

Practice Implications Assessing Post Adoption Contact

Legislative Context

The Children (NI) Order 1995

Underlying Principle - The Welfare of the Child is paramount consideration

Art 53 (1) where the child is in care of an authority, the authority shall() allows the child **reasonable contact**

Art 53(11) **Before** making a care order with respect to the child **the court shall (a) consider the arrangements** with the authority has made, or **proposes to make** for affording **any person contact with a child** to whom the Article applies: and (b) invite the parties to proceedings to **comment** on those arrangements

The Adoption (NI) Order 1987

Art 9: Duty to promote welfare of child

In deciding on any course of action in relation to the adoption of a child, a court or adoption agency shall regard the welfare of the child as the most important consideration and shall:

- (a) Have regard to all the circumstances, full consideration being given to:
- (i) the need to be satisfied that adoption or adoption by a particular person or persons, will be in **the best interests of the child**: and
 - (ii) the need to **safeguard and promote** the welfare of the child through his childhood;
- and

- (iii) the importance of providing the child with a **stable** and **harmonious** home; and
- (b) so far as practicable, first ascertain the wishes and feelings of the child regarding the decision and give due consideration to them having regard to his age and understanding

In Adoption Proceedings there is **no specific reference in statute** that the court has to give consideration as to whether the proposed **family contact arrangements** are in the best interests of the child in the longer term. Rather the issue is whether or not the parents are **unreasonably withholding their consent** to their child being freed. The arrangements proposed for contact can be such that parents argue they are being reasonable in withholding consent.

The Human Rights Act 1998

Art 6 : Right to Fair Trial

Art 8 : Right to Respect for Private and Family Life

In balancing the competing interests of child and parent the court will attach particular importance to the paramountcy principle and duty to safeguard the interests of the child which provides justifiable reason to override the rights of parents.

Purpose of Contact Post Adoption

Practice Guidance on Assessment and Planning Contact for Looked After Children (Dec 2012) cites;

“Contact in the context of adoption:

- Reassurance that it validates reality for the child and assists the new family in updating information for the child to **promote a better understanding of the child’s past.**
- Maintains existing relationships by helping the birth family give **permission to the child to attach to new carers** and adjust to the new role they have in the child’s life.
- Enables the child to keep links with his/her own community and **enhances the child’s self-esteem.**
- Ensures that the **child is not disconnected** from their family of origin and keeps the **doors of communication open** for the future”.



Southern Health
and Social Care Trust

NIGALA
NI Guardian Ad Litem Agency
*A voice for Children and Young People
in Family Courts*

“**Purpose of contact** is to help children meet three basic developmental needs;

- attain **good mental health** build a relationship and establish **secure attachments** with new carers,
- **resolve feelings** of loss, separation, rejection, trauma and
- achieve a strong sense of **personal identity** and **genealogical connectedness”**.
(Neil and Howe 2004)

one of **the primary purposes of post adoption** contact is to be **reparative**: that birth parents are able to give a **truthful account** of the child’s life history, to apologise for their role, to ensure that the child does not accept responsibility, that they **care for the child and want him to be happy in his new family**.

Sydney and Price (2014)

Facilitating meaningful contact in Adoption and Fostering

Post Adoption Contact is to be promoted when it **supports** the child’s **emotional wellbeing** and does not undermine their **sense of security** within their adoptive family.

What Research Tells Us

- Need for child-centred contact plans
- Birth Parents must be prepared to meaningfully engage with the Trust/Agency
- Adoptive parents need to be involved and participate
- “communicative openness” in relationships is crucial
- There are risks and benefits for each child
- Contact is a dynamic process
- Trust need to provide emotional and practical support to Child, Birth Family and Adoptive family
- Contact needs to be monitored and reviewed

Smith and Logan (2004) After Adoption: Direct Contact and Relationship.

Neil and Howe (ed.) (2004) Contact in Adoption and Permanent Foster Care.

Mandi MacDonald (2017) Research Summary: Adoptive Parents Experiences of Post Adoption Contact and Support Needs.

Some factors that are considered when determining the type and level of Post Adoption

- Child's age
- Quality of the contact
- Child's experiences
- Child's cultural identity needs
- Parents level of engagement with Trust staff
- Parents relationship with carers
- Parents ability to work with the care plan
- Prospective adoptive parent's views
- Birth parents ability to offer the child a true account of their history
- Significant people in the child's life e.g. Birth Parents, Siblings, grandparents, previous foster carers
- Direct and Indirect contact

Case Example:

- Child was placed with concurrent carers at birth.
- Case progressed by way of a Consolidated hearing

History

- Birth parents have significant history of criminality, mental health, drug and alcohol addiction. Birth father has older children in the care of the Trust and birth mother has Borderline learning disability. Both presented as very aggressive and hostile to services.
- From the outset parents had met the carers and were aware they would be the adoptive carers for the child should rehabilitation not be achieved
- During contact with the child staff were required to adopt a very 'hands on' approach to ensure the child's needs were met given the parents limitations
- Parents presented as very defensive and highly agitated possibly (in part) due to their embarrassment at being corrected in their handling of their child
- Given the parents low tolerance for frustration, staff were required to be as emotionally attuned to the parents as much as the child.

Current Contact

Post adoption contact was agreed at a level of twice a year direct contact and to date is positive (albeit we are only one year post adoption order)

Assessment is key

Period between Freeing Order and Adoption Order is a critical time for assessment. Within this time frame:

- At least three meetings with birth parents, Post Adoption staff and Looked After Children staff
- Parents (in this case) were provided with the post adoption contract in written form before the first meeting to enable them to process the information. This decision was made based on our working knowledge of the couple.
- For example at the first meeting, the couple needed the opportunity to grieve and vent their frustration with the care plan. Staff confirmed their (and the carers) commitment to ensuring that the couple had the opportunity to avail of post adoption contact and thus we needed to ensure they understood the contract for this.
- At each meeting the post adoption contract was broken down into more manageable sections and agreements given to focus on one area at a time.

- Post adoption staff took an active role in post freeing contact to facilitate assessment and give parents an idea of what contact would look like after adoption. As a result post adoption contact proposals made at adoption order stage were more realistic.
- This facilitated birth parents build a relationship with the post adoption worker given this is the person who will be responsible for contact moving forward.
- Carer was gradually introduced to contact and with each contact the period of time was increased until the carer was present for the duration.

Key learning

- Proposals have to be based on child specific assessment not a ‘rule of thumb’ approach
- Clear Rationale for the proposed frequency and structure i.e. one direct and one indirect – why this level and this type of contact.
- Benefits for the child have to be explicit
- There needs to be a recognition that this is highly emotional environment for the carers and the birth parents and thus this can impact on the contact for the child as the atmosphere can be laden with expectation and tension. It is a skilled activity and not consistently recognised as such.
- It is only an assessment at that particular point in time. As with any assessment, it is not static and must reflect the changing needs of the children
- Staff are committed to post adoption contact and work on the presumption of contact if in the child’s best interests . There is often a reluctance to conclude that in some cases contact is not in the children’s interests and staff need to have confidence in their assessment of this.
- The approach in this case at post freeing stage is not consistently applied across LAC Teams and Trusts.

Case Example

- GAL appointed during Care, Freeing and Adoption proceedings for a sibling group of 2 children. Parent's originally from Portugal resident in NI 10 years. Child A was aged 1yr 8 months when care proceedings commenced. Child B born during proceedings and placed in Trust foster care with sibling.
- Following Care Order being granted and a best interest recommendation the children were placed together in a dually approved placement. Parent's not accepting of the care plan. Father hostile and aggressive. Both Care and Freeing proceedings were contested hearings.
- At Freeing stage Trust recommended a reduction in direct contact from monthly to 3 monthly until Adoption Order. The proposed Post Adoption at a level of 2 direct Contact visits annually with the father and 2 indirect contact visits with the mother.
- GAL recommended No direct contact Post Freeing and suggested further assessment to determine if direct contact could be achieved prior to defining Post Adoption contact plans. Trust accepted GAL recommendations.
- Court granted Freeing Order and did not address the revised contact proposals.
- Father appealed Freeing Order on the issue of contact. Appeal was dismissed.
- Children are to be adopted soon.

GAL assessment considered the following factors:

- Quality of contact from children's perspective:
 - distressed and unsettled behaviour,
 - sought out staff to meet their needs,
 - ignored father and avoided interaction with him,
 - Father lacked insight and understanding of eldest child's developmental delay.
 - Father required the assistance from staff to attend to children's needs.
 - Father was not receptive to staff advice
- Risks presented by Father's history of aggression and hostility to social work staff and previous foster carer.
- Father not engaging with Trust
- Refusal to avail of Next Steps Independent Birth Family Counselling Service
- Father not accepting the children's care plan

Case Example cont'd

Post freeing

No level of contact between birth parent's and children could be progressed

Father did meet with Trust and Post Adoption SW but did not follow through with an agreed meeting with prospective adopters and refuses to provide baby photographs for the eldest child lifestory book.

Father's position remains entrenched following the dismissal of Appeal.

Mother did not respond to Trust efforts to meet with her to discuss contact plans

GAL spoke to both parents during adoption application. No change to their views. Provided with contact details of Post Adoption SW and advised that they need to engage with Post Adoption Sw to avail of indirect contact.

Post adoption contact plan

No direct contact recommended at this time

One Indirect contact per year to be reviewed should parent's engage

GAL concern that without proactive efforts by Post Adoption Team Birth Parent's are unlikely to avail of indirect contact.

Adoptive Parents are open and will promote children's understanding of their lifestory and cultural needs.

Practice Reflections:

- For some children direct contact is not achievable
- The child's emotional wellbeing and stability of placement takes priority over cultural identity needs.
- GAL is the consistent professional involved with the children on the journey from Care, Freeing to Adoption.
- GAL role to "safeguard the child's interest" often an intermediary between birth parents, carers and Trust
- Assessment of contact and birth parent support from Freeing Order to adoption is critical to inform post adoption contact.
- The emotional burden on birth parent's subjected to two separate court proceedings
- The adversarial nature of freeing proceedings can negatively impact upon the working relationship between birth parents and professionals.
- How can we better assist birth parent's to engage?
 - Inherent tension in SW and GAL relationship with Birth Parents- power imbalance
 - Do Parent's Legal Representatives have a role?
 - Should Court at Freeing hearing provide birth parents with clear expectations of their responsibilities? e.g. Memorandum of Agreement

Exemplar “Memorandum of Agreement”

Post adoption Team provide a written document to the court detailing how the post adoption team will work with birth parents and birth family post freeing. To assist preparation for all types of post adoption contact.

Outlines the expectations on birth family in moving towards post adoption contact that meets children’s needs:

- Sw to offer birth parent individual sessions – ground rules must attend/ behave in a non aggressive manner
- Support to understand changed role – at some level accept that child will have a new mummy and daddy
- Support to understand purpose of contact from child’s point of view
- Share information about the practical changes to contact
- Outline expectations around confidentiality/use of social media /photographs

Should Birth Parent co-operate with this plan then;

- Formal meeting with prospective adoptive parents
- Direct contact visit will be facilitated
- Review of contact to consider impact on child

Trust meeting convened to agree proposed post adoption contact – post adoption agreement.

Should Birth Parent not adhere to agreement then unlikely that Trust recommending a level of direct contact post adoption.

Practice Considerations Moving Forward

- Training for carers specific to their role in post adoption contact. This entails work around offering the child a narrative in relation to their life story and an understanding of who the people are that they are going to visit.
- Timing of Assessment
- Continuity of staff in process to develop effective working relationships
- Collaborative working between child's social worker and Adoption Team
- Role of Post Adoption Services with Birth families
- Role of parents legal representatives in helping parents accept the care plan
- Role of court in advising birth parents expectations around post adoption contact
- GAL is the consistent professional involved with the children on the journey from Care, Freeing to Adoption.
- Managing the unknowns in the future
- Implications of the proposed legislative changes – post adoption support and no presumption of contact. Currently short term regional funding has been made available to all Trusts to develop post adoption services.
- Require a longitudinal Regional Research on impact of post adoption contact to inform future practice.