

---

## STATUTORY INSTRUMENTS

---

# 2005 No. 389

## The Adoption Agencies Regulations 2005

### PART 7

#### CASE RECORDS

**Modifications etc. (not altering text)**

C1 Pt. 7 applied (30.12.2005) by [The Adoptions with a Foreign Element Regulations 2005 \(S.I. 2005/392\)](#), regs. 1(1), 5(2)

#### Storage of case records

**39.** The adoption agency must ensure that the child's case record and the prospective adopter's case record and the contents of those case records are at all times kept in secure conditions and in particular that all appropriate measures are taken to prevent the theft, unauthorised disclosure, loss or destruction of, or damage to, the case record or its contents.

#### Preservation of case records

**40.** An adoption agency must keep the child's case record and the prospective adopter's case record for such period as it considers appropriate.

#### Confidentiality of case records

**41.** Subject to regulation 42, the contents of the child's case record and the prospective adopter's case record shall be treated by the adoption agency as confidential.

#### Access to case records and disclosure of information

**42.—**(1) Subject to paragraph (3), an adoption agency shall provide such access to its case records and disclose such information in its possession, as may be required—

- (a) to those holding an inquiry under <sup>[F1]</sup>sections 3 and 4 of the Children Act 2004 (inquiries held by the Children's Commissioner) or under the Inquiries Act 2005] for the purposes of such an inquiry;
- (b) to the Secretary of State;
- (c) to the registration authority;
- (d) subject to the provisions of sections 29(7) and 32(3) of the Local Government Act 1974 <sup>M1</sup> (investigations and disclosure), to the Commission for Local Administration in England, for the purposes of any investigation conducted in accordance with Part 3 of that Act;
- (e) to any person appointed by the agency for the purposes of the consideration by the agency of any representations (including complaints);

- (f) by and to the extent specified in these Regulations;
  - (g) to an officer of the Service or a Welsh family proceedings officer for the purposes of the discharge of his duties under the Act; and
  - (h) to a court having power to make an order under the Act or the 1989 Act;
  - [<sup>F2</sup>(i) to a fostering service provider within fifteen working days of a request under regulation 26(1A)(f) of the Fostering Services (England) Regulations 2011.]
- (2) Subject to paragraph (3), an adoption agency may provide such access to its case records and disclose such information in its possession, as it thinks fit for the purposes of carrying out its functions as an adoption agency.
- (3) A written record shall be kept by an adoption agency of any access provided or disclosure made by virtue of this regulation.

---

**Textual Amendments**

- F1** Words in reg. 42(1)(a) substituted (30.12.2005) by [The Adoption and Children \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3482\)](#), regs. 1, **5(p)**
- F2** Reg. 42(1)(i) inserted (1.7.2013) by [The Adoption Agencies \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/985\)](#), regs. 1, 7
- 

**Marginal Citations**

- M1** 1974 c. 7.

**Transfer of case records**

**43.**—(1) An adoption agency may transfer a copy of a child's case record or prospective adopter's case record (or part of that record) to another adoption agency when it considers this to be in the interests of the child or prospective adopter to whom the record relates, and a written record shall be kept of any such transfer.

(2) Subject to paragraph (3), a registered adoption society which intends to cease to act or exist as such shall forthwith either transfer its case records to another adoption agency having first obtained the registration authority's approval for such transfer, or transfer its case records—

- (a) to the local authority in whose area the society's principal office is situated; or
- (b) in the case of a society which amalgamates with another registered adoption society to form a new registered adoption society, to the new body.

(3) An adoption agency to which case records are transferred by virtue of paragraph (2)(a) or (b) shall notify the registration authority in writing of such transfer.

**Application of regulations 40 to 42**

**44.** Nothing in this Part applies to the information which an adoption agency must keep in relation to an adopted person by virtue of regulations made under section 56 of the Act.

**Changes to legislation:**

There are currently no known outstanding effects for the The Adoption Agencies Regulations 2005, PART 7.