

SECTION 5: ADOPTION RECORDS

MANAGEMENT OF THE ADOPTION RECORD SYSTEM BENCHMARK POLICY 5.1

There is an integrated and well-managed record system to document casework and essential information, which is accessible and confidential.

CONTENT

1. Policy statement
2. Context
3. Definitions

1 POLICY STATEMENT

To meet the standard an adoption service provider is expected to develop policies and procedures for the management of the adoption record system, and when required provide practice evidence of their implementation.

Adopted children need to keep memories and records of significant events that occur in their lives both before and after the adoption order. As one adopted person stated:

‘Presently I am looking for answers to some questions – What were the circumstances surrounding my abandonment? Is my birth certificate authentic? Was I sick enough to be brought out to Australia? Is there any information about my birth parents? I don’t think that I will ever discover the full history of my life, but as long as I feel there are avenues open I will continue to search for information.’¹

Before the final adoption order is made, an adopted child may have experienced a number of different care situations, disruptions in relationships with family and significant others and a variety of people in his or her life. Sometimes there may be an adoption placement breakdown. If records are absent, there is no way in which the history and life experiences of an adopted child can be recalled. The process of recording and retaining information about the lives of adopted children cannot be left to chance.

Adopted children are entitled to expect that their adoption records accurately reflect their life history. To ensure that records are useful to an adopted child, records should be written in plain English, in non-judgmental language, be factual and accurate and where possible, typed to minimise the possibility of important information being lost due to illegible handwriting. Each entry should also be signed, dated and include the position of the adoption worker.

The adoption service provider should record the matching information and any other details forwarded prior to the adoption match being finalised. In intercountry adoptions, the service provider may have a role in educating and guiding prospective adoptive parents about the type and amount of information that can be expected from an overseas agency or collected, as appropriate to the cultural and political environment, when they travel to the child’s birth country to receive the child. An

¹ Armstrong, S & Slaytor, P 2002, *The colour of difference*, The Federation Press, Sydney.

intercountry adoption service provider should attempt to gain all information possible on a child from the country of origin and approach the overseas agency to clarify limited or contradictory information.

Record systems should be organised in such a way that they comply with legal and administrative requirements, including freedom of information and client access. They should be reliable and based on a system of procedures and practices that produces credible and authoritative records. This should be done through an identifiable management program. Records should be complete, comprehensive and clearly linked to related records including carer and post order contact files.

Organisational accountability requires the maintenance of an integrated and a well-managed record system in which records are accessible and kept confidential. This includes having access to suitable secure facilities and managing risks for records with regard to water or fire damage, theft, malicious damage and other events. The location of records when stored, the materials used for records (for example, paper quality, electronic security) and their tracking while in use by staff are important in terms of the long term availability, integrity and quality of the records.

Keeping records up to date and organised in an appropriate manner requires that staff receive initial and ongoing training in record keeping and that time is regularly set aside for this task. Adoption service providers will be expected to have structures in place which make provision for caseworkers to have the time, capacity and knowledge to maintain the records relating to each child that they supervise.

While a variety of workers may have some responsibility for input into a child's records, there must be a nominated person who has the responsibility for the system as a whole. The accountabilities of this person should include the organisation having in place policies and procedures to define access and confidentiality arrangements, including access to electronic data that demonstrate good practice and reflect legislative requirements. The adoption service provider should conduct spot audits and arrange for an independent review process on a regular basis to look at compliance to stated policies and procedures. These audits should be conducted by a suitably qualified person, who considers the internal organisation of records; adequacy of content; legibility and existence of required documentation, such as signed consents.

2 CONTEXT

Accessibility to information is an important issue for an adoption service provider. Different information is prescribed for different parties to an adoption and should be guided by strict procedures. Entitlement to information about an adopted person by a party to an adoption is determined by whether the adopted person is under or over 18 years of age, whether the Director-General² approves the supply of this information and other factors provided for in the *Adoption Act 2000* (the Act) and the *Adoption Regulation 2003* (the Regulation).

'Chapter 7: Records of adoptions' in the Act refers to records of orders of the court(s) and 'Chapter 8: Adoption information' relates to birth certificates, adopted persons' birth records and other information to be made available to parties to an adoption. Parts 10 and 11 of the Regulation define this information.

² Refers to the Director-General of the NSW Department of Community Services.

In the case of adoptions on or after 1 January 2010, adopted children under 18 years and their birth parents and adoptive parents will have access to both the child's original and amended birth certificate and to adoption orders.³

In the case of adoptions on or after 1 January 2010, non-adopted children of either birth parent will have greater access to adoption information about their siblings who have been adopted.⁴

Section 130 in the Act and clause 43 in the Regulation, includes the collection of relevant information about parties to an adoption, as one of the services to be provided by an intercountry or domestic adoption service provider.

Clause 25 in schedule 1 of the *Commonwealth-State Agreement for the Implementation of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* requires that confidential records are maintained in suitable storage.

Clause 5E of the *Adoption Regulation 2003*, as amended on 1 July 2005, states that as soon as practicable after an organisation ceases to be accredited as an adoption service provider or ceases to provide adoption services, it must ensure that all records kept for the purposes of the Act are lodged with the Director-General of the NSW Department of Community Services.

Schedule 1, clause 12 in the *Adoption Regulation 2003*, as amended on 1 July 2005, states that an adoption service provider must allow the Director-General and any public servant authorised by the Director-General to enter any premises from which it provides adoption services and to inspect such of its records as relate to the provision of adoption services.

The *Ombudsman Act 1974* provides a structure that promotes good conduct and fair decision making in the interests of the NSW community. Under this Act, the Ombudsman has powers to ensure fair, accountable and responsive administration in NSW agencies. The NSW Ombudsman also deals with complaints about the administrative conduct of non-government agencies under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

The *NSW Privacy and Personal Information Protection Act 1998* requires an adoption service provider to conform to information protection principles to protect privacy. Specific requirements exist in terms of the collection, retention, security, access, alteration, accuracy and disclosure of personal information. Individuals are entitled to access information that relates to them.

An adoption service provider should have regard to the *Health Records and Information Privacy Act 2002* that makes provision for the protection of health records and information. It also addresses other purposes such as an individual gaining access to his or her health information and balancing the need for privacy with the public interest around health records.

³ Sections 133C, 133D and 133E of the *Adoption Act 2000*.

⁴ Section 133G of the *Adoption Act 2000*.

3 DEFINITIONS

Records

As defined in the Dictionary in the *Adoption Act 2000* (the Act), a record means 'any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means.'

The *Australian Standards on Record Management Part 1* (AS 4390.1) defines records as 'recorded information, in any form, including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such an activity.'

File

A file is 'an organised unit of documents, accumulated during current use and kept together because they deal with the same subject, activity or transaction.'

Prescribed information

Prescribed information refers to specific information that parties to an adoption are entitled to receive under the *Adoption Act 2000* and the *Adoption Regulation 2003*.