 8. He may veto the release of identifying information about himself; may apply for information about the adopted person or he may opt to do nothing at all.

5.2.2 *Birthfathers can have their names added to the original birth entry*

If a birthfather's name is not on the original birth entry, he can apply to have his name entered there, according to the Births, Deaths and Marriages Registration Act 1995. To do this, he needs to obtain the birthmother's confirmation that he is the father of her child. (Letter 18)

The birthmother makes a statutory declaration to this effect on form BDM.257A (letter 20) available from the Central Registry Office, requesting that the particulars relating to the said father be recorded in the entry of birth relating to the said child. This declaration has to be witnessed by a Justice of the Peace, a Solicitor or a Registrar.

The father also makes a statutory declaration on form BDM 257 (letter 19). It is a practical requirement that both statements are forwarded to the Central Registry Office together. When this has not been done in the past, that Office has failed to link up the two declarations, and the transaction has not been completed.

If the birthmother is dead, or cannot be located, the birthfather can make a unilateral application to the Registrar-General stating this. He will be advised by that Office on the information he will need to supply.

5.2.3 If applicant is named in departmental records

If the birthfather signed consent to the adoption, or if the birthmother gave the birthfather's name when she was providing his description at the time of the adoption, and his name appears on the adoption file, and if he confirmed that he was the father of that child (either orally or in writing) to a social worker at the time of the adoption or at a later date (and a s8 application would serve as confirmation at a later date), the application will be progressed.

For the purpose of the application he must be named by the birthmother, if not on the adoption file, then acknowledged in some other document, such as a letter. A description, no matter how detailed, is an insufficient means of identification.

5.2.4 Where there is insufficient proof of birthfather's identity

If the applicant's name is neither on the original birth entry nor on the departmental records, or if the name and other details from the records give cause for doubt that the applicant is the birthfather, then we cannot proceed with his application under s8 of the Act.

He should be advised of the procedure for having his name added to the original birth entry, not only for his own sake, but also because his name cannot appear on any original birth certificate issued to the adopted person unless it is on the birth entry.

There may be instances where an applicant claims to be the birthfather of an adopted person, but is not named on the birth entry or the adoption file, there is no other substantial evidence that he is the father, and he is unwilling for confirmation of his paternity to be sought from the birthmother. In such cases, the applicant has no access to identifying information under the Act.

5.3 Counselling available to birthparent

The applicant is informed, by letter from the Wellington Unit, of the name and phone number of the nearest adult adoption social worker, in case he or she may wish to talk over feelings or concerns about the anticipated reunion. It is then the applicant's choice to use or not use this support.

Social workers approached to give support in these circumstances will respond as indicated by the request, providing information about the process, and counselling in person or on the telephone. Referral to support groups or networks may be helpful.

It is not appropriate for the social worker in the district in which the adopted person has been located to contact the birthparent applicant with the information that he or she will be the one who will make contact with the adopted son or daughter. While this may have a reassuring intent, it has not been solicited, and its ultimate effect, at this point in the process, may be to interpose unnecessarily between the reuniting parent and child. If people want assistance, they may ask for it, but they are more likely to be better served at this point in the exercise by making contact for themselves.

The implications of reunion may raise a number of issues at different times. It is appropriate for social workers to respond to requests to discuss these. It is important to remember that social workers are generally not able to offer therapy but should make the appropriate referral if this is required.

5.4 When adopted person cannot be traced

Under s.8(2)(d)(iii) of the Adult Adoption Information Act, an adopted person's name and address cannot be communicated to the birthparent unless his or her consent to this has been obtained.

When the searchers at the Wellington Unit have done all that they can to locate a current address, but have been unable to find any means of contacting the adopted person, the applicant will be advised by letter that a search has been done, that has not enabled us to contact the adopted person. (letter 21).

The name and address of the adopted person may not, therefore, be released. The applicant will be assured that we will contact them if, in the future, we should have an approach from the adopted person who wants to have contact with the birth parent.

5.5 Re-application under Section 8

Nothing in the Act prevents a birthparent from applying more than once for the name of his or her adult birth child, when the name has not been obtained either because the adopted person has not been located, or because he or she has been approached by a social worker, and has declined to have his or her name passed on to the birthparent.

When a subsequent application is received, it should be treated as for a first application, i.e. given a (new) number and processed through all stages.

Some judgement may have to be exercised, however. It may be necessary to balance the right of the birthparent to apply, with the right of the adopted person who has been previously approached, to be free of harassment, and this should be discussed with an applicant.

An adopted person who has indicated to a social worker that he or she does not agree to communication with a birthparent may reasonably be approached again after an interval, and the situation explained. The initial application should be consulted, and taken into consideration when deciding how to proceed, especially if the initial application was declined by the adopted person.

The social worker should advise an adopted person, who feels strongly that he or she does not want to be contacted again, of their right to place a veto.

5.6 When an adopted person has died

When the Wellington Unit has been unable to find an adopted person in any available records, the registrations of deaths in New Zealand must be searched for all the years following the year he or she was last known to be alive. Deaths that have occurred outside New Zealand cannot usually be ascertained. Deaths within New Zealand are entered on the Central Registry computer system fairly promptly.

When the fact of a death has been established, all the information contained on the Register, including the name, is given in a personal letter to the birth parent. This letter is not sent directly to the applicant, but to the nearest Adoption Services social worker, with the request to convey the fact of the death in person to the birth parent and to leave the letter as written confirmation.

The social worker will then be available to support the birthparent in grieving the final loss of the child if this is requested, and to assist with obtaining further information if and when the birth parent is ready to do this. This may include the social worker inspecting adoption file, contacting the adoptive family, through another office if necessary, assisting with writing for newspaper articles or notices, and/or applying for coroner's reports.

The social worker who approaches the adoptive parents will need to exercise sensitivity and patience, as they too will have grief to experience again, and may need considerable support in deciding what information and/or contact they can share with their child's birthparent(s). They are not required to provide any information at all, but may well see healing for themselves as well as the birthparent(s) in sharing photographs and memories of the time the child was alive. This is careful, unhurried social work.

5.7 Approaches to adult adopted people who are intellectually impaired

All people of 20 years and over, regardless of their intellectual capacity or emotional state, are adults. Residents of IHC and similar long-stay institutions have the same rights as any other adopted adults with respect to consenting to their names being given to their birthparents under s8(s) (d) (iii) of the Adult Adoption Information Act.

In some cases, however, it may not be possible to ascertain what a severely intellectually incapacitated person's wishes may be, in the matter of contact with birth family, and it is questionable whether or not an informed consent can be obtained.

5.7.1 Social Worker making initial contact

When initial indications are that the adopted person may not be able to make a decision on his or her own account, the social worker should try to obtain a full history and an assessment of the best way to approach the matter in the best interests of the adopted person.

If it is considered that the adopted person is unlikely to have any comprehension of parenthood other than his or her knowledge of the adoptive parents as mother and father, then not only could it be futile to try to explain the Adult Adoption Information Act to him or her, it could confuse and distress the person.

At the same time, the birthparent has a right to a response to his or her application under s8, and, as the facts of the situation are likely to be quite unexpected to him or her, it will be necessary to convey the information as sensitively as possible, once the facts of the matter have been ascertained.

The course of action to be followed will depend to some extent on the social situation of the adopted person, e.g. whether his or her adoptive family are in regular contact, or whether the adopted person has some other person who stands as an impartial advisor. Possibly in the institutional situation, but more certainly where the adopted person is living in the community, the I.H.C. is likely to be involved. A social worker or other appropriate person from that organisation could be asked to assist.

Where there is such a person who can be involved in discussing the situation, so that a decision can be made in the best interest of the adopted person, the social worker's role will be to co-ordinate discussion and provide information about reunion and its outcomes for all concerned, including the adoptive family. Emphasis should be given to the positive possibilities in the birth family's involvement. It is anticipated that, in almost all cases, a satisfactory outcome will be achieved.

5.7.2 Appointment of a Welfare Guardian

Where no agreement can be obtained, an application can be made to the Family Court for the appointment of a Welfare Guardian, under s 12 of The Protection of Personal and Property Rights Act 1988. This is a lengthy process involving an application filed with the local Court, the appointment of counsel for the adopted person and a minimum of two hearings.

For this reason, and because the Court must be of the opinion that the appointment of a Welfare Guardian is the only satisfactory way to ensure that appropriate decisions are made, if this course of action is thought to be necessary, the local Child Youth and Family Legal Service, should be advised and asked for assistance.

5.7.3 Wellington Unit to be informed

When the full facts of the situation are known, the Wellington Unit is advised, and a decision made about conveying the information in person to the birthparent. While there is value for the birthparent in first-hand communication with the social worker who has met the adopted person, the initial contact will be made in the birthparent's own district, so that ongoing support can be available.

Careful, sensitive, unhurried social work practice is essential in these situations.

5.8 Applications under Section 8 by agents acting on behalf of birthparents

Although s8 of the Adult Adoption Information Act requires a written application from the birthparent, the principle of agency can apply, provided the agency is subject to tight restrictions (Letters 22 & 23). The essential point about agency is that the agent is acting for the principal (in this case the applicant). This means that the agent can do only what the applicant could do, the agent can do only what the applicant wants the agent to do, and the agent must act for the terms of s8.

These principles mean that:

- Another person may make the written application required by s8(a) as agent of the applicant. The application must be accompanied by the birth parent's written permission for the agent to act under s8;
- Information may be given to the agent under s8(2) (a), (c) and (d)(iv) for transmission to the birth parent. The decision on what to do with the information must be made by the birthparent. Any action necessary to implement the decision may be carried out by the agent on the birthparent's behalf.

6. ACCESS BY ADULT ADOPTED PERSONS TO IDENTIFYING INFORMATION - S 9

Adopted people may apply to the Chief Executive for additional identifying information relating to a birthparent whose name was recorded on the original birth certificate. If the Service does not have the name and address of the birthparent, a search may be undertaken. S9(4) of the Adult Adoption Information Act states that this will be done "without undue effort".

6.1 The importance for adopted people of making their own search

It is important to note that although s9 provides for assistance with searching, most people can do this very well for themselves, using the freely available material in public libraries, from the Central Registry, and from other databases.

As part of the counselling task, the social worker will be discussing with the client the satisfaction to be gained in doing this tracing for herself or himself, and will be providing the information on how to do this, relevant to the resources available locally.

S10 allows a social worker to decline a request to make an approach to a parent or child, but s9 does not include such a condition. It is not a matter of refusing a request for searching so much as informing the applicant of other possibilities, which she or he may pursue, perhaps more quickly and with greater interest and sense of personal achievement. (And see 7.2)

There may be good reason for searching on behalf of adopted persons who are prevented from doing their own searching because of ill health or incapacity, financial or family circumstances. Adopted people living overseas may not have access to appropriate resources.

6.2 Application to be accompanied by copy of original birth certificate

An adult adopted person may make written application to the Chief Executive for identifying information about the birthparent(s) whose names appear on the original birth certificate (Letter 24). A copy of his or her original birth certificate must accompany the written application. The main purpose of this section is to facilitate the location of the birthparent(s).

The Chief Executive shall disclose all available identifying information relating to any birthparent concerned, if, and only if:

- Details of that parent appear in the original birth certificate; or
- The Chief Executive is satisfied that the parent is dead.

6.3 What information is available

Note that it is identifying information that is to be made available i.e. information that is likely to enable any other person to ascertain that person's current name and address.

S9 of the Adult Adoption Information Act is not concerned with the provision of non-identifying information, and gives no licence to disclose personal information about a parent to a child.

Particularly when a person has been deprived of any information at all, and is anxious to obtain any detail that will help to fill out the picture he or she is trying to assemble of the missing family member, it may be very hard to withhold personal details. Social workers need to keep in mind that the missing family member has a right to privacy about personal issues and encourage the person seeking the information to trace and contact the person concerned, and obtain the information directly from him or her.

6.3.1 Little or no information about birthparents may be held by the Ministry

In many instances adopted people making application for identifying information about their birthparents under s9 of the Act will be disappointed to find that Adoption Services can add nothing to the identifying information on the original birth certificate.

6.4 Adopted person's access to information about birthfathers

- If the birthfather's name is on the original birth entry, the adopted person's access to identifying information about him is set out in ss5 and 9 of the Adult Adoption Information Act 1985. The adopted person applies to the Central Registry Office for an original birth certificate and after receiving this, may apply to the Chief Executive for identifying information about the birth parent or birthparents whose names appear on the certificate.
- If the birthfather's name does not appear on the original birth certificate because he is not named on the birth entry, we are unable to give any identifying information about him from departmental records, under the Adult Adoption Information Act, unless the birthfather is dead. (See 9.4)

7. ASSISTANCE IN MAKING APPROACHES - S10

Adopted people, adoptive parents and birthparents can ask a social worker from Adoption Services for assistance in making contact.

7.1 Requests for social workers to act as intermediaries

From time to time the requests are received from people who want a social worker to act as intermediary between themselves and adopted people/birth parents/adoptive parents whose names and addresses they know.

S10 of the Act provides for social workers to be asked to:

- Act as intermediaries for adopted adults and their birth parents. s10(1)
- Act on behalf of birthparents in contacting adopted adult children. s10(2)
- Act for the adoptive parents of an adopted person, of any age, in approaching the birthparent(s) of the adoptive person. s10(3).

A social worker may decline any request for assistance, (s10(4)). It is good practice to explain fully the reason for this refusal. (see7.2)

If another site will be involved in making contact, before a social worker agrees to accept a s10 request he or she should first consult that site. The requesting social worker needs to ensure that all relevant information is sent with the request to the other site.

7.1.2 S10 applies only in the situations listed above.

It is not an action under s10 to initiate contact in cases in which the requesting party does not know the name and/or the address of the other, or on behalf of other relatives of adopted people or birthparents.

It is not necessary for an applicant under s10 to have obtained the name and address through the Adult Adoption Information Act, that is, it is not necessary for an adopted applicant to have his or her OBC. It will certainly be prudent for a social worker considering s10, however, to enquire into the circumstances of the request.

7.2 The role of the intermediary

Before accepting such a task, the social worker should consider whether she or he would be the most appropriate intermediary in this particular situation. The Ministry has published a booklet called "Approaching your birthparents" This can be used as a guide to assist the applicants' abilities to approach their birthparent themselves. Good strength-based practice reinforces this as does research "there is evidence from practice that the initial contact itself is the most powerful, therapeutic and healing experience between the parties involved. Social workers, acting as mediators, can never

convey or recapture that moment of that first reaction when contact is made to the applicant. To deny applicants this experience seems to detract from the experience as a whole which belongs to the two parties concerned” Iwanek. M – Cited in Chain of Life Journal, Issue 7, May/June 1990.

If the decision is made that the social worker will be the intermediary, they should, with the applicant, give careful consideration to the way the approach will be made, and think through the advantages and disadvantages involved in initial contact by telephone, mail, or in person. The way the applicant wishes the intermediary to report back should also be discussed. The social worker should remember at all times that they are acting on behalf of the person who has sought their assistance.

The intermediary should ensure that contact is only made with the person sought, and that communications are private and confidential. The person’s right to refuse information and/or contact must be respected, and ongoing support should be available to both parties involved if needed.

An adopted person may ask a social worker to approach his or her birthparent(s) once he or she has received the original birth certificate and the birth parent has been located. If the birthfather is not named on the OBC, but if the applicant has the name and address, and the social worker is satisfied that he is the birthfather, then an approach can be made.

7.3 Where the request for information falls outside the provisions of the Act

Birth parents of adopted people under 20 years of age, adopted people under 20 years of age, and other relatives such as the siblings or the grand parents, sometimes independently obtain identifying information about a person they are seeking and ask a social worker to make an approach to that person.

These are not categories of person entitled under s 10, and should not be registered as such.

7.4 Requests for approaches where it is known that a veto is in force

It sometimes occurs that, despite the existence of a veto, identifying information about a person is obtained by somebody wanting to make contact, and a social worker is asked to approach the person concerned.

S10 of the Adult Adoption Information Act makes no reference to the veto. It makes no requirement of the social worker to ascertain how the applicant under this section has obtained the information of the other's name and address. It is not therefore contrary to the law to agree to contact the party who has placed the veto.

It is questionable however, for a social worker to undertake an approach on behalf of one party when a veto clearly implies a wish for no contact on the part of the other. Each situation will need to be carefully considered on its own merits after discussion with the supervisor and Team leader

8. ACCESS TO INFORMATION ON MEDICAL GROUNDS - S11

It is within the spirit of the Adult Adoption Information Act that an Adoption Order should not prevent people from having information essential for the treatment of a serious health issue.

In essence, this section allows a registered medical practitioner to supply the Chief Executive with a detailed statement of the information required/supplied. A social worker may take that statement to the Registrar-General or to the Registrar of the Court, who is then empowered to allow her or him access to the adoption records held in that agency. The social worker may then disclose to the doctor any (non-identifying) information whatsoever relevant to the medical or genetic history of the patient concerned.

Neither Court Records nor birth registrations, however, hold specific medical information.

For this reason any situation that is presented should be carefully considered in discussion with the supervisor as to whether there are alternative ways of obtaining this information eg S8 or S4. If it is decided at the local level that S11 is the best option, any casework decisions must be authorised by the National Manager of Adoptions.

N.B. This is not a last resort for adopted people who have tried every other avenue for contact.

8.1 Doctor to apply in writing to Chief Executive Officer

It is important to note that any transmission of medical information is not under this section of the Act unless it is initiated in the form of a written statement from a doctor.

8.2 Age limit and veto not applicable

The inclusion of s11 in the Adult Adoption Information Act is an acknowledgement that genetic and medical information may be so important that it can be transmitted irrespective of the age of the parties concerned (there is no requirement that the adopted person be aged 20 years or over), and irrespective of whether or not a veto has been placed by the birth parent or the adopted person concerned.

8.3 Any patient eligible when affected by adoption

The intention of s11 is to both give and receive information:

- S11 (2) - a doctor, for the purpose of treating patient, wishes to obtain information about the medical or genetic history of a relative or relatives that are not available for consultation by

reason of adoption. The doctor may write to the CEO, specifying the information concerned,
or

- S11 (3) - a doctor has a patient about whom he has information, that the doctor believes is likely to be relevant, in medical or genetic terms to a blood relative of the patient, who is not available by reason of adoption, the doctor may, with the patient's consent, give a notice to the CEO, together with a separate statement of the information.

The Act, refers to 'any patient', who may be the grandchild, sibling, or cousin of the 'unknown relative', on both the paternal and the maternal side of the family, unknown because his/her identity has been concealed by the adoption of some person in the family.

8.4 Registered medical practitioner only may apply

The only person who can apply for information under this section is a registered medical practitioner. It is not sufficient to have a request from a therapist other than a doctor. As the Act specifies that 'medical' includes 'psychiatric', should a psychologist or other therapist wish to have a family history, although this would be a valid use of the Act, the request would have to be made through the client's doctor.

The doctor who wishes to apply should write to Adoption Services being quite particular about the nature of the information required. It is not sufficient for a medical practitioner to supply his or her patient with a letter saying something like, "My patient, Mrs ----- needs to have information on her adoptive background for medical reasons."

Searchers will need to establish the relationships and locate the parties in question, before the enquiry is referred to the districts in which the parties are living, for contact.

8.5 Inspection of records at the Central Registry Office or Court

Note that s11 does not require the – Chief Executive to take action in response to an application, but states that the social worker may obtain an original birth certificate, or inspect the court records. It is most unlikely that any medical information will be obtained by this means alone, as no medical information is contained on a birth entry or on a Court Order of Adoption.

To give any effect at all to the intention of this section of the Act, more research is necessary. Obtaining the adoptive or the birth name may be only the first step to locate the 'unknown relative'.

The Act makes no mention of how the social worker is to obtain the medical information which she or he has permission to pass on to the doctor concerned. It is possible to obtain some data from an inspection of the death registrations of members of the family concerned.

The most effective means of acquiring information that will be of any practical use in the circumstances, however, will be to approach the person himself or herself. Although the Act only refers to the social worker having contact with the doctor of either party, there is no way to ascertain who a person's doctor is without asking that person, and in any case, the doctor, if known, would be unlikely to divulge information without her/his patient's consent.

8.6 Approach to be carefully considered

As with all contacts under the Act, the approach should be carefully thought out. Most post-adoption contacts, whether or not medical information is an issue, will be through s5 or s8. The additional considerations under s.11 may be that the approach is entirely unexpected because a veto has been placed or because the person concerned is under 20. As well as the unexpectedness and the usual emotional reaction to bringing out the deep feelings associated with adoption, the medical condition to be discussed may provoke anxiety.

It is important that the social worker explain the situation as fully as the available facts allow, and make it clear to the person approached that her or his cooperation is requested in the interests of the person whose health is affected. No-one is compelled to provide information, or even to discuss the matter if they do not wish to.

The person approached will decide if referral to his or her medical advisors is appropriate. He or she may take time to enquire further around his or her own family, or may refer the social worker to another source of information, perhaps the other birth parent. It is usually only after a specific condition or predisposition is identified in these discussions that it is appropriate to refer the matter to the relevant medical practitioner.

8.7 No identifying information to be disclosed

S11 specifies that it is to the doctor who first enquired to whom the social worker may impart the information obtained, and that no identifying information may be passed on by either party.

9 INFORMATION MANAGEMENT- THE PRIVACY ACT 1993

Adoption social workers manage sensitive personal information as part of their role. The management of that information is guided by three pieces of legislation:

- The Privacy Act 1993
- The Official Information Act 1982
- The Adult Adoption Information Act 1985

Any legislation that has provisions that authorises or requires personal information to be made available overrides the provisions of the Privacy or Official Information Act. Therefore, any request for information under the provisions of the Adult Adoption Information Act will not require the social worker to consider the provisions of the Privacy or Official Information Acts.

Where the Adult Adoption Information Act does not apply, social workers need to consider whether the request is dealt with under the Official information Act or the Privacy Act. Knowledge of both these Acts is of assistance when interpreting how to respond to requests for information.

The following chapter deals specifically with the particular pieces of legislation.

THE PRIVACY ACT 1993

Social workers will read this chapter for general comments on access to information, but it is no substitute for familiarity with the Act itself, attendance at training courses provided by the Ministry and consultation with legal services with respect to particular cases. All supervisors must ensure that social workers have on-site access to the Privacy Act and the Official Information Act, and that all have attended the compulsory training, which is provided at intervals to accommodate new staff. All social workers have a responsibility to be sure that they understand the requirements of particularly Parts II, IV and V of the Privacy Act. On-going team-based training is desirable.

The general thrust of the Privacy Act is that personal information about an identifiable individual should be protected. It recognises that individuals have a right to exercise some control over their personal information. Personal information is defined as “information about an identifiable individual and includes information contained in any register of Births, Deaths and Marriages Registration Act 1995”

The Act impacts not only on what information may be disclosed, and to whom, but also on all aspects of collection, storage, use and retention of personal information. Given that the adoption process necessarily involves the collection of extremely sensitive personal information; those involved in the process need an understanding of the 12 principles of the Act.

Of course, the information that is now being sought under the Privacy Act was not collected according to the principles of that Act, which only came into force in 1993. Nevertheless the principles of collection, use and storage which are contained in the Adoptions Local Placements Manual are reproduced here in order to provide a full understanding of the context within which the use of past information should be considered.

9.1 The 12 Privacy Principles

The fundamental theme that runs through the Privacy Principles is one of purpose. In deciding whether any collection or use of personal information is permitted it is necessary to ask what is/was the purpose for which the information is or was required or held.

Purpose of Collection of Personal Information (principle 1)

Personal information shall not be collected by any agency unless the collection is necessary for a lawful purpose connected with a function or activity of the agency.

Personal information that is not necessary to the function of the agency should not be collected. In carrying out functions under the Adoption Act, social workers have an obligation to collect information about birth parent medical conditions, and about adoptive parent suitability, character, and criminal convictions. The collection of other information may not be specifically authorised by the statute, but may still be necessary for the purpose of determining what is best for the adoptive child, e.g. ethnicity, tribal affiliations, intellectual abilities, sporting interests, etc, (in itself a lawful purpose for the collection of information).

Source of Personal Information (principle 2)

Personal information shall be collected directly from the individual concerned. The object of this principle is that information is likely to be the most accurate if obtained directly from the person to whom it relates.

It will not always be desirable or practicable to collect personal information directly from the source. This principle has a number of exceptions, for example it will not be a breach of the principle if the agency believes on reasonable grounds that non-compliance would not prejudice the individual concerned, or that the individual authorises collection from another source.

Information about Birth Fathers:

Social workers need to collect personal information about the birth father. This information should be collected directly from the birth father. If this is not possible and one of the exceptions to this Principle applies then the social worker should record that the information was collected from another source, together with the reason for this.

Where possible, the information should be confirmed with the birth father before it is put to any use (e.g. providing it to the adoptive parents). Refer to Privacy Principle 8, Accuracy of personal information to be checked before use.

Collection of Information from Subject (principle 3)

When information is collected directly from an individual the agency shall take such steps as are in the circumstances reasonable to ensure that the individual is aware of:

- The fact the information is being collected
- The purpose for which the information is being collected;
- The intended recipients of the information; and
- The name and address of the name of the agency collecting the information, and the agency that will hold the information
- The particular law by or under which the collection of the information is so authorised or required and whether or not the supply of the information by the individual is voluntary or mandatory: and
- The consequences, if any, for that individual if all or any part of the requested information is not provided; and
- The rights of access to, and correction of, personal information provided by these principles.

Again there are exceptions to this principle:

Much of the personal information collected by social workers will be collected on standard forms, which have been adapted to ensure compliance with this principle. In many cases explanations of these matters on forms will be sufficient compliance. However, possible barriers to understanding should be considered. It may, in some circumstances, be necessary to give explanations in appropriate languages. Other barriers may be lack of literacy, immaturity or mental disability, which require further elaboration of the "fine print" on the form.

The purposes of collection of the information should be clearly explained, in addition to the information given on the form. The person from whom the information is being collected should be advised that the primary purpose for the collection of the information will be the immediate one of placing a child with adoptive parents, however, other contemplated purposes should also be explained. For example, the information is also being collected for retention on departmental files for future access by the adopted person (or the birth parent) to identifying, or non – identifying information.

Note: It will not be a breach of the principle if non - compliance is not reasonably practicable in the circumstances of a particular case (for example in the case of a severely handicapped mother).

Manner of Collection of Personal Information (principle 4)

Personal information shall not be collected by means that are unlawful, unfair, or intrude to an unreasonable extent upon the personal affairs of the individual.

This means that the social worker needs to take steps to ensure that any interview takes place in an area where no one else is able to over hear the conversation. Adoption workers collecting information contrary to this principle would be in breach of not only the Privacy Act, but also ethical standards and conventions.

Storage and Security of Personal Information (principle 5)

Personal information shall be protected by such security safeguards as are reasonable in the circumstances to ensure against loss and misuse and that access, use, modification or disclosure is only with the authority of the agency that holds the information.

Personal information about birth and adoptive parents is extremely sensitive and therefore high standards of security are required to comply with this principle. It is impossible to prescribe a code covering all aspects of security but the following points should be borne in mind

- Adoption files should be stored in secure lockable areas;
- Files should not be left unattended in public areas.
- Files should not be taken from the office or left in cars. If it is necessary to discuss a particular document on a file with an applicant or other person then a photocopy of the document should be taken and carefully safeguarded during use.
- Care should be taken when sending personal information out of the office, e.g. preferably by registered mail or by courier by using secure means such as sealed plastic envelopes. When transmitting personal information by fax machine, the sender should always check the number first and ask the receiver to stand by to pick up the transmission.

Access to Personal Information (principle 6)

Individuals are entitled to ask the agency for confirmation whether personal information is held about them and if the agency does hold this information, to give the individual concerned access to that information. Failure to comply with this principle is deemed to be a breach of privacy for which the individual can be compensated for.

Most questions of access to personal information will arise in the context of adopted people seeking information about their birthparents and the circumstances in which they were given up for adoption. Often this type of request will involve consideration of both the Privacy and the Official Information Acts.

When preparing information for release it is important to identify what piece of legislation is being relied upon for disclosure or release. If the information is about the requester or their lineage then the Privacy Act will apply. If the information is personal to their birth parent and family then the Official Information Act will apply. A folio by folio release to the adopted person, of the Adoption File, the greatest part of which concerns the adoptive parents' application and assessment, is not, in general, appropriate.

It is important to bear in mind when recording personal information that the individual has the right to request access to that information, and may see what has been recorded. This should ultimately improve the quality of the information recorded by encouraging the accurate and objective recording of facts social work opinions based on those facts.

If information is to be withheld the reasons for doing so must be given to the requestor together with the statutory reasons for withholding them. The requestor must also be advised of their right to complain about the decision to withhold information to the Privacy Commissioner.

If the social worker has concerns about releasing a particular item of information and that concern is reflected in one of the statutory reasons, consideration should be given to alternative means of making the information available in section 42, for example, by discussing the information with the requester, releasing a summary of the information, or deleting passages. Whenever this is done, the requester must be told the reason why access has not been given in the form they requested, and advise them of their right to have the decision reviewed by the Privacy Commissioner.

All information released by the Ministry, which is a photocopy of an actual folio should be stamped with "Released under the Privacy Act 1993". Personal information transcribed in letter form does not

need to be stamped as the text should state that the information is being released under the Privacy Act 1993.

In general terms adoptive parents may be given copies of medical reports, police checks and references and homestudy reports. Copies of Court reports may not be given as they belong to the Court.

It is good practice when obtaining personal information from referees to advise the referee that the adoptive parent may gain access to the information. The standard letter does this. The information is relied upon by the Department in order to make a decision as to whether adoptive applicants are suitable to adopt. Those affected by such a decision have the right under s23 of the Official Information Act to have access to such information.

Correction of Personal Information (principle 7)

Individuals can ask agencies to correct information held about them. It is important to note that this does not mean that the original information is deleted. It is a requirement of the Archives Act that information once recorded may not be altered, but the new and corrected information should be clearly recorded as such, and cross-referenced as appropriate.

Where a refusal is made to correct personal information, the agency, if so requested, must attach to the information any statement provided by the individual of the correction sought.

It is to the advantage of everyone concerned to ensure that personal information is as accurate as possible. Rather than waiting for the individual concerned to correct the information the person with access to the files should make regular checks to ensure the information is correct and up date the information accordingly.

Accuracy of Personal Information to be checked Before Use: (principle 8)

Personal information shall not be used unless reasonable steps have been taken to ensure the information is accurate, up to date, complete, relevant, and not misleading.

The worker involved will need to consider what is reasonable in the circumstances, having regard to the purpose for which the information is proposed to be used. More rigorous steps will need to be taken to ensure the information is accurate if the worker proposes to make a placement on the basis of that information.

For example, if the adoption worker hears that an adoptive parent has been accused of child abuse, and proposes to decline a placement on that basis, the allegations should be put to the applicant, and if necessary consent obtained to make further enquires, before a decision is made on the placement.

All adoptive applicant information, including the profile, is up-dated every two years, or more frequently if significant changes of circumstance occur.

Agency Not to Keep Personal Information Longer than Necessary: (principle 9)

Personal information shall not be kept for any longer than is required for the purposes for which the information may be lawfully used. Periods of retention of the information will vary according to the purpose for which the information may be used. Where information has been collected for (among other reasons, retention for future access by one of the parties to the adoption) it will need to be kept indefinitely.

CYRAS is now a permanent record of all applications and notifications to Child, Youth and Family. Paper files created when people apply to adopt, but with whom no placement is made, or records of initial inquiries about placing a child for adoption, which are not proceeded with, should, however, be destroyed after two years from decision not to proceed being made. A list of all such files and records destroyed is to be made, and must be kept.

Files where applicants to adopt were declined entry to the waiting pool must be retained for 30 years, as, although no placement has been made, there may be child safety issues involved.

Limits on Use of Personal Information: (principle 10)

Personal information that was obtained in connection with one purpose shall not be used for any other purpose unless:

- The information is publicly available
- The use is authorised by the individual concerned
- Non-compliance is necessary for serious legal reasons
- The use of the information is necessary to protect life or health
- The purposes are directly related
- The information is used for research without identifying any individual

- The Commissioner authorises use under special circumstances

This principle means that adoption social workers must ensure that the information they use is for adoption purposes unless one of the above exceptions applies. An example could be where information collected during the adoption process exposes risk to a child and therefore that information can be used to make a notification to ensure safety of that child.

Limits on Disclosure of Personal Information: (principle 11)

Personal information shall not be disclosed to any other person, body or agency.

This principle enshrines the ethical imperative of confidentiality. Disclosure is permitted where disclosure is one of the purposes for which the information was collected, or is a directly related purpose. For example, the placement of a baby awaiting adoption in a foster home requires that a care and protection social worker be advised in order that the placement may be effected, and the necessary payments made. Such a disclosure of information would not breach this principle as it is to facilitate the adoption, and the information remains within Child, Youth and Family.

Other exceptions apply, such as when disclosure is necessary to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detention, investigation, prosecution and punishment of offences and where it is necessary to prevent or lessen a serious or imminent threat to the life or health of the person concerned or another individual. For example, if during the course of a visit to the prospective parents' home the social worker detects evidence of violence or abuse within the family to the extent that the social worker has real fears for the life or health of a family member or other person, it will not be a breach of this principle to advise an appropriate agency of the situation.

As stated earlier other legislation can override the Privacy Act. S11 of the Social Security Act requires a social worker to disclose information and no reference need be made to the Privacy Act. It would be unusual to deny a request from the Police for information when they are investigating the commission of an offence. If a social worker is unsure about releasing information on any such request they should seek legal advice from the Department's legal service.

Unique Identifiers: (principle 12)

Information Privacy principle 12 limits the use of unique identifiers. A unique identifier is the number that is assigned to a person rather than using the birth or usual name. The Adoption Service has not used unique identifiers in the past, but this has changed as CYRAS is now used for current clients. As applicants for information under the Adult Adoption Information Act are not entered in CYRAS, these clients are not given unique identifiers.

9.2 Reasons to Withhold Information – s 27 - 29

Privacy Principle 6 allows any person to obtain confirmation of whether or not the Service holds personal information, and to have access to that information, when it can readily be retrieved.

The right of access to information is qualified by a number of reasons a social worker may use to refuse a request. Those reasons are set out in ss 27, 28 & 29 of the Act. Most notably in this context, that the disclosure of the information would involve the unwarranted disclosure of the affairs of another individual or of a deceased individual - see s29(1)(a) Privacy Act.

In practice, adopted people most commonly request information about their birthparents. They may also request information about themselves, if they were adopted as older children, or if they spent any period in the care of the Ministry. These latter enquiries usually concern information on Personal Files rather than Adoption Files. Adoption Services will take responsibility for the information on the Adoption File, but if there are Care and Protection issues, the request should be forwarded to the applicant's nearest Care and Protection office for response, as any issues of accountability will be assumed by the manager of that Section.

9.3 Requests by adopted people for non-identifying information

When an adopted person requests information about birthparents other than their identity, or requests all information that is available when a veto has been placed on the identity, the social worker must obtain all of the information that relates to the enquiry, carefully read and assess the file, isolate the relevant information and ensure that its disclosure would not identify, or enable the identification, of the birthparent.

In general terms, an adopted person can be given information about the physical characteristics of his or her birth parents and family members, their general health, education, ethnic origins and general family circumstances. This information has a very direct bearing on his or her own personal knowledge about himself or herself, and should not infringe the rights to privacy of the birth parents concerned. There may be other information recorded, however, which is of such a nature that to give it out would not be warranted and would encroach on the privacy of the birth

For example the disclosure of information about the circumstances of the child's conception might well breach the privacy of the parent on the basis of sensitivity, and information about the mother's

physical and psychological condition during and after the birth could be seen so also, as it pertains to her own physical and emotional situation, rather than, or perhaps more than to the adopted person's actual health.

9.3.1 Access to SW581- 'Report on a Child available for Adoption'

In the well-intentioned effort to help the adopted person to fill in some of the blanks before he or she considers making an approach to the birth family, it is important that the social worker does not actually impede the process of reconciliation by providing erroneous and possibly prejudicial information. Ideally, re-uniting family members will communicate directly with one another, and over time, as they develop trust and confidence in one another, they will share their own information.

Social workers making the decision of what non-identifying personal information they can release are required to exercise judgement, and keep it in mind that the Ministry's records are quite likely to include inaccuracies, and material that is not objective, and that is very much out of date and out of context.

A copy of the actual form SW 581 may be given to the *birthparent*, as outlined in 9.4, but it is good practice to transcribe the information from it when it is the adopted person who is requesting it, as it requires the social worker to think carefully about whether a particular item of information should be released.

Decisions on the release for the adopted person are made pursuant to the Privacy Act. In exceptional circumstances, after discussion with the supervisor, the actual SW 581 may be photocopied, but generally the relevant information should be carefully transcribed, and the requester advised that the original document is being withheld under s9(2)(a). He or she may request a review of this decision from the Privacy Commissioner.

9.3.2 When adoptive parents' permission is required

The Privacy Act makes no age restriction on who may request and receive non-identifying information. Nor is there any absolute obligation to consult with the adoptive parent of a young person under 20 even though the parent remains a guardian.

S29(1) (d), however, provides that the agency may refuse disclosure in the case of an individual under the age of 16, if the disclosure of that information would be contrary to that individual's interests. Medical evidence would be needed to support this ground.

A young person's need for information is normal and healthy, and it is important for his or her feelings of comfort in the adoptive family that the adoptive parents understand this need.

If there are particular circumstances of disruption in the family, the opinion of alternative guardians or caregivers may be sought. In any case, careful thought needs to be given to providing non-identifying information to young persons under 16 years, unless they are agreeable to obtaining their adoptive parents' agreement. The decision as to whether or not to provide non-identifying information without parental knowledge will need to be made on a case-by-case basis, with the supervisor.

The task may be to help the young person to an understanding and acceptance of the emotional conflict of loyalties experienced by many in adoption, and/or to offer to mediate within the family if this is appropriate. If an adopted person of this age has been given no information by his parents, there would seem to be a fundamental lack of communication that needs to be addressed. A balance must be found between the young adopted person's natural need for information and his equally important need for family support.

Generally, however, there will be no reason to consult with the adoptive parents in respect of non-identifying information, where the adopted person is aged over 16. An adopted person between the ages of 16 and 20 can, depending on the circumstances, be encouraged to keep his or her adopted parents informed of the situation, but such a decision should be left with the adopted person.

9.4 Requests for identifying information about birthfathers not on birth entry

It is not common for the names of birthfathers to be included on the original birth certificates of children placed for adoption in the years relevant to the Adult Adoption Information Act. The major reason is that they were often not available to sign the birth registration when so many women went away from home for the birth and adoption of their child.

S9 of the Adult Adoption Information Act does not usually therefore enable adopted people to obtain their birthfather's names from AISU records unless it is certain that they have died.

Many adopted people will learn the name of their birthfather from their birthmother. There are others, however, who have not been able to do this, and approach Adoption Services to ask if we can provide it from our files. Whether or not we will be able to assist will require a careful reading of the file and discussion of the situation with the supervisor. The uncertainty of this should be explained to the enquirer.

9.4.1 When the birthmother cannot remember the name

When the adopted person tells us that the reason the birthmother cannot pass on the name of the birthfather is because she has forgotten it - a not unreasonable explanation given the trauma of the loss, the simplest way to deal with the enquiry is to suggest that the birthmother apply for a copy of the SW581 under the Privacy Act. This would be immediately available to her as of right, without any other consultation.

9.4.2 When the birthfather is dead

If the social worker is certain that the birthfather is dead, the name may be released under s9 (3) (b) of the Adult Adoption Information Act.

Considerable care is needed here. It is absolutely essential that the death registration of the actual birthfather named on the file can be located. This is by no means an easy task, when it is not usual to have recorded the full name and a date of birth as confirmation of the right person and there may be many others of the same name.

The search must be thorough and comprehensive, perhaps including all the electoral rolls for the country, and marriage as well as death registrations. This is a time - consuming task, which may be beyond the resources of the Service when the information is scanty and the name is common.

If there is no certainty that the right person's death registration can be located, the request should be refused, and the requester advised that he or she may complain to the Privacy Commissioner.

9.4.3 Deciding whether we can approach a birth father named on our record (added 1 July 2022)

Where a Ministry search establishes current contact details for a birth father who is named on a Ministry adoption record, Ministry legal advice has determined that it *may* be appropriate for an Oranga Tamariki social worker to approach the birth father, in order to:

- make him aware that he is named on a Ministry adoption record;
- make him aware of the enquiry from the adopted person; and,
- discuss options, including his choice to share any identifying or non-identifying information with the adopted person.

IN-CONFIDENCE

We must remain aware that in most adoption placements of the past, paternity may not have been confirmed. Where a birth father is named on our records, that information may have been provided by the birth mother and not be confirmed / verified with the man concerned. It is important to note that our records do not in and of themselves provide formal confirmation of paternity. (This policy refers to the named individual as the *birth father* accepting that paternity is not confirmed.)

In addition to Child Welfare and Social Welfare records, there are also some NGO adoption records that have been archived, for example Childhaven records (1944-1981) and Motherhood of Man/Fairleigh Hospital (1953-1979) records. These records may include the name of the birth father that was recorded at the time of the adoption. These records are held in National Archives and can be accessed by our Ministry.

Under Information Privacy Principle 6 of the Privacy Act 2020, individuals have the right to access personal information that an agency holds about them. The birth father's identity is his personal information. However, it may also form part of the identity of the adopted person. This overlap requires a balancing of the birth father's right to privacy with the adopted person's right to access their own information.

Oranga Tamariki must therefore undertake a *balancing exercise* which considers the privacy interests of both the birth father and the adopted person involved. This occurs under the provisions of the Privacy Act 2020 and is required in order to decide whether to approach the birth father named on our record. A decision about whether to approach a birth father must weigh up all relevant considerations of the specific case situation.

The approach outlined has the benefit of respecting the birth father's privacy and providing him with the information he can use to exercise informed decision-making, as well as balancing the interests of the adopted person.

When should this approach be taken?

This approach should be taken when the adopted person has exhausted all other legal mechanisms to obtain the information. Namely:

- where a birth father is not named on the original birth registration, so his name is not available under the Adult Adoption Information Act 1985; and,
- he is not named on the court's adoption record, so the adopted person cannot use section 23 of the Adoption Act 1955.

It is important to identify that the Ministry holds the birth father's name and there is sufficient information to confirm the identity of the person named as the birth father.

As is required in the case of a section 9 of the Adult Adoption Information Act 1985 application for current identifying details about a birth parent, we should review the information contained on the adopted person's Original Birth Certificate (OBC). Where the birth father's name is not recorded on the OBC, and there is no indication that it is recorded on the court file, there may be no purpose in making a section 23 application to inspect the court record.

Whether there is any purpose or value in supporting the adopted person to make a section 23 application to view the court file will depend on an individual assessment of what the adopted person is seeking. However, there is no requirement for the adopted person to have made a section 23 court application before we would consider their request for information about their birth father from our Ministry record.

Balancing exercise

The social worker and their supervisor must consider the specific facts of the adoption and the information that the Ministry holds. Factors for consideration are set out below.

a) Adopted person's right to know their own identity/whakapapa

Ngākau whakairo, in our practice framework, is at the heart of our practice and is about a rights-based approach to our work.

[Ngākau whakairo | Practice Centre | Oranga Tamariki](#)

Information about an adopted person's birth parents is fundamental to their identity. It provides a link to culture, heritage and language. For Māori, it is fundamental for connection with whānau, hapū and iwi.

While the Privacy Act 2020 does not directly address te Tiriti o Waitangi or tikanga Māori, section 7AA of the Oranga Tamariki Act 1989 requires Oranga Tamariki to ensure its policies, practices, and services have regard to mana tamaiti (tamariki) and the whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi.

In addition, Article 30 of the United Nations Convention on the Rights of the Child states that children who are indigenous shall not be denied the right to enjoy their culture or to use their own language.

Where a birth father is Māori, an adopted person is prevented from accessing their paternal whakapapa if they do not know who their birth father is. These factors need to be taken in to account when weighing up a decision to approach a birth father.

Where we approach a birth father who is Māori, we should also discuss with him what other whānau, hapū and iwi information he can provide for the adopted adult – regardless of whether he decides to share his identifying details with the adopted adult.

b) What information do we hold?

What identifying information do we hold about the birth father? Is it specific enough to verify and confirm the identity of an individual named at the time of the adoption, and to link that person with a specific identifiable individual now?

Does the Ministry record indicate he provided any financial support / maintenance or any information to be placed on the adoption record directly; were any other members of his family involved with the adoption process?

We should also determine whether the birth father acknowledged the adoption through any communication after the adoption placement / court process as this helps to assess his level of awareness and involvement in the adoption process.

c) Does the birth father consent to being contacted?

Where we have recorded an indication that the birth father authorised the Ministry to contact him in relation to the adoption, this would weigh in favour of approaching the birth father.

Where our record holds no indication of the birth father's position on this question, we cannot reach a view about his position without contacting him in order to discuss his thinking.

d) How did we come to hold the birth father's identifying information?

We must consider why we have the birth father's information, how it was obtained and from whom. Where our record holds a birth father name, in the majority of cases, it's likely the name would have been provided to the Ministry social worker by the birth mother.

Information Privacy Principle 10 prevents an agency from using information, other than for the purpose for which it was obtained, unless one of the listed exceptions applies. The exception most likely to be relevant in these situations, is Information Privacy Principle 10(1)(a), which states "that the purpose for which the information is to be used is directly related to the purpose in connection with which the information was obtained".

If possible, we should determine the purpose for which the Ministry collected the birth father's information.

If we collected the information in case the father wanted to be involved with the adopted person in the future, then this would directly relate to the purpose of contacting him to ask whether he wishes to release his details to the adopted person. If we collected his details simply for our own records, it will be more difficult to link this purpose to asking whether we can release his details to an adopted person.

It may be unclear what the purpose for collection was, perhaps because of the policy / approach to record keeping at the time.

e) Accuracy

We must consider the accuracy of the information recorded. Information Privacy Principle 8 states that an agency must take steps that are, in the circumstances, reasonable to ensure that the

information is accurate, up to date, complete, relevant, and not misleading. This must occur before the information is used or disclosed.

We must be reasonably sure that the individual located is the person named on our record – and that we believe from the information recorded that he is the birth father of the adopted person. This requires a careful reading of all the information contained on the record. It could also include consideration of other relevant information, such as what other birth family members have been able to tell the adopted person about the identity of their birth father.

This is not always straightforward – particularly where the information has been gathered from a ‘third party’ and may otherwise be unverified.

Where we decide to approach a specific individual in the belief that he is the person named on the adoption record as the birth father, we should be able to explain to him why we have decided to approach him, based on the information held – and to demonstrate this was a reasonable step to take in good faith.

f) Can we find the birth father?

Where the name recorded is common or for some reason incomplete, it may not be possible to locate the birth father. We know that there can be a number of reasons why we cannot locate someone, including their moving overseas. Where we locate several people of the same name who could be the birth father we are seeking, it will not be appropriate to make approaches to multiple individuals to ‘check’ who may possibly be the birth father.

g) Where a birth mother has placed a veto

An adopted person who has been unable to get any identifying information about their birth parents because only their birth mother is named on their original birth certificate – and where that birth mother has placed a veto – will likely be very motivated to seek their birth father’s name from the Ministry.

Births Deaths and Marriages have informed as of August 2021, there were around 200 vetoes left in existence. However, where a veto exists, the Ministry is not able to provide any information that could enable the adopted person to learn the identity of their birth mother (see **9.3 Requests by adopted people for non-identifying information**).

Facilitating contact between an adopted person and their birth father when there is a veto in place from their birth mother, is therefore a step that *would enable the identification of the birthparent* who has placed a veto. We are therefore unable to facilitate birth father contact in a situation where there is a veto in place by the birth mother. Where our record does not already confirm that the adopted person has received identifying information about their birth mother, the adopted person will need to provide an Original Birth Certificate.

h) What is the birth mother's view?

There may be specific and sensitive privacy considerations which need to be taken in to account when making a decision about an approach to a birth father. Where the birth mother has provided the birth father's details to the Ministry, she may have a view on the use of that information.

The birth mother's privacy interests should be carefully considered, particularly regarding the circumstances of the adoption. For example, the mother may have chosen not to name the birth father on the birth certificate for sensitive reasons related to conception. In addition, expectations held at the time around closed adoptions may have influenced decision making. Some circumstances around an adoption may be particularly sensitive and will require careful consideration as part of any decision to contact a birth father.

i) How will this impact other relationships?

It is important to explore with the adopted person what information / relationships they currently have with members of their birth family, including who is alive. This will enable an assessment of the context of the request and who should be considered as an 'interested party' in any approach that we decide to make to a birth father.

It may be helpful to complete a search for the birth mother - to establish whether she is still alive – if the adopted person does not have that current information.

j) Any other relevant considerations

You may be aware of other considerations or circumstances not included in this list. If so, factor them in to the balancing exercise, using your professional judgement to give appropriate weight.

Consultation and decision-making

In order to form a view and recommendation regarding a birth father approach, the social worker will consider the factors outlined in the 'balancing exercise' above.

Although the existence of a veto will mean that we are not able to proceed with an approach to a birth father, no other single factor is determinative. The social worker must consider each factor and all relevant available information. Some factors may weigh in favour of approaching a birth father while other factors may weigh against it. Some factors will carry more weight than others. If the balancing exercise weighs in favour of approaching the birth father, then the decision can be made to approach him. If it weighs against approaching the birth father, then he should not be approached.

The social worker must consider this balancing exercise with their supervisor and make a recommendation as to whether or not to make an approach to the birth father. The supervisor is responsible for confirming the decision about whether or not to proceed with an approach.

In confirming the decision, consultation with the Adoption Service Practice Leader or Practice Advisor and Legal must occur to ensure there is full consideration of all of the factors involved and to ensure adequacy and consistency of the balancing exercise.

Having arrived at a decision, it is important that the rationale for the decision – to either make an approach or to decline to make an approach – is clearly set out in case notes.

The decision one way or the other should be conveyed to the adopted person face to face where possible and also be confirmed in writing with the rationale clearly set out.

In the case of a decline, the adopted person must be advised of this preliminary decision and provided an opportunity to volunteer any further information relevant to the decision. When the final decision is confirmed, the adopted person should be provided with information as to how they can make a complaint and they should be advised of their right to seek a review of this decision by the Office of the Privacy Commissioner.

Preparing to approach a birth father with enquiry from adopted person

When we make the decision to approach a birth father named on our record, we will discuss the matters noted below with the adopted person. Seek cultural advice where appropriate on who may be the most culturally skilled person to make this approach.

While the Adoption Service can make a decision to approach a birth father to make him aware he is named on the Ministry record, how he responds, including provision of any information he might decide to share, is entirely his decision. The social worker needs to carefully explain this uncertainty to the adopted person – and ensure they understand there is no guarantee that the birth father will decide to share his identifying information.

The social worker should discuss with the adopted person what information they want to convey to the birth father.

The adopted person can be invited to prepare a letter that the adoption social worker can offer to the birth father as part of our approach to him. Experience has shown that a birth parent in this situation can appreciate hearing from the adopted person about:

- the adopted person's introduction of themselves
- what they are seeking / hoping for in making an enquiry
- why this is significant for them
- why now, the relevance of the timing of this enquiry
- whether the information to share would include a copy of their Original Birth Certificate

Discussion should address what the adopted person is comfortable sharing about themselves – including the release of their contact details and their preferred form of contact, including photos. They may also want to indicate whether they are open to a DNA test (Note: Oranga Tamariki – the Ministry for Children cannot provide funding for DNA tests).

Approaches to be made by the nearest Adoption Service office.

When we have established current contact details for a birth father, the office closest to where he is living should be asked to make this approach. Requests should be made supervisor to supervisor.

In the first instance, the social worker should send a letter that invites the birth father to contact them to discuss a personal matter. Depending on the specific contact details we have established, this approach could also be made via a personal message on social media. It is important to only communicate directly with the birth father, without disclosing information or the reasons for contact with anyone else. The social worker should identify in their communication that they work for the Adoption Service, Ministry for Children-Oranga Tamariki.

Contacting the birth father in this way gives him the choice of time, place and means of responding. If there is no reply to the social worker's initial contact, a follow up request should be made. If this too is unsuccessful, it may be necessary to check whether the birth father is at the address identified. A visit to the address may locate someone who can verify current whereabouts / circumstances or provide updated forwarding details.

Engaging with a birth father

Considerations for the social worker approaching the birth father

a) Awareness of the pregnancy and subsequent adoption

The birth father may or may not have been aware of the pregnancy and subsequent adoption.

While the birth mother may have indicated to the social worker at the time whether he was aware, the social worker needs to remain sensitive to the fact that this information could be a shock and raise a number of implications for the birth father – particularly if this is new information.

b) Birth fathers may be older

The social worker should be aware of the implications for older birth fathers we decide to approach to make them aware of their association with a Ministry adoption record – especially where they are over 70 years old. The social worker will need to consider how best to communicate with him regarding sensitive information and to consider any specific constraints regarding their vulnerability, comprehension, communication needs and informed decision-making.

A birth father who has health or age limitations could also have an Enduring Power of Attorney (“EPOA”) appointed. Where there is an EPOA, the social worker may need to consider the step of communication with an EPOA. In the situation where there is an agent appointed to act on behalf of the birth father, the social worker will need to verify the ability of the EPOA to act on the birth father's behalf. In this situation, you should seek legal advice about discussion of this information and request before any discussion with the EPOA occurs.

From a cultural perspective, for Māori and Pacific, certain family members will have kaitiakitanga responsibilities to act on behalf of potential birthfathers and they may not have

formalised this through an EPOA. Consider those roles as part of our 7AA obligations and consult on the appropriate Te Ao Māori approach to decide on the best process to use.

c) *Circumstances of the adoption to be carefully explored*

The social worker should explain the matter of the enquiry we have received and the fact of the birth father's name being recorded in a Ministry adoption record. This can specify the date of the birth, the place where the pregnancy occurred and the first name of the birth mother, to check with the birth father whether he recognises the situation. Explaining to him the background information that is listed on the E5/81 *Report on Child Available for Adoption* that we believe is about him, and that it may also assist him to recall the situation and to confirm whether the details recorded match his circumstances at the time.

The adopted person may agree to providing a copy of their Original Birth Certificate as part of sharing information with the person thought to be their birth father. This will assist in confirmation of the date and place of their birth and their birth name; it also confirms the birth mother's name at the time of the adoption.

d) *Information will likely raise implications*

This information will likely surface the birth father's experience from the time – along with the relationship with the birth mother. Care should be taken to explore with the birth father the particular issues that this information raises for him.

A birth father's emotional response to this information may include loss, grief, guilt, embarrassment, shame, anger, anxiety, shock or uncertainty. Face-to-face discussion wherever possible offers the best way to explore the implications for the birth father.

It is important to be available to discuss what this information raises for the birth father and to help him consider the implications for himself and his family before moving to any discussion about his response, including any agreement about how he wants to respond to this information.

The birth father will be aware of the potential impact of this information for any his existing family relationships, including partner relationship as well as existing children, grandchildren, siblings etc.

For more significant and / or longer-term implications, Oranga Tamariki may not be the best source of support for a birth father – and consideration should be given to providing advice about options to access appropriate counselling and assistance as required.

The person we approach has the right to request access to the information that is recorded about him – which will usually be on the E 5/81 *Report on Child Available for Adoption* document. The Privacy Principles apply - including the ability for the person we have contacted to seek any correction of this information which they think applies.

e) *The social worker's role is one of information provider, mediator and facilitator, rather than advocate for the adopted person.*

While the adopted person has made the enquiry, the social worker's role in relation to the birth father is to give whatever information, assistance and support is helpful to enable him to consider this information and its implications – and to make an informed decision as to what he wishes to do – including whether to disclose his name to the adopted person. It is important that the birth father is not placed under any pressure in deciding how to respond.

- f) *No identifying information about the birth father will be released to the adopted person without the birth father's agreement*

Under the Adult Adoption Information Act 1985, birth parents who placed a child for adoption before 1986 are entitled to place a veto on the release of their name to the adopted person. While a birth father who is not named on the birth registration or Court file is therefore not covered by any veto provision, it is important to remember this general entitlement.

The birth father is entitled to determine whether or not he wishes to share his name with the adopted person – and the Ministry will not share any identifying information about him without his consent. However, when the birth father dies, the adopted adult can obtain his name under section 9(3)(b) of the Adult Adoption Information Act 1985.

It may be useful to highlight that providing information to the adopted person now gives the birth father the ability to exercise some control over how his information is shared as well as the opportunity to participate in relationship building.

We should explain to the birth father that confidentiality regarding his identity cannot be preserved – as section 9(3)(b) of the Adult Adoption Information Act 1985 means that once he has died, the adopted adult is entitled to receive his name from the Ministry record. Similarly, adopted adults are also using DNA to establish birth father identity. Once an adopted person has obtained this information, they can then decide themselves how to seek information by approaching wider birth family members.

This Ministry's approach gives the birth father the opportunity to decide himself what contact or information sharing he would like to participate in.

Confirming a decision

As part of our engagement with the birth father, it is important to clearly explain to him that no information about him will be shared with the adopted person without his agreement. He is in charge of what is shared about himself with the adopted person.

To that end, it is important to discuss with him the options that he has. These include that he may wish to:

- a) acknowledge paternity, based on what he was already aware of and agree to share his contact details with the adopted person,

- b) receive further information from the Ministry record, for example, to understand what was recorded at the time of the adoption,
- c) confirm the relationship through a DNA test,
- d) receive more information from the adopted person to understand what they are seeking – without providing his identifying information in the first instance,
- e) provide any information or evidence he considers relevant to verify that he is not the birth father.

Where possible, it is preferable for the birth father to put in writing his agreement for his identifying information and contact details to be passed on to the adopted person. Where this is not possible, the social worker should record what arrangements have been agreed to and ensure that a copy of this is provided to the birth father and confirm that he is in agreement that what is recorded accurately reflects his wishes. Consider what support the birth father needs through this aspect of the process. Where the person we approach provides information to evidence that he is not the birth father of the child, or believes that to be the case, we should note that on our record. This information should be provided along with any identifying information in any future section 9 application.

9.5 Requests by birthparents for personal information

Requests by birthparents for personal information about themselves which is contained on SW 581 are considered under the Privacy Act.

A birthmother may be given a copy of the SW581 itself, and, when it is she who has provided the information, about the birthfather. It is only information about the adoptive parents which may be included on this form which must be deleted.

A birth father may be given information about himself, regardless of whether or not he provided it, but he may not be given the information about the birthmother or the name of the adoptive parents. To protect the privacy of others it is good practice to transcribe the information about him from the SW581. This is in accordance with s42 (2) (e) of the Privacy Act, i.e. ‘by giving an excerpt or summary of the contents.’

9.6 Requests by adoptive parents for personal information

Adoptive parents may request information about themselves, documentary assessment material and casenotes of their assessment and/or home visits from the adoption file. The request will be considered under the Privacy Act and they are entitled as of right to their own information such as medical reports, police checks, homestudy assessments and references. Copies of Court reports may not be given, as they belong to the Court.

9.7 “Up-dates” on file - Background

Before the passage of the Adult Adoption Information Act 1985, the practice had developed of allowing adopted people, adoptive parents and birthparents who wished to obtain information about one another to leave an indication of their availability for contact on the Ministry’s files – an informal contact register for consenting adults.

With the passing of the Adult Adoption Information Act 1985, when there were still family members who had no right to apply for information, and some who had rights under the Act but preferred the more passive approach of leaving a record of their availability should the other party have an interest, the practice of using adoption files to record "updates" continued.

This practice could be in contravention of Privacy Principle 4 which allows the collection of information only for a legal purpose as it will not be a legal purpose if it will allow contact outside the provisions of the Adult Adoption Information Act.

On some occasions a social worker will be given information without requesting it. In these circumstances the provisions of Privacy Principle 3 will not apply. However a social worker must deal with the fact of being given the information and make decisions about how to record it. This is a difficult area in which to prescribe rules but comments have been made to provide guidance in the area. Where a social worker is uncertain how to record the information further practice and/or legal advice should be sought.

Where the intention is obtaining identifying information enquirers should be given information about how to apply under the Adult Adoption Information Act 1985, or how to apply to the Court under section 23 of the Adoption Act 1955. Social workers must ensure that they manage all information in accordance with the legislation.

9.7.1 Recording post-adoption information

Careful thought needs to be given to the recording of post-adoption information on the file, only when it will not be against the law, and after a thorough discussion with the person who wishes to leave it.

The discussion may include the following:

- Would the update fulfil the client's purpose or is there a more direct means of achieving this e.g. an application under s23 of the Adoption Act?

- Is the client aware that the information may not be accessed if the person for whom it is intended never asks for it ?
- Is the information of such urgency that it should be conveyed directly eg important medical information and s11?
- Is the recording consistent with the principles of the Privacy Act - ie collected from the individual concerned, accurate and able to be accessed by the person for whom it is intended?
 - If it is not collected from the individual concerned – e.g. a birth relative wishes it recorded that the birthparent has died, but other family members are available for contact, the social worker needs to be sure of the accuracy of the information, and may ask for evidence.
- It is not sufficient merely to record what the caller says, but to ask him or her to consider the effect of the information on the intended recipient and others – it is more considerate of the adopted person's position, if birth family members sort out their own communication, rather than attempt to use this service to avoid doing so.
- When a birthfather wishes to leave a record of his interest but is not named anywhere on the record, he should be referred to the birthmother to verify his paternity, preferably by retrospective entry on the original birth registration

9.7.2 “Up-dates” from the past

Some adoption files contain up-dates that do not meet the above standards. They do now, however, form part of the permanent record, and release or use of that information has to be considered in the light of the Privacy and Official Information Acts and the Adult Adoption Information Act.

There are a number of instances in which a family member has left a record of that person's unsubstantiated opinion of the birthmother's state of mind in relation to reunion with the adopted person, i.e.” she won't want contact, but I do”. This is clearly not consistent with the Privacy Act.

Where legal, ethical and common-sense standards have not been met in recording up-dates, the matter of release of information should be very carefully debated with the supervisor, and legal advice sought on any information that there is concern.

9.8 Liaison with Care and Protection and Youth Services

The Interface Protocol, which is contained in Chapter 3 of both the Youth Service and the Care and Protection Handbooks, lays out in detail the manner of consultation to be followed when the interests of a child or young person may lie with Adoption Services and also with another branch of CYF. It is important to note that it is in the interests of our clients that social workers and particularly adoption supervisors establish and maintain effective communication with the other two services.

IN-CONFIDENCE

It should be well known to the Care and Protection and the Youth Services supervisors in each area, that adoption social workers are available for consultation and assistance when a child or young person, for whom adoption is an issue, comes to their attention.

At the same time, social workers will need to be sensitive to care and protection issues, and consider referral in the case of a child or young person who presents with a request for adoption information, but for whom there appears an indication of serious risk.

10 REQUESTS UNDER THE OFFICIAL INFORMATION ACT 1982

Social workers will read this chapter for general comments on access to information, but it is no substitute for familiarity with the Act itself, attendance at training courses and consultation with legal services with respect to particular cases. All supervisors must ensure that social workers have on-site access to the Privacy Act 1993 and the Official Information Act 1982, and that all have attended the compulsory training, which is regularly repeated for new staff. All social workers have a responsibility to be sure that they understand the requirements of particularly Parts I and II of the Official Information Act 1982. On-going team training is desirable.

The Official Information Act applies to all requests for information about persons other than the requester. The thrust of the Act is that official information should be made available unless good reasons apply. The protection of personal privacy is one of those reasons and the one which most applies to situations which social workers will face.

10.1 Who can make a request

The request is made pursuant to s12. According to this section, the social worker should ensure that the requestor complies with that section i.e. is a New Zealand citizen or a permanent resident or is in New Zealand. In practice an adopted person or a birthparent of a New Zealand adoption will be given this service.

10.1.1 Responding to Requests

As with requests under the Privacy Act, such requests must be considered on a case by case basis, taking into account all the circumstances of the case. There is no one answer to all requests.

Conclusive reasons for withholding official information are found in s6 of the Act and this includes reasons such as defence or maintenance of the law.

The more usual section for social workers to use is s9 of the Act. This section gives good reasons for withholding official information unless in the circumstances of the case the withholding is outweighed by other reasons which render it desirable in the public interest to make that information available. This requires social workers to consider whether information that may appear personal to another individual should be released in the public interest to the requestor. In making that decision consideration of Privacy Act principles can be helpful.

Enquiries from adopted people over 20 and their birthparents for information about each other will be considered under the Adult Adoption Information Act. They should not use the Official Information

Act for this purpose. Enquiries for one's own personal information will be considered under the Privacy Act.

10.2 Enquiries from birthparents of adopted people under 20

Birthparents of adopted people under the age of 20 may approach Adoption Services for a number of different reasons. They should be informed of their rights to apply for identifying information under the Adult Adoption Information Act when their child attains the age of 20 years, and their child's right to apply for a copy of the original birth entry.

While no identifying information may be accepted for transmission, birthmothers may leave a record on the file of their willingness to provide non-identifying information in case of the adoptive family's need for information that will help their child at any subsequent time. This particularly refers to medical information. Careful consideration should be given to the nature of such information. Non-urgent information may remain on the file until such time as it is sought, or it can be passed on via the Act in connection with applications under s5 or s8, but any information which it is considered will have a significant effect on the health or well-being of the adoptive person should be conveyed to the adoptive family without delay - consider the intention of s11 of the Act. Birthfathers may approach Adoption Services for a similar purpose, but careful consideration has to be given to establishing their identity.

10.2.1 Birthparent requests non - identifying information about the adoption

This information release is mandated by s14 of the Adult Adoption Information Act and decided pursuant to the Official Information Act. General rules applying to the release of non-identifying information have been covered in 1.3, and as applied to applications from adopted people in Chapter 9.

When birthparents request information about the family in which their child was placed, consideration has to be given to enabling the enquirer to obtain a realistic picture of the circumstances as they affect the child, without passing on information which is clearly personal to the adoptive parents only.

The birthparent may be given general information, (i.e. that which is not so specific as to be identifying), concerning the ethnicity, ages, occupations, education, general state of health, interests and personalities of the adoptive parents, and perhaps their living area in general terms, e.g. small town, rural, city.

There may be other information on file to do with adoptive parents' financial circumstances, their marital relationship, fertility and other specific medical matters, that is personal to them, and the disclosure of which would indeed be an invasion of privacy. There is no public interest in releasing this information and it would breach the adoptive parents' privacy as well as being a breach of confidentiality.

No names may be disclosed, including first names. There may be mention of the number of children in the family, but not their ages or whether or not they were born to the family or adopted, as this information is personal to them.

10.3 Enquiries from other relatives of the adopted person

Adoption Services receives many enquiries for information about adopted people from their natural siblings, grandparents, children and occasionally other relatives. These people may be informed of their right to apply to the Court for the records to be made open to them under s23 of the Adoption Act 1955. Care should be taken to advise enquirers of the provisions of s23 without necessarily acknowledging that an adoption has taken place at all – perhaps a breach of privacy in itself.

10.3.1 Refer to those who have rights under the Adult Adoption Information Act

When an enquiry from a relative is received, it must first be established with the enquirer whether he or she may have discussed the matter with the birthparent who has a right under the Adult Adoption Information Act to apply for information. If the enquirer is unwilling to do this, or says that the birthparent is aware of the situation but refuses to apply, the request must still be refused under s9(2)(a) of the Official Information Act.

Assistance may be offered in the way of discussion of the family dynamics in this situation, and a willingness to be available to the birthmother in question if she should contact the Service to request this. It is not appropriate to suggest to the birthmother's relative that he or she should prevail upon the birthmother to allow him or her to conduct a s8 application in her name as a proxy. When a birthparent chooses not to apply, that decision must be respected. Proxies are not to be suggested to deprive the birthparent of his or her power to decide, but only in the extraordinary situation that he or she is unable to undertake the application without assistance.

10.4 Procedural requirements under the Privacy and Official Information Acts

There are certain procedural requirements that must be followed under both the Privacy Act and the Official information Act.

When a request has been received:

- It should be recorded in a register and a letter of acknowledgement written to the requester.
- It should be carefully read to ascertain what is being requested, in the words of section 12 of the Official Information Act "specified with due particularity"
- S13 of the Official Information Act and s38 of the Privacy Act require the agency to provide assistance to any requester who needs it to be sure that he or she is asking the right questions of the right agency, and ss14 and 39 respectively require the request to be transferred to another agency if this should be indicated.
- TRIM will be employed in the search for the relevant information held in the Adoptions data-base - or possibly in the Administration data-base if there has been time in care.
- A bring-up system should be instituted so that the person dealing with it is reminded to respond, say, 15 days after it has been received.
- Decisions on requests must be made and communicated to the requester as soon as reasonably practicable, and in any case not later than 20 working days after the day on which the request is received
- The requester must be advised of the reason that the information has been withheld and of their right to complain about the handling of their request to either the Ombudsman or the Privacy Commissioner depending on which piece of legislation is appropriate.

The decision may be to:

- Grant the request, that is, to release the information
- Decide whether there is a basis for withholding information
- Refuse the request for one of the reasons listed in the Act
- Extend the time limit

11 THE BIRTHS, DEATHS & MARRIAGES REGISTRATION ACT (BDMR)1995

11.1 Relevance to Adoption Information

Social workers may wish to be familiar with certain sections of this Act in order to be able to advise clients. S4 of the Act requires the hospital at which the birth took place, or the medical person attending the birth, or the occupier of the premises in which the birth took place to notify the Registrar of Births of the birth within 5 working days. S9 then requires at least one of the guardians of the child to notify the Registrar of the birth as soon as reasonably practicable after the birth.

Recall that under the Care Of Children Act 2004

- Guardianship is vested in both parents unless the mother has never been married to nor entered into a civil union with the father, or lived with him as de facto partner at any time during the period beginning with the conception of the child and ending with the birth of the child. S17 Care of Children Act 2004.
- The father is also a guardian if he is named on the birth registration (s18)
- If none of these provisions is met, the mother of a child shall be the sole natural guardian of that child.
- When the father of a child is not considered within the provisions of the law, a guardian, he can apply to the Court for an order to declare him a guardian. S19 Care of Children Act 2004

11.2 Retrospectively including birthfathers name on original birth entry

In applications under the Adult Adoption Information Act guardianship is no longer an issue as the "child" is over 20, but paternity may be established nonetheless under the Births, Deaths and Marriages Registration Act : S15 Particulars of father where not married to mother

This section applies to a man and child if the man was not married to the child's mother at any time during the period commencing with its conception and ending with its birth. The full text of this section is attached as an appendix. Basically it provides for the registration of two parents who are not married to one another where, when notifying the birth, both attend in person to request it, or the child's mother produces "a notice in writing signed by the man, acknowledging that he is the child's father and consenting to the recording of information relating to him"

The registration may also include the man's name when his paternity has been declared by the High Court, the Family Court has made a paternity order or a guardianship order.

When it is intended to include a man's name on a birth registration later than at the time of the notification of the birth, the Registrar-General, in the case of children placed for adoption, can be requested to include his name retrospectively in terms of s15 (3) (b) (i)

'That the man has so requested, and the child's mother has confirmed that he is the child's father.'

Two forms are available for this purpose, BDM257 and BM257A (these forms are in the appendix, and may be copied to give to clients). The Registrar-General strongly advises that one person take responsibility for collating these forms and sending them together to:

The Registrar-General
Central Registry Office
PO Box 10 - 526
Wellington

Alternatively a man may apply to the High Court. If the mother has died, the man may make a unilateral declaration to the Registrar-General, but he may have to produce evidence in support of his claim to paternity.

Should the Registrar-General decline an application for the inclusion of a man's name on the original birth entry, the applicant can, within 28 days, lodge an appeal against this decision in the Family Court .

11.3 Registration of change of name

S21 of the Births, Deaths and Marriages Registration Act 1995 provides that any person who has attained the age of 18 years or earlier married may, by making a statutory declaration on a form provided by the Registrar-General, declare the intention to abandon the names most recently entered in the birth registration, and to adopt some other names.

A person under the age of 18 years may similarly change names on the application of his or her guardians, or one guardian and the consent of the Family Court.

There is a substantial fee for the service.

11.4 Section 76 - Restrictions on searches relating to adopted persons

Notwithstanding the adopted person's having applied for and obtained a copy of his or her OBC under the Adult Adoption Information Act 1985, neither that person nor any other may have unrestricted access to viewing the original pre-adoption birth entry.

The Registrar-General is subject to the same restraints that are contained in s23 of the Adoption Act 1955.

In s76(3)(a) of the Births, Deaths and Marriages Registration Act 1995 the Registrar-General may only permit the inspection and copying of adoption records in connection with the administration of a trust, or as the executor of a trust or by a celebrant for the purpose of investigating forbidden degrees of relationship under the Marriage Act 1955.

In s76 (3)(d) he may also, however, allow inspection, and provide a copy of the entry when the adopted person concerned, the adoptive parents and the birthparents whose names are recorded are all dead, or, in s76(3)(e) if 120 years has passed since the birth of the adopted person concerned.

S76(4) provides that the Registrar-General may provide the information requested on the order of a Family Court, a District Court or the High Court.

11.4.1 How to apply under for information under s76 B,DMR Act

In recent years this Act has been used by relatives, particularly children, of adopted people who have died. They write to:

The Registrar-General
Central Registry Office
PO Box 10 - 526
Wellington
NEW ZEALAND

and can be advised to include the following:

- A request for a print-out or copy of the original birth entry of the relative, defining the relationship. It is possible that only direct descendants may be successful.
- Full details of the name, date of birth and date of death of the adopted person, and that person's adoptive parents.
- The reason for wanting the print-out. It is important not to go into a lot of personal detail here, as the applicant is likely to bring up reasons that are not 'material for the purpose for

which the copy is required'. If this is the case the request is refused. The most appropriate reason that can be given is that the certificate is necessary for the completion of the Family Tree, or for genealogical purposes. Health reasons are not appropriate.

- A cheque or money-order for the cost of a the print-out (refunded if the request is refused)

This may be all that is required. If the Registrar-General does not feel able to supply the print-out, the matter may be put before a District Court Judge for a decision, which is similar to a request under s 23 of the Adoption Act.

12 APPLICATION TO THE COURT UNDER S23 OF THE ADOPTION ACT 1955

S23 of the Adoption Act 1955 (amended in 1985 by the Adult Adoption Information Act) states in ss3 that, 'Adoption records shall not be available for production or open to inspection except ---

- To the extent authorised by ss(1) or ss(2) of this section or by s11(4)(b) of the Adult Adoption Information Act 1985; or
- On the order of a Family Court, a District Court, or the High Court, made---
 - (i) For the purposes of a prosecution for making a false statement; or
 - (ii) In the event of any question as to the validity or effect of any interim order or adoption order; or
 - (iii) On any other special ground.

Any person can apply to the Court for the Court records to be open to their inspection 'on any special ground'.

12.1 Applications can be made to local Court –

(refer to guideline application (Letter 26), explanation (Letter 27) and flowchart (Letter 28)).

Applications can be made through the Registrar of the District Court in the area in which the applicant is living, rather than the Court in which the adoption order was made. This is in order that the applicant may be available to speak to his or her application if required.

For all applications it is important that the fullest possible information on the adoption situation is put before the Court -

- The personal biographical details of the person applying

- The known biographical details of the person about whom information is sought, and the relationship to that person of the applicant.
- The ‘special ground’ upon which the application is being made. Again there are variations between jurisdictions, but basically the Court has to be satisfied that there exist ‘special’ grounds for the opening of the records, and not merely the general ground of natural curiosity.

People considering applying should be advised to attach copies of relevant evidence eg. Medical reports, No Trace letters, registrations of any relevant births, deaths or marriages.

12.2 Social Work Role

The Adoption Amendment Act 2000 states that, The principal Act ie the Adoption Act 1955, is amended by inserting, after s23, the following section:

“23A Report on application for inspection

- A Court may require a Social Worker to prepare a report following an application for an order under section 23(3)(b) o a ground referred to in subparagraph (iii) of that paragraph (“any other special ground”)
- A Social Worker preparing a report required under subsection (1)-
 - a) may consider any information obtained for the purpose, including information in the adoption records concerned and the application for the order; but
 - b) may not consider information relating to any party to the adoption or application that was obtained by the Department before the application was made.”

It is not appropriate for social workers to write a support letter or an affidavit to accompany a client’s application as the Department may be requested to write a report by the Court.

There may be situations where assistance may be required to help the applicant to write his or her application, but this should not be the general rule.

Consideration needs to be given to a situation where the social worker has an involvement with a client or knowledge of adoption records that a conflict of interest will exist. The request for a Court report would, in these cases, need to be allocated to another social worker.

S23 implies that people are applying to have access to adoption records held at the Court. Social Workers writing the report to the Court should refer to the “access to the information on the Court records” not offer themselves as mediators. The practice should be around empowerment of clients and giving people the opportunity to act on this process themselves.

13. ACCESS TO BIRTH RECORDS FOR PEOPLE ADOPTED IN THE UK

For full information see the following leaflets prepared by Department of Health and OPCS, United Kingdom;

ACR 101 'Access to Birth Records - Information for adopted people living outside the United Kingdom'.

ACR 110 'The Adoption Contact Register' Information for adopted people and their relatives'.

ACR 113 'Access to Birth Records - Notes for Counsellors'

For assistance with searching and contact in the United Kingdom, the Post Adoption Centre in London appears to be an organisation that has a number of resources to help people. Their contact details are:

Post Adoption Centre:

5 Torriano Mews

Torriano Avenue

London NW5 2RZ

U.K.

Phone: 020 7284 0555

Fax: 020 7482 2367

Email: contact@postadoptioncentre.org.uk

www.postadoptioncentre.org.uk

13.1 The Adoption Act 1976 (UK)

Under this Act, people who were adopted in England and Wales, and are now aged 18 years or over can apply to the Registrar-General (UK) for access to the original record of their birth.

Until 14 October 1991, the information was only available to adopted people actually living in the UK. The Children's Act 1989(UK) which came into force on 14 October 1991, made provision for this Department to be an approved organisation to provide adoption counselling for people adopted in the UK and now living in New Zealand, who would like to have access to their birth records. Counselling is not mandatory for people adopted in Scotland.

- People adopted before 12 November 1975 are required to see a counsellor before they can be given access to their records; if adopted after 11 November 1975, counselling is optional.

The purpose of the counselling is:

- To give adopted people basic information about their adoption in a helpful manner, and to help adopted people to understand some of the possible effects on themselves and others of any further enquiries they may wish to make about their birth families

13.2 How to apply for England and Wales

If the adopted person was adopted in England or Wales, they should complete the application form for access to birth records. They can obtain one from:

The Office for National Statistics
The General Register Office
Adoptions Section
Trafalgar Road
Birkdale
Southport PR8 2HH
England

When this form is received, it requires completion with personal details which will enable the adoption records to be located, and with the name of the organisation that will undertake the counselling. Child Youth and Family (give name of local Adoptions social worker and address of the local office) is recognised, and Barnardos organisations also.

The adopted person then returns the completed form to the address above. Within about a month, the nominated social worker receives a package containing:

- Appropriate guidance leaflets
- A copy of the application form including the name of the Court in which the adoption order was made
- An application form on which the adopted person may apply for a copy of his or her birth certificate
- An authorisation to enable the applicant to obtain the name of the organisation that arranged the adoption
- A form for the social worker to complete and return to show that counselling has taken place.

All of the information provided is to be given to the adopted person.

The Registrar General also maintains at the General Register Office, an Adoption Contact Register. Adopted people and their relatives can make enquiries about the register at the above address. If he or she has no contacts in the UK who may help him, the Post Adoption Centre (see above for contact details) is the best resource we can recommend for assistance with search and contact. There are costs involved with this.

13.3 How to apply for Scotland

Scottish adopted people may obtain an application form from:

The General Register Office (Scotland)
Adoption Section
New Register House
EDINBURGH EH1 3YT
SCOTLAND

As counselling is not compulsory, the information will be sent directly to the adopted person.

There is a contact register for people adopted in Scotland, and a separate voluntary service is provided and information can be obtained from:

Birth Link
Family Care
Castle Street
EDINBURGH EH2 3DN
SCOTLAND

13.4 How to apply for Ireland

For people adopted in Ireland, they need to obtain access to their birth record from:

The Registrar General
Oxford House
49 – 55 Chichester Street
BELFAST
NORTHERN IRELAND, BT1 4HL.

14. INDEPENDENT COUNSELLORS - S12

Under Section 12 of the Act, the Minister may, from time to time, by notice in the Gazette, approve any person or organisation to undertake counselling under the Act.’

14.1 Independent Counselling

The provision of this independent counselling service gives birthparents and adult adopted people an alternative to Child, Youth and Family counsellors. This element of choice is particularly important for adult adopted people as they must have counselling before they receive an original birth certificate containing identifying information about one or both birthparents.

14.2 The Independent Counsellor’s Responsibilities under the Act

These are two-fold:

- To provide counselling for birthparents and adopted people who are considering placing vetoes on birth entries and wish to discuss this matter with a counsellor. (Sections 3 and 7).
- To provide counselling for adult adopted people receiving original birth certificates containing identifying information. (Section 5).

14.3 Independent Counsellors provide a voluntary service

Independent counsellors are paid \$90.00 per issue of an OBC. If they provide further counselling under this Act they are doing so in their own time and not part of the requirements of their role.

Many adult adopted people wishing to make contact with birthparents are disappointed to find that identifying information contained in the original birth certificate seems totally inadequate for the tracing process, and that little or no additional information is available from Child, Youth and family. They will need advice on conducting their own search, and support while this lengthy process is undertaken.

While the independent counsellor will have some input into this, she or he may not necessarily have the time to provide all the help needed.

Individuals and agencies approved to undertake counselling under Section 12 of the Act have no statutory responsibility under Section 10: Assistance in approaching parent or child. This section refers to social workers (not counsellors) making approaches on another person's behalf.

Independent Counsellors are paid through the Regions, but are not employees of the Ministry. They are not required to report other than to provide a record of numbers of birth certificates issued, and not subject to discipline from the Ministry. Should there be any complaint against an Independent Counsellor that the Individuals concerned could not resolve themselves, the matter would have to be referred to the Minister.

14.4 Appointments under S12 do not preclude adoption support activities

Prior to the implementation of the Act, many individuals developed considerable expertise, not only in counselling and supporting people undertaking the searching process, but also in acting as intermediaries for those wanting to make contact.

That they have received Ministerial approval to carry out specific duties under the Act does not preclude their continuing to help others in a private capacity.

However, when making an approach to one person on another's behalf, an approved counsellor should make it clear to all parties concerned that she or he is acting in a completely private capacity (e.g. as experienced intermediary, or friend, or fellow member of an adoption support group) in order to avoid confusion about the nature of, and limits to, the independent counselling task. This is particularly important where the person seeking help is in possession of information obtained outside the Act, or when the approach involves people who are not provided for in the Act.

14.5 The ideal appointee

The 'person profile' for independent counsellors is similar to that for adult adoption information social workers, with emphasis on their understanding of the Act, their ability to relate to all the people affected by its provisions, their knowledge of the adoption process, and some background or training in non-directive counselling.

Their counselling task, like that of the social worker, is one of information giving, not therapy. Therapists in private practice who seek ministerial approval under Section 12 would need to be able to demonstrate that they have had an active and voluntary involvement in the relevant areas, and that they intend to continue with this on a voluntary basis. The Ministerial appointment could not be used in advertisements of their professional services.

14.6 Independent Counsellors' fees payable by Child, Youth and Family

Independent counsellors' services are provided free of charge to the applicant, but the counsellor receives a fee of \$90.00 from the Region for each person referred to them by the Registrar-General.

The counsellor only receives one payment per client, regardless of whether they see that person once or several times.

Claims for payment are to be forwarded to the Team Leader Adoption Services at the appropriate site in Grey Lynn, Hamilton, Wellington or Hereford Street, Christchurch, who will refer it on to the Operations Manager with a recommendation for payment.

A copy should also be sent to the Adoptions Personal Assistant in National Office in order that the numbers of Independent Counsellor OBCs may be monitored.

There is no specific claims form to be completed: a letter from the counsellor is sufficient. To maintain confidentiality, clients' names should not be given.

Instead, counsellors should keep a register listing all clients and giving to each an identifying number. Only the client's number should appear on the claim. No other records need be kept, but the counsellor's register should be available for inspection if the department's auditors request it.

Counsellors are responsible for making their own tax returns to Inland Revenue.

14.7 Department's relationship with Independent Counsellors

There should be a positive and complementary working relationship between Departmental staff and independent counsellors and approved agencies, with regular liaison to offer mutual support, share any positive/negative aspects of the work, and identify joint learning needs. Responsibility for community awareness and the development of support groups should be shared.

14.8 Appointment process for Independent Counsellors

Agencies and individuals seeking approval to undertake counselling under section 12 of the Act apply to this Department, which forwards their applications to the Minister of Social Development.

The application is made to the General Manager, Operations, who while giving consideration to the merits of the applicant, will need to be satisfied that there is need for an additional Independent Counsellor in that District. If there is a need, an interview may be arranged, if the applicant is not already well known to the local Adoption Service or Support Group.

Should an applicant meet the requirements, a recommendation for appointment will be made to the Minister. Once an application has been approved, National Office would arrange for a notice of appointment to appear in the Gazette. Agencies approved to undertake counselling may then notify the Ministry of the specific employees who will carry out this task.

The individual counsellor is gazetted, irrespective of the district in which he or she was appointed; a counsellor who moves to another area may continue to function as an Independent Counsellor in that new area. Should a counsellor become an employee of the Ministry, however, whether in the Adoption area or not, he or she should not undertake independent counselling during the period of employment. When leave of absence is taken, the independent counsellor can automatically resume the task when the period of leave is over. In all of these situations, however and when a counsellor no longer wishes to provide counselling, National Office must be advised in writing, in order that the Counsellor list may be kept up to date.

14.9 Reference list of departmental and Independent Counsellors

The Wellington Adoption Information and Services Unit liaises with the Registrar-General's office on the upkeep of the list of departmental and independent counsellors' names and phone numbers which is sent out to applicants by the Registrar-General's office. Advice regarding any changes of name, address or phone-number should be sent to National Office for passing on to the Registrar-General's office and the Wellington Adoption Service.

15. ROLE OF THE WELLINGTON ADOPTION SERVICES UNIT

All applications under the Adult Adoption Information Act, which require co-ordination and consultation with the Central Registry Office, are made to the Wellington Office.

- All Section 8 applications under the Adult Adoption Information Act 1985 must be made to Wellington Office.
- All communication required by sites to the CRO must come via the Wellington Office.
- Liaison with the Registrar-General's office on the preparation of the list of approved counsellors (both departmental and independent) for distribution to applicants requiring counselling.

Holding letters of explanation for vetoes placed by birth parents or adult adopted people.

- Receiving requests for letters of explanation for vetoes placed by birth parents and adult adopted people.
- Maintaining a list (as advice is received from the Registrar-General) of any vetoes removed before expiry date, and notifies the other party if the other party has made an application under the Adult Adoption Information Act 1985.

16. ADULT ADOPTION INFORMATION SOCIAL WORKERS

The Act defines 'Social Worker' as a social worker appointed or deemed to be appointed in accordance with Part 5 of the State Sector Act 1988. While, therefore, the adult adoption information task could, in theory, be undertaken by any social workers in Child Youth and Family, in practice, it is only to social workers in Adoption Services that the original birth certificates will be send.

Specific tasks:

To provide counselling to birth parents and adopted people who are considering placing a veto and who choose to talk this over with a counsellor. (Ss 3 and 7).

- To give original birth certificates received from the Central Registry Office to adult adopted people who are required to have counselling. (S5) The counselling may be given by telephone or in person, depending on the wishes of the client, and the birth certificate must be released to the adopted person during the mandatory session.
- To provide assistance to adopted people and birth parents who ask for information from departmental records and who may need support while the searching process is underway.
- To provide supportive counselling during and after meetings between adopted people, adoptive parents and birth parents, whenever appropriate.
- To respond to requests for medical information made by registered medical practitioner's (S11).
- To consult and co-operate with independent counsellors and with other agencies and community groups with an interest in adoption.
- To respond to requests from the Wellington Office regarding birthparent applications for identifying information about adult adopted people (Section 8). It is the responsibility of Wellington staff to locate the adopted person, and then To respond to requests from the Wellington office regarding birth parent applications to ask the local office social workers to approach that person and ascertain their willingness to have contact with their birth parent(s). After the initial approach is made the district should advise Wellington of the outcome and can then continue to work directly with the adopted person and birth parent if needed.

To act, as intermediary should an adult adopted person ask for help in approaching a birth parent (Section 10.1).

To act as intermediary if approached by birth parents who know the name and address of their birth child (now adult) and who want an approach made on their behalf (Section 10.2).

To act as intermediary if adoptive parents want an approach to be made to birth parents whose name and address they know (Section 10.3).

Adoption Support Groups

There are a small number of support groups that are there to support people. Social workers should advise people of the existence of these groups nationally and inter-nationally.

Staff Affected by the Provisions of the Act

A number of staff members are personally affected by the provisions of the Act and may be reluctant to approach the adult adoption information workers in their own office for information or advice.

Those who prefer to make their enquiries away from their place of work can contact Adoption Services, in National Office, Wellington, phone; (04) 9189117.

Approved independent counsellors and agencies can also be approached by staff wishing to discuss the Act, how it affects them, and what steps they should take to obtain identifying information.

Districts should ensure that all staff are aware of the options open to them.

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IN-CONFIDENCE

01

Address

Date

In reply please quote reference:

Dear

Thank you for your enquiry about your original birth certificate. You need to apply to:

The Registrar-General
Births, Deaths and Marriages
Department of Internal Affairs
P O Box 10 - 526
Wellington
New Zealand

Give the details as highlighted in the enclosed brochure, and send \$15 (NZ) made payable to 'The Department of Internal Affairs.' There is no set format on how to apply but the attached form may be used if you wish.

The Adult Adoption Act only gives the right to information to adopted adults and birthparents. If you receive a veto on your birth certificate, you may write again and ask whether we have a letter of explanation for the veto.

If you live overseas or are unable to search,,you may send us a photocopy of your original birth certificate once you have received it.and request assistance with searching.

Good luck with your enquiry.

Yours sincerely

Support Services

Encl.

IN-CONFIDENCE

02

The Registrar General
Adult Adoption Information Officer
P O Box 10 – 526
Wellington
NEW ZEALAND

ADULT ADOPTION INFORMATION ACT 1985

Please supply me with my Original Birth Certificate. Details are as follows:

Full Adopted Name: _____

Date of Birth: _____

Place of Birth: _____

Full Name of Adoptive Mother: _____

Full Name of Adoptive Father: _____

My Nominated Counsellor is: _____

I enclose a cheque/money* order for \$15.00(NZ) as the fee for the issue of my original birth certificate.
(An additional fee of \$3.00 is payable if you do not know your year of birth).

Name: _____

Address: _____

Telephone: Home: _____ Work: _____ Mobile: _____

Signature of Adult Adopted Person _____ Date _____

*Cheques should be made payable to: The Department of Internal Affairs.

03

Adoption Services
Child, Youth and Family
Private Bag 6901
Marion Square
Wellington
NEW ZEALAND

Dear Supervisor

SECTION 8 APPLICATION

I am a birthmother / birthfather (delete one) who placed a child for adoption, and I wish to request identifying information about my child under Section 8 of the Adult Adoption Information Act 1985.

At the time of adoption, the details were as follows:

The birthmothers' name was: _____

The birthfathers' name (if applicable) was: _____

The child's name was: _____

Place of child's birth: _____

Date of child's birth: _____ Sex: Male / Female (delete one)

My full name now is: _____

My address is: _____

My telephone numbers are:

Home: _____ Work: _____ Mobile: _____

Email Address: _____

Yours sincerely

Signature _____

Date _____

04

Address

Date

In reply please quote Section 8/

Dear

Thank you for your request for identifying information under Section 8 of the Adult Adoption Information Act 1985 about your son/daughter (*delete one*).

Our first step is to check with the Registrar-General of Births, Deaths and Marriages to find out whether a veto has been recorded.

As soon as this reply is received, we will let you know the outcome. If there is no veto recorded, (*insert * if application is from Birth Father*) we will then attempt to trace your son/daughter's (*delete one*) present address.

Choose one of the following options

1. (NZ) If at any time during the course of your enquiry, you would like to talk things over, please contact the adoption social worker at the (*District*) office (*insert District contact details*) or the adoption duty social worker at this office.
- 2.(Overseas) If you have any concerns about the content of this letter, please contact the adoption duty social worker at this office Ph.04 9180029

Yours sincerely

Senior Searcher

insert – ‘and you are named either on the birth entry or in our Department’s records’

05

Address

Date

In reply please quote Section 8/

Dear

Further to your application under Section 8 of the Adult Adoption Act 1985, we have now received a reply from the Registrar General who states that no veto has been recorded by your son/daughter *(delete one)* born *(date of birth)*. Your son/daughter *(delete one)* was named *(insert first name)* by his / her *(delete one)* adoptive parents.

We will now attempt to trace the whereabouts of *(insert first name)* and will let you know the outcome as soon as our enquiries are completed. Because the searching procedures can be lengthy, this may take some time.

We will let you know about our progress as soon as possible.

Yours sincerely

Senior Searcher

07

Address

Date

In reply please quote Section 8 /

Dear

We wrote to you on *(insert date)* to tell you that we thought we had traced your son / daughter *(delete one)*. When we sent the request for contact to the local social worker, however, your son / daughter *(delete one)*. could not be contacted at the address given.

We have done what further searching we can, but have been unable to obtain any additional information leading to a current address.

In cases where we can not locate the adopted person it is sometimes possible to locate them with the assistance of their adoptive parents. As there are privacy issues to be considered we need to know if you are agreeable to this.

Please let us know if you would like us to do this.

We await your reply.

Yours sincerely

Senior Searcher

08 (daughter)

Date:

Ref No: S8/

Adoption Services
Child, Youth and Family
Private Bag 6901
Marion Square
Wellington

1. I give permission for my daughter's adoptive parents to be approached.
2. Should my daughter be contacted by a social worker, I wish to ascertain whether my daughter is willing for her name and address to be given to me.

(a) I give permission for my daughter to be given my:

- name Yes / No
- address Yes / No
- telephone number (please supply) Yes / No

My preferences for contact are as follows (phone call, letter, suitable times etc)

(b) I enclose a letter to be offered to my daughter when contact is made.

Yes / No

(c) I would like the following information to be passed on to my daughter (optional).

(d) I would like the social worker to know before he/she contacts my daughter? (This information would not be shared with your daughter).

Signed:

09 (son)

Date:

Ref No: S8/

Adoption Services
Child, Youth and Family
Private Bag 6901
Marion Square
Wellington

1. I give permission for my son's adoptive parents to be approached.
2. Should my son be contacted by a social worker, I wish to ascertain whether my son is willing for his name and address to be given to me.

(a) I give permission for my son to be given my:

- name Yes / No
- address Yes / No
- telephone number (please supply) Yes / No

My preferences for contact are as follows (phone call, letter, suitable time etc)

(b) I enclose a letter to be offered to my son when contact is made.

Yes / No

OR

(c) I would like the following information to be passed on to your son (optional).

(d) I would like the social worker to know the following information before he/she contacts my son? (This information would not be shared with your son).

Signed:

10

Address

Date

In reply please quote Section 8 /

Dear

We have been trying to contact your son/daughter (*delete one and insert name*) about a personal enquiry, but have so far been unable to find a current address for him/her (*delete one*).

My purpose in writing to you is to ask if you can help in one of two ways:

1. To provide an address for (*insert name*) so that we may make contact and let him/her (*delete one*) know the nature of the enquiry.

or

2. To forward a letter from this Unit to (*insert name*) in which we ask him/her (*delete one*) to contact us.

Unless given permission, we will not pass (*insert name*) name or address on to any other person.

I enclose a form letter for your reply.

Thank you for whatever help you are able to give.

Yours sincerely

Social Worker

11

Address

Date

In reply please quote Section 8 /

Dear

Further to your application under Section 8 of the Adult Adoption Information Act, I herewith advise that unfortunately our service has been unable to locate your son/daughter (*delete one*) or his/her (*delete one*) adoptive parents in New Zealand. It seems very likely that he/she (*delete one*) has gone overseas.

We now plan to contact searching agencies on other countries, such as International Social Services, in order to trace (*adopted persons name*) or his/her (*delete one*) parents. As you can imagine this will take some time, but we will be in touch to let you know the outcome.

Please contact me to discuss your thoughts on this. My contact details are as follows:

Telephone Number: (or Duty Social Worker?)
Email:

We look forward to hearing from you.

Yours sincerely

Social Worker

12

Address

Date

In reply please quote Section 8 /

Dear

Further to your application under Section 8 of the Adult Adoption Act 1985, we have received a reply from the Registrar General, which states that no veto has been recorded by your son/daughter (*delete one*) born (*date of birth*).

In our search for your son/daughter (*delete one*), we believe we have found an address for him/her (*delete one*), and can now arrange for the social worker in the area where he/she (*delete one*) lives to make an approach on your behalf.

The Adult Adoption Information Act requires that this service contact your son/daughter (*delete one*) to ask if he/she (*delete one*) is willing for his/her adoptive name and address to be given to you.

If you give permission, we can also pass on your name and address to your son/daughter (*delete one*), which will enable him/her (*delete one*) to contact you directly, if he chooses. In addition, you are welcome to give us some information about yourself, or a brief message, which we could pass on. If you would like to write a letter to your son/daughter (*delete one*), the social worker could offer this to him/her (*delete one*) when contact is made.

Enclosed is a form regarding your preferences for contact. Could you please complete it and return it to us. If you have any queries about the form, or would like to discuss it personally, please contact your local Adoption Information and Services Unit and ask for the duty social worker, or the duty social worker at this office.

We await your reply.

Yours sincerely

Senior Searcher

14

Address

Date

In reply please quote Section 8/

Dear

I have some personal information that I would like to discuss with you.

I would be grateful if you could make contact with me so that we can discuss this. My direct number is (*enter contact number*). If I am not available please leave your contact details and I will return your call as soon as I can.

I look forward to hearing from you.

Yours sincerely

Social Worker

15

Address

Date

In reply please quote Section 8/

Dear

Further to my letter of *(date)* I have now attempted to make contact with you on two occasions *(delete one of the following)* via your adoptive parent's address OR via the address provided by your adoptive parent(s).

As I have not had a reply, I felt it might be useful if I explained in more detail the reason for my approach.

On *(date)* we had an enquiry from your birth mother/father *(delete one) (insert birthparents name)* , who asked our Department to contact you to find out whether you would be interested in contacting or receiving any information provided by them.

If you are interested in contact, *(birthparents name)* is happy for you to have his/her *(delete one)* contact details *and/or (delete one)* has provided a letter for you that is held on file.

From our experience, birth parents making an approach emphasise the fact that they do not wish to intrude in the person's life, or place any pressure on them about the enquiry but would like, if possible, some response.

Your birth mother/father *(delete one)* is not aware of your name or address, as we are unable to pass this on without your permission. I hope that this may clarify some questions or concerns you may have had. I would be grateful if you could respond to this approach by contacting me at the address or phone number listed below. If you would like to discuss this by phone, I am happy to call you if you provide me with your telephone number.

However, if I do not hear from you within the next few weeks, I will acknowledge that you do not wish to take this enquiry further. This will be respected and I will inform your birth mother/father *(delete one)*, and close the application.

Yours sincerely

Social Worker

16

Address

Date

In reply please quote Section 8/

Dear

Your application under the Adult Adoption Information Act for identifying information about your son/daughter (*delete one*) is now complete.

Personal reference to previous contacts, and/or any details known about the Adopted Person that have to be passed on can be added at this point.

As discussed with you, (*insert Adopted Person name*) has given permission for his/her (*delete one*) contact details to be communicated to you under the Act. These details are:

Name:

Address:

Telephone Numbers:

Home:

Work:

Mobile:

Email Address:

If there are any issues concerning your reunion that you would like to talk over, or in the future, you are welcome to contact either myself, or the social worker in your area (*social workers name*) on (*their telephone number*).

I wish you both the very best.

Social Worker

17

Address

Date

In reply please quote Section 8/

Dear

I am writing to advise you of the outcome of your application under Section 8 of the Adult Adoption Information Act 1985. Unfortunately we have still had no response from *(adopted person's name)*

I am sure that you will be very disappointed that, at this stage, *(adopted persons name)* is choosing not to respond to your wish for contact.

By closing the enquiry it does not prevent him/her *(delete one)* from following up the enquiry if and when he/she *(delete one)* feels ready to do so.

Under the Act, we cannot give out identifying information without your son/daughters *(delete one)* permission.

If your address should change in the future, it would be helpful to advise us so that we can update our records should *(adopted persons name)* contact us. If I do hear from him/her *(delete one)*, I will certainly be in contact again.

You are able to re-apply in the future and we could try and establish contact at that time. Until then, we will hold the letter that you have written for *(adopted persons name)* on file, unless we hear otherwise from you.

I am sorry that the news is not more positive at this time. If you have any questions, or would like to discuss this further you may like to make contact with your local Adoption Information and Services Unit in *(enter district office)*, the contact number is *(district phone number)*. Alternatively please feel free to contact me on *(enter own phone number)*.

Yours sincerely

Social Worker

18

Address

Date

In reply please quote Section 8 /

Dear

In regard to your application for identifying information under Section 8 of the Adult Adoption Act 1985 for your son/daughter (*delete one*) we find that your name does not appear on the birth entry or in our records.

Unfortunately this means that we are unable to go ahead with your application. Section 8 of the Adult Adoption Information Act requires that we must be satisfied that an applicant is a birth parent of the adult adopted person, and our legal advice is that this requires the parent to be named on the birth entry or in our own records. It is possible that other documentary evidence would suffice also.

You may be able to have your name entered in the records, however, under Section 15 of the Births, Deaths and Marriages Registration Act 1995 (enclosed).

If you are able to find the birth mother's current whereabouts, you may arrange with her to acknowledge your paternity. The attached declaration forms need to be completed by both you and the birth mother, and then forwarded, preferably stapled together to the Registry in the area the birth was registered in. If you do not know which Registry was involved, send the forms to:

The Registrar-General
Central Registry Office
P.O. Box 10 - 526
Wellington

If you need to locate the birth mother in order to obtain her agreement to your name being entered, you could try to trace her through friends or family. If that is unsuccessful, you may need to trace her through marriage registrations and electoral rolls, which are publicly available records. For help with searching procedures, you can contact your nearest Adoption Services and ask for the duty social worker.

IN-CONFIDENCE

Unless you obtain the birth mother's agreement, or some proof of paternity before asking the Registrar-General to enter your name, it is possible the Registrar-General will attempt to locate her for this purpose. If he is unable to locate her, he may be unable to enter your name on the records. Should that happen, but you have other documentary evidence of your paternity, please write to us again, with copies of such evidence and we will certainly consider this in relation to your present application.

Alternatively, you can ask the Family Court to review the Registrar-General's decision (Section 15(5)).

I am sorry we are unable to help you at present. If you are successful in having your name entered, ask the Registrar-General to tell you when this has been done. You can then let us know, so we can continue with your application.

Yours sincerely

Senior Searcher



**REGISTRAR
BIRTHS**

Request by Mother to Add Father's Details to Birth Register
(Section 15(2)(c) of the Births, Deaths and Marriages Registration Act 1995)

I,
(Full name and occupation)

of
(Home Address)

state as follows:

1 THAT I am the mother of a child named
.....
(in full)

born at on
(in full)

2 THAT the father of the said child is
.....
(in full)

3 THAT I request the particulars relating to the said father to be recorded in the entry of birth relating to the said child.

Signature of Mother

Date



1 Birth Entry No.

2 Date of Registration
.....

3 Place of Registration
.....

4 BDM 257 and BDM 257A retained with notification of Birth (BDM 27).

5 Birth is re-indexed under surname of father.

6 Date photocopy of BDM 5 sent to BDM Central Registry



Request by Father to Add Father's Details to Birth Register
 (Section 15(2)(c) of the Births, Deaths and Marriages Registration Act 1995)

**REGISTRAR
 BIRTHS**

I state as follows:

1 THAT I am the father of a child named

.....
 (in full)

born at on
 (in full)

2 THAT the mother's name is

.....
 (in full)

3 THAT I request the particulars shown below relating to myself be recorded in the entry of birth relating to the said child.

FATHER			
Name currently known by	First or given name(s)	Surname or family name	
Name at birth <i>(if different from above)</i>	First or given name(s)	Surname or family name	
Usual occupation, profession or job <i>(At time of child's birth)</i>			
Date of birth	day	month	year
Place of birth	city or town		country <i>(if not New Zealand)</i>
Home address <i>(At time of child's birth)</i>			
Ethnic group(s) Tick as many circles as needed to show which ethnic group(s) the father belongs to	<input type="radio"/> NZ Maori <input type="radio"/> or Pakeha <input type="radio"/> Samoan <input type="radio"/> Chinese <input type="radio"/> Indian <input type="radio"/> Print other ethnic group(s) here	<input type="radio"/> Other European → <input type="radio"/> Cook Island Maori <input type="radio"/> Niuean <input type="radio"/> Other <i>(such as Fijian, Vietnamese)</i>	<input type="radio"/> NZ European <input type="radio"/> Tongan ←
Are you descended from a New Zealand Maori	<input type="radio"/> No <input type="radio"/> Don't know	<input type="radio"/> Yes	Which of these groups <input type="radio"/> Dutch <input type="radio"/> English <input type="radio"/> Australian <input type="radio"/> Scottish <input type="radio"/> Other <input type="radio"/> Irish

Signature of Father _____

Date_ /_ /____

Office Use Only

- 1 Birth Entry No. _ 2 Date of Registration
- 3 Place of Registration
- 4 BDM 257 AND 257a retained with Notification of Birth (BDM 27)
- 5 Birth is re-indexed under surname of father
- 6 Date photocopy of BDM 5 sent to BDM Central Registry



21

Address

Date

In reply please quote Section 8/

Dear

Further to your application under Section 8 of the Adult Adoption Information Act, I herewith advise that unfortunately our service has been unable to locate your son/daughter (*delete one*).

The Adult Adoption Information Act 1985 requires that before releasing identifying information we must obtain permission of the adopted person. As we cannot find your son/daughter (*delete one*) we are obviously unable to give you his/her (*delete one*) full name and address.

Our searching has included:

Marriage registrations
Death registrations

These following searches are the most recent available to this service.

Electoral Rolls (all New Zealand)
Social Welfare records
Other:
Australian Electoral Rolls (*enter dates*)
Overseas searching (e.g. Phone Books etc)
International Social Service

It is important to know that sometimes New Zealand residents do not put themselves on the electoral roll, or they choose to use another name. This can prevent us from finding the person even though he or she does live in New Zealand. Also, we do not have access to births, deaths and marriages registrations in other countries, so we cannot always locate people who marry or die overseas.

Either:

We have also carried out thorough searching for your son/daughter (*delete one*) (*insert name*) 's adoptive parents, with a view to approaching them for assistance to locate your son/daughter (*delete one*) (*insert name*) . Unfortunately our searching has not enabled us to make this approach.

Or

With your permission we tried to locate your son/daughter *(delete one)* via his/her *(delete one)* adoptive parents, but unfortunately this has not enabled us to obtain his/her *(delete one)* current address.

Or

Our searching suggests that your son/daughter *(delete one)* *(insert name)* is overseas, but there remains the possibility that he/she *(delete one)* could return to New Zealand at some time in the future. You may wish to re-apply in say months/years and we will then endeavour to search again.

Or

As it appears from our searching that your son/daughter *(delete one)* *(insert name)* and his/her *(delete one)* adoptive family have resided outside New Zealand permanently for a considerable time and are unlikely to return, it would not be helpful for us to suggest that you re-apply at a later date.

It is possible to apply for information under Section 23 of the 1955 Adoption Act. This permits you to make an application to the District Court to inspect the file held by the Court about your son/daughter's *(delete one)* adoption on 'special grounds'. Please bear in mind that decisions made under Section 23 are at the discretion of the individual District Court Judge and you need to show that you have special grounds for requesting to inspect the records. Your special grounds could include that you have used the legal channels available to you under the Adult Adoption Information Act (1985), but an exhaustive search by Adoption Services has failed to locate your son/daughter *(delete one)*. Therefore you seek access to the Court records so that you can obtain his/her *(delete one)* name.

You can make the application yourself without legal assistance (an application guideline is enclosed to help with your application). You need to apply to your local District Court and ask that the records be located. If you believe you know which Court the Order of Adoption for your son/daughter *(delete one)* was made at, you can advise the Court of this. In support of your application you should also provide a copy of this letter.

You need to state clearly in your application that you are asking for the Court records to be opened to you because a decision that the matter be referred to our Service to make an approach to your son/daughter *(delete one)* would not help in your case. (We have already been unable to find your son/daughter *(delete one)* in order to do so).

Once again I am very sorry we are unable to help you. The social worker nearest to you is *(insert name)* at *(insert district and phone number)* and you are encouraged to seek further guidance and support there.

Yours sincerely

Social Worker

22

Address

Date

In reply please quote Section 8 /

Dear

Thank you for your application for identifying information under Section 8 of the Adult Adoption Act 1985.

Our first step is to check with the Registrar-General of Births, Deaths and Marriages to find out whether a veto has been recorded. As soon as this reply is received, we will let you know the outcome. If there is no veto recorded, we will then attempt to trace your son/daughter's (*delete one*) present address.

As you are asking (*agent's name*) to act as an agent for you in this enquiry, I am sending you a copy of our legal advisor's response to us on this role.

Basically, it means that while (*agent's name*) can help you with the correspondence, we will assume that they will keep you informed of the progress of the enquiry, and that you will make any decisions that may be required.

Choose one of the following options

1. (NZ) If at any time during the course of your enquiry, you would like to talk things over, please contact the adoption social worker at the address below, or telephone them on 04 917 1155.
- 2.(Overseas) If you have any concerns about anything in this letter, please contact the adoption duty social worker at this office.

Yours sincerely

Senior Searcher

AGENCY

The essential point about agency is that the agent is acting for the principal (in this case ‘the applicant’). This means that the agent can do only what the applicant could do, the agent can only do what the applicant wants the agent to do, and the agent must act for the terms of section 8.

These principles mean that:

- **Another person may make the written application required by section 8(a) as agent of the applicant. The application should be accompanied by the birth parents written permission for the agent to act under section 8.**
- **Information may be given to the agent under section 8(2)(a), (c) and (d) (iv) for transmission to the birth parent. The decision on what to do with the information must be made by the birth parent. The agent on the birth parent’s behalf may carry out any action necessary to implement the decision.**

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(Address of Adoption Services Site)

Dear Supervisor

UNDER SECTION 9 OF THE ADULT ADOPTION INFORMATION ACT 1985

I am applying for any further identifying information in relation to my birth parent(s) named on my Original Birth Certificate.

A copy of my original birth certificate is attached (if this has not already been provided).

My name is: _____

My address is: _____

My telephone numbers are:

Home: _____ **Work:** _____ **Mobile:** _____

Email Address: _____

Yours sincerely

Signature _____

Date _____

Enc.

25

Address

In reply please quote section 9/

Dear

Thank you for your enquiry for a name and address for your birthmother. Our researchers have now completed their search. Although we can never be absolutely certain, our searching is carefully undertaken and we believe we have located her.

Her name now is:

Her current address is:

In considering how you wish to contact (*birthmothers' name*), we believe people who make approaches for themselves achieve the most successful outcomes. It is important that any communication is with (*birthmothers' name*) herself, not other members of her family. Bearing in mind that your enquiry may come as a surprise, we find a carefully worded letter is often the best approach as it gives her time to think how she wishes to respond.

Contact in adoption can be an emotional experience. If having contacted (*birthmothers name*), you think she would like some support from our service, you could suggest she contact her local Adoption Services Office.

If you feel unable to approach directly yourself you can, under Section 10 of the Adult Adoption Information Act, request a social worker to make an approach to her on your behalf. If we act as an intermediary, we find it helpful to have a letter written by you to give to your birthmother when we approach her.

If I can be of any further assistance please do not hesitate to write again or phone me at the number below. I hope things go well for you and (*birthmothers name*).

Yours sincerely

Social Worker

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**ADOPTION ACT 1955
SECTION 23 GUIDE**

Presiding Judge
----- **Family Court**
Private Bag -----

Telephone: 0- --- ----
Facsimile: 0- --- ----

Please complete this form with details if/as known by you, the Applicant.

1 I, _____ hereby apply pursuant to Section 23 of the Adoption Act 1955 for adoption records to be opened in respect of:

<p>(a) <u>Myself:</u> Name: _____ Birth name: _____ Name (if adopted): _____ Date of Birth: _____</p>	OR	<p>(b) <u>Person Sought:</u> Birth name: _____ Adoptive Name: _____ Date of Birth: _____ Relationship to me: _____ <small>(e.g. sibling, grandchild, birth parent, adoptive parent)</small></p>
---	----	---

2 My "special grounds" pursuant to Section 23(b)(iii) are as attached.
(Applicant: please attach as a separate letter).

3 The full name of my/adopted person's BIRTH PARENTS at the time of the adoption were:

MOTHER: _____ FATHER: _____

4 The full name of my/adopted person's ADOPTIVE PARENTS:

MOTHER: _____ FATHER: _____

5 The adopted person's place of birth: _____

6 Court where Adoption Order made: _____ Date: _____

Signature of Applicant: _____ Date: _____

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COURT ACTION UNDER S23 ADOPTION ACT 1955

Provision

Anyone can use the following provision to apply to the Court for information about a person who was placed for adoption. They can then use this information to search for and make contact with that person.

This provision states that:

“Adoption records shall not be available for production or open to inspection except - ...(b)(iii)** on any other special ground.”**

S23 (3)(b)(iii) Adoption Act 1955

Process

i) The applicant needs to apply in writing. They need to provide as many birth and adoption details as known. They also need to provide an explanation of the reason(s) for their application (i.e. special grounds).

***Note:* Guidelines to help with this process can be obtained from the Family Court or your local Adoption Information and Services Unit.**

ii) A Judge makes any decisions about this application. Adoption Services may be asked to review court records and provide a report to assist the Judge in their decision making.

If you require any further information on the Section 23 procedure, please contact the Adoption Information & Services Unit.

Adoption Information & Services Unit

Private Bag 6901

Marion Square

WELLINGTON

Telephone : 04 917 1155 (Duty Social Worker)

Fax : 04 918 0029

APPENDIX A



ADOPTION INFORMATION INQUIRY

SW677

NUMBER _____
DATE _____

SECTION A

Applicant's Name:	
Address:	
Home Phone :	Business Phone :
Mobile Phone :	E-mail Address :

SECTION B

INFORMATION AT TIME OF BIRTH

Child's Original Name:	
Date of Birth:	Place of Birth:
Mother's Name:	
Father's Name:	

TO: THE REGISTRAR-GENERAL: Please provide the adoptive parents names and the child's post adoptive name as previously provided to the Chief Executive Officer

B/M B/F A/E No

Veto Recorded: Yes <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Date of Expiry:
OBC:	

SECTION C

AO:

Adoptive Father's Name:
Adoptive Mother's Name:
Child's Name-Post Adoption:

To: The Chief Executive Officer, Department of Child Youth and Family Services

Information as requested.

Signed:

Date:

General

For Registrar-

To: The Supervisor, Child, Youth and Family Services

Please contact adopted person, find out if he/she wishes to respond to the inquiry and complete Section E on the back of this form.

Signed: Date:

For Chief Executive Officer

SECTION D

Adopted Person's Name:
Present Address:
Change of Address: (if any)

To: The CEO:

SECTION E

OUTCOME OF ENQUIRY

IN-CONFIDENCE

Permission to communicate name and address to applicant:	Yes/No

WELLINGTON OFFICE USE ONLY

Date Completed _____

Signed for CEO _____

DISTRICT OFFICE USE ONLY

S/W Signed _____

Supervisor _____

APPENDIX B

**PROCEDURE FOR A BIRTH PARENT SEEKING IDENTIFYING INFORMATION
(Section 8, Adult Adoption Information Act 1985)**

