

# SMBC – Regional Adoption Agency (RAA)

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## Information Sharing Agreement between

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Stockport Metropolitan Borough Council

And

Manchester City Council

Salford City Council

Trafford Metropolitan Borough Council

Cheshire East Borough Council

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## 1 INTRODUCTION

- 1.1 In June 2015 the government announced changes to the provision of adoption services by proposing that adoption services be delivered on a regional basis by 2020<sup>1</sup>.
- 1.2 As a consequence, it has been agreed by the Parties that certain adoption services set out in Section 1.5 now provided locally by the following local authority areas, be brought together in a single Regional Adoption Agency (RAA):
- Stockport MBC
  - Manchester City Council
  - Salford City Council
  - Trafford Metropolitan Borough Council
  - Cheshire East Borough Council
- 1.3 The RAA will be hosted by Stockport MBC.
- 1.4 The benefit of bringing these local authority adoption services into a single RAA aims to:
- increase the number of children adopted
  - reduce the length of time children wait to be adopted
  - improve post adoption support services to families who have adopted
  - reduce the number of adoption agencies thereby improving efficiency effectiveness

1.5 From 1<sup>st</sup> February 2017 the SMBC hosted RAA, will be responsible for:

<sup>1</sup> DfE: Regionalising Adoption (June 2015)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/437128/Regionalising\\_adoption.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437128/Regionalising_adoption.pdf)  
(last accessed 4/11/2016)

- the recruitment of persons as prospective adopters;
- the assessment of prospective adopters' suitability to adopt a child;
- the approval of prospective adopters as suitable to adopt a child;
- identifying a particular approved prospective adopter with whom it proposes a child be placed, as soon as reasonably practicable<sup>2</sup>.
- managing the process by which recommendations in individual cases are formally submitted to Adoption Panels and to facilitate consideration by the relevant local authority decision-maker<sup>3</sup>;
- the provision of adoption support services<sup>4</sup>.

1.6 To identify suitable adopters for particular children, for whom a local authority is the "corporate parent" or where consent to adoption is given by the birth parent, the RAA needs to rely on the timely sharing of information about those children in the care of participating authorities who already are or are likely to become the subject of a Placement Order.

1.7 There are two distinct phases to the data sharing necessary for the effective delivery of services by the RRA. Firstly, the information that participating authorities will need to provide for commencement of the RAA and secondly, the regular information sharing that will need to take place on an ongoing basis thereafter:

***Transitional phase*** – one-off migration of adopter information from the participating authorities to the RAA (including ongoing cases involving child(ren) who may have been matched with prospective adopters but where the decision-making has yet to be concluded at the point records are subject to migration).

***Regular data sharing*** – the exchange of information between the RAA and the participating authorities with legal responsibility for a particular child in

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<sup>2</sup> Adoption Agencies Regulations 2005, Regulation 12A(1)(b) (& Regulations 30A & 32 on the Function of the Adoption Panel & Function of adoption panels in relation to proposed placement

<sup>3</sup> Adoption Agencies Regulations 2005, Part II, Sections 3 and 8

<sup>4</sup> Adoption and Children Act 2002, Section 4 and The Adoption Support Services Regulations 2005 (replacing Adoption Support Services (Local Authorities) (England) Regulations 2003)

need of adoption to enable the SMBC hosted RAA to identify a suitable potential adopter for that child in order to satisfy the duties imposed on the Parties under legislation, regulations and relevant statutory guidance and/or national standards for adoption.

- 1.8 In view of the sensitivity and frequency of the data sharing required, the Parties recognise the fundamental importance of clarifying and documenting their mutual understanding of their respective legal obligations for the management and protection of personal information in respect of the provision of these services, particularly in relation to Data Controller responsibilities under the Data Protection Act 1998 (“the DPA 1998”) and its successor, the General Data Protection Regulation (“the GDPR”) due to come into force on 25<sup>th</sup> May 2018.
- 1.9 This Information Sharing Agreement (ISA) sets out the agreement between the Parties governing:
- assignment of data protection obligations and responsibilities
  - the legal basis for specified exchanges of personal information
  - compliance with the Data Protection Principles, including fairness, transparency and consent
  - responsibilities for considering valid Subject Access Requests and complaints
  - responsibilities for handling Public Access information requests
  - requirements in respect of confidential commercial information
- 1.10 An ISA does not of itself make the sharing of personal data fair and lawful. Nor does the existence of a legal gateway override the need to comply with the common law duty of confidence and, other relevant legislation, including the particular obligations arising out of the European Convention on Human Rights and the Data Protection Act 1998. This ISA aims to evidence how these legal requirements are addressed, to provide assurance that agreed governance controls are in place to ensure that personal information sharing is managed securely, responsibly and in compliance with the law and with the Information Commissioner’s Data Sharing Code of Practice.

- 1.11 It does not create legal relations between the Parties and is not intended to be legally binding. The Parties are entering into this ISA intending to honour, observe and perform all their obligations towards each other.

## 2 PARTIES

- 2.1 This Information Sharing Agreement (ISA) is between Stockport Metropolitan Borough Council as host for the RAA and the following local authorities:
- Manchester City Council
  - Salford City Council
  - Trafford Metropolitan Borough Council
  - Cheshire East Borough Council
- 2.2 S.3 of the Adoption and Children Act 2002 (“the AC Act 2002”) places a duty on local authorities to maintain an adoption service within their area, and sets out the minimum facilities that must be made available in the provision of the service<sup>5</sup>.
- 2.3 S.2(1) of the AC Act 2002 clarifies that services maintained by local authorities under s.3 whether provided by a local authority or a registered adoption society may be referred to as an “adoption agency”.
- 2.4 S.3ZA of the AC Act 2002, gives the Secretary of State the power to require one or more authorities to make joint arrangements for all or any of their functions to be carried out on their behalf by a particular authority or one or more adoption agencies<sup>6</sup>.
- 2.5 Though the Secretary of State is yet to exercise this power, the Department for Education has introduced an early adopter programme providing start-up funding to enable some local authorities to enter into voluntary joint arrangements for the delivery of adoption functions in their areas.

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<sup>5</sup> The Adoption and Children Act 2002, section 2(6) defines social services functions as those functions, in particular relating to children within the meaning of the Local Authority Social Services Act 1970

<sup>6</sup> Inserted into the AC Act 2002 by S.15 of the Education and Adoption Act 2016 (not commenced @17/11/2016)

- 2.6 For the purposes of the DPA 1998 and the GDPR (coming into force in May 2018), the above authorities are individual Data Controllers with distinct legal obligations for ensuring that personal information is processed and shared in accordance with data protection law and other privacy related legislation.
- 2.7 As the RAA is not a separate legal entity, the SMBC as the host authority, is the responsible Data Controller for personal information obtained in relation to the provision of RAA adoption services.
- 2.8 In order to deliver these RAA services, under this ISA personal data will flow from:
- each participating local authority to SMBC as the local authority host for the RAA
  - SMBC as the host for the RAA to participating authorities
- 2.9 For this reason, all of the participating authorities, including SMBC, are Joint Data Controllers when processing personal information in relation to the RAA adoption service as they each remain responsible at different stages of the decision-making process for determining the purpose and the manner in which the personal data is to be processed and they each have a statutory duty for the maintenance of adoption services in relation to their area.

### **3 PURPOSE FOR SHARING**

- 3.1 From 1<sup>st</sup> February 2017 the RAA will be responsible for
- the recruitment and assessment of persons applying to become adopters and for matching children in need of adoption with suitable potential adopters
  - managing the process by which recommendations in individual cases are formally submitted to Adoption Panels and to facilitate consideration by the relevant local authority decision-maker

- 3.2 To deliver this integrated service, the participating authorities and the RAA will need to:
- share non commercial and confidential commercial information in accordance with the requirements set out in the 'Integrated Services Agreement Relating to the Establishment of a Management Board and provision of a Regionalised Adoption Service';
  - disclose and receive personal data and sensitive personal data
- 3.3 Personal and sensitive personal data is defined in section 1 of the DPA 1998 and hereinafter is collectively referred to as "Specified Data".
- 3.3 Specified Data will be exchanged between the RAA and participating authorities for:
- the primary purpose in 3.1;
  - for any other supplementary or incidental purpose contributing to improving the adoption service for children and prospective adopters;
  - for reviewing and evaluating the effectiveness of this new delivery model
  - to the extent this is in accordance with the adoption law.

## **4 LEGAL BASIS FOR DATA SHARING**

- 4.1 In order to discharge their adoption functions, participating authorities rely on statutory provisions which confer implied and express data sharing powers across a broad range of legislation. While the Children Act 1989 outlines the general framework for the support of children in need and planning for their future if they become looked after, the Adoption and Children Act 2002 (as amended) and associated regulations provides the main framework governing adoption law. Relevant child protection and adoption legislation is listed in Appendix 1. This is not necessarily an exhaustive list. A separate list of statutory guidance, non statutory guidance and the National Minimum Standards for Adoption is outlined in Appendix 2.
- 4.2 The above legislative framework in combination with the duties of local authorities in relation to children looked after by them in section 22 of the Children Act 1989 and the general duty to co-operate to improve the well being of children in s.10 of the Children Act 2004, provide the legal basis

underpinning necessary and proportionate information sharing between participating authorities and the RAA in order to meet the respective statutory obligations of the individual Parties in the context of delivering an integrated adoption service

### **Transitional Phase**

- 4.3 The Parties agree that migration of Specified Data from each of the participating local authorities to the SMBC hosted RAA will be undertaken in accordance with 4.2 relying on the DPA 1998 processing condition in Schedule 2(5)(d) and, in relation to sensitive personal data, paragraph 4 of the schedule in The Data Protection (Processing of Sensitive Personal Data) Order 2000.

### **Regular Data sharing**

- 4.4 It is further agreed that the regular exchange of Specified Data between each of the participating local authorities and the SMBC hosted RAA will be undertaken in accordance with 4.2 in order to satisfy legal requirements imposed on the Parties by the legislation, regulations, statutory guidance and the National Minimum Standards for Adoption. .
- 4.5 Other than where sharing between the participating authorities and the RAA is consent based (as envisaged in section 6.6), the Parties intend to rely on the data protection processing condition in Schedule 2(5)(d) and in relation to sensitive personal data, paragraph 4 of the schedule in The Data Protection (Processing of Sensitive Personal Data) Order 2000.

## **5 DATA SHARING PROCESSES & SECURE MEANS**

### **Transitional Phase**

- 5.1 Each participating authority will securely migrate the Specified Data to the SMBC hosted RAA to enable the RAA to populate its Adopter Case Management System with:
- personal information about potential adopters

- personal information about children in need of adoption where a potential approved adopter has been identified and the process needs to be progressed
- 5.2 The nature of the Specified Data for this purpose is summarised in Appendix 3 – (A) Transitional Phase..
- 5.3 The timing of the migration of these records, system operability and the secure means by which this is to be achieved will be determined between the RRA IT specialist and each of the local authorities relevant IT leads for Children’s Services.
- 5.4 In accordance with the requirements in Section 6, migration will not occur before prospective adopters are notified by the relevant participating authority that their personal data is to be transferred to the SMBC led RAA.

### **Regular data sharing**

- 5.5 The nature of the Specified Data subject to regular sharing between the Parties is outlined in Appendix 3 – (B) Regular Data Sharing.
- 5.6 The means by which the RAA obtains timely information about children in need of adoption will involve secure exchanges between the professionals in the participating authorities and the RAA on a case by case basis. The secure methods involved will include but are not limited to the following:
- in face to face meetings and case conferences
  - by telephone and via secure email exchanges
  - secure system access
- 5.7 As each participating authority is legally responsible for maintaining the child’s care and adoption record and for ensuring this is accessible to adopted adults in later life<sup>7</sup>, the Parties recognise the necessity of ensuring that the child’s

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<sup>7</sup> Adoption & Children Act 2002: Section 65(1):  
 “appropriate adoption agency”, in relation to an adopted person or to information relating to his adoption, means—  
 (a) if the person was placed for adoption by an adoption agency, that agency or (if different) the agency which keeps the information in relation to his adoption”.

complete and unique adoption record continues to be held and maintained by each participating local authority.

5.8 Similarly, the Parties accept that for the RAA to operate effectively and efficiently, designated RAA social work professionals need to have equivalent system user access as that which would apply if they were to be directly employed as a social worker delivering adoption services within any of the participating local authorities.

5.9 For these reasons, subject to observing the safeguards specified in 5.10, the Parties aim to ensure that:

- designated role based RAA social work professionals have secure remote access to the Children's Services database maintained by each of the participating local authorities containing the records of children where consent to adoption is given by the birth parent or who are or will potentially become the subject of a Placement Order;
- access is ideally achieved via a secure interface that allows designated RAA social work professionals to use a single user ID and password to access relevant case records in the 5 local authority Children's systems (including SMBC)
- in addition to viewing rights, designated role based RAA social work professionals are authorised by participating authorities to add relevant information to the record of a child who is or may in future be in need of adoption

5.10 The participating local authorities commit to developing technical controls to ensure that remote system access by designated RAA social workers to individual case records is necessary and proportionate and/or that policy controls are agreed and implemented in order to audit the children's records accessed by designated RAA professionals and to provide assurance that access permissions are used appropriately and not for unauthorised purposes.

- 5.11 In the event a technological solution is unable to facilitate secure remote access, alternative data sharing processes for effective sharing of Specified Data about children in need of adoption between the participating authorities and the RAA will be developed and evidenced in an updated version of this ISA no later than one month after establishment of the RAA.
- 5.12 The RAA and participating authorities will share necessary Specified Data about prospective adopters when this is necessary for assessment purposes and with adoption panels and decision-makers as required at key stages in the adoption decision- making processes.

## **6 FAIRNESS, TRANSPARENCY & CONSENT**

### **Transitional phase**

- 6.1 Participating authorities hold information about people who may have registered an interest in becoming adopters, may be part way through the assessment and approval process or have been approved. Prior to the RAA coming into existence, all the participating authorities (including SMBC) agree to the development and delivery of a communications plan to directly inform the registered adopters in their locality of the formation of the RAA and the change in service delivery arrangements so that registered adopters are aware that the SMBC RAA will be responsible for their personal information from the date on which the RAA is established.
- 6.2 The Parties respect that the above measures are necessary prior to the migration of adopter information to the SMBC hosted RAA in order to meet legal obligations under the first data protection principle of the DPA 1998 and to comply with the Information Commissioner's Privacy Notices Code of Practice.
- 6.3 Once the SMBC hosted RAA becomes responsible for these migrated records, participating authorities will consider and review their local retention

and disposal records in accordance with section 14 to ensure they are not unnecessarily storing duplicate information.

### **Formation of the SMBC hosted RAA**

- 6.4 Coinciding with the formation of the SMBC led RAA, SMBC will publish a privacy notice on the SMBC web site providing information about how it will use personal information received from individuals who wish to be considered as potential adopters and with whom and to what extent it will be shared and why, together with any other information which may be relevant, especially if such use or sharing is unexpected.
- 6.5 Participating authorities will ensure their local communications link to the SMBC RAA privacy notice to alert those in their localities who may in the future be interested in becoming adopters.
- 6.6 Where it is necessary, the SMBC hosted RAA will be responsible for seeking the prior consent of the potential adopters, recording the outcome and for providing assurance and/or information about relevant safeguards and, for ensuring it has processes in place to consider any objections received about the use or disclosure of personal information and to implement decisions reached in individual cases.

## **7 TECHNICAL AND ORGANISATIONAL SECURITY MEASURES**

- 7.1 The Parties shall ensure that irrespective of whether Specified Data is in transit or at rest, it is handled in compliance with all relevant legislation, and recognised industry information security standards.
- 7.2 Relevant legislation includes the Agency Adoption Regulations (AAR) 2005, the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations (AIR) 2005 and the DPA 1998<sup>8</sup>.

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<sup>8</sup> AAR 2005: Regulation 39, AIR 2005: Regulation 5, DPA 1998: principle 7

7.3 Appropriate technical, security and organisational measures shall be taken to safeguard against unauthorised or unlawful processing of the Specified Data and against accidental loss or destruction of, or damage to, the Specified Data

7.4 These measures shall cover all aspects of information governance, data handling and information security addressing organisational and technical controls such as physical security, system specific security, access privileges, staff reliability and training, including but not limited to ensuring:

- the controls deployed (including the method to be agreed for securely exchanging the Specified Data) are appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Specified Data based on the nature and sensitivity of the Specified Data;
- access to Specified Data complies with the “need to know” principle and is role specific
- where the Specified Data is held on portable devices, or communicated by email appropriate encryption is deployed;
- where Specified Data is stored or transported in paper form physical security safeguards are in place;
- where Specified Data is communicated in person (e.g. face to face or over the telephone) appropriate measures are taken to preserve and maintain confidentiality;
- all reasonable steps are taken to establish the reliability of employees (including permanent, temporary, placements, agency staff, consultants or volunteers) authorised to access the Specified Data (including appropriate vetting of prospective employees, in accordance with recognised industry practice);
- employees authorised to disclose/ receive/ access Specified Data have received appropriate training in the law of data protection and information security;
- contracts and/or organisational policies and Codes ensure employees understand their duty of care and confidentiality obligations, including

the circumstances in which unauthorised access or inappropriate disclosure of personal information may give rise to:

- disciplinary measures if confidentiality is breached or Specified Data is knowingly or recklessly processed in a manner in contravention of the law
- the commission of a criminal offence under s.55 of the Data Protection Act 1998 and/or s.1 of the Computer Misuse Act 1990 if accessing or obtaining Personal Data without authorisation and/or any other specified offences under Adoption legislation;
- reasonable steps are taken to maintain and audit compliance with above measures;
- the technical controls and/or auditing safeguards to monitor system user permissions as outlined in section 5.10 are enforced and subject to periodic reporting and review to ensure that user permissions are not misused.

## **8 SECURITY BREACH PROCEDURES AND NOTIFICATION**

8.1 The Parties confirm they have established Incident Reporting and Management procedures consistent with the Information Commissioner's guidance for investigating and handling security breaches.

8.2 In the event of a breach of security or confidentiality resulting in the compromise of any Specified Data, urgent remedial measures shall be implemented, including where applicable notifying the Party from whom the Specified Data has been obtained. Notification to the disclosing Party must be undertaken urgently and no later than 72 hours after first discovery.

8.3 Depending on the nature of the breach, the Parties acknowledge that it may be necessary for the relevant data controller to notify data subjects and/or relevant regulatory bodies.

## **9 DATA QUALITY AND ACCURACY**

- 9.1 Each Party is responsible for the quality and accuracy of the personal information it obtains, uses and discloses.
- 9.2 Before system driven exchanges of Specified Data common identifiers (not excluding National Insurance Numbers) will be agreed to limit the potential for avoidable mismatches.
- 9.3 If a Party later discovers information is inaccurate, it will take all necessary steps to inform other Parties and recipients to enable the correction or updating of their records/case management systems.

## **10 OTHER DISCLOSURES AND USES**

- 10.1 In relation to a person who has been adopted on or after 30 December 2005, the disclosure of information relating to his adoption is governed by ACA 2002, ss 56-65 and in England by the Disclosure of Adoption information (Post Commencement Adoptions) Regulations 2005. The information covered by these regulations is known as 'section 56 information'. Any s56 information kept by the RAA about an adopted person or any other person and is, or includes identifying information about the person in question('protected information') may only be disclosed by the agency to a person(other than the person that the information is about) in pursuance of ACA 2002 s56-65
- 10.2 For specific and limited purposes, the above Regulations provide for specified persons and bodies to access information from the case record before adoption or, after the making of an adoption order, to the adoption record.
- 10.3 Nothing in this ISA excludes disclosures which may be necessary by the participating authorities and/or the SMBC hosted RAA:
- to provide adoption services; and
  - is consistent with the disclosure obligations set out in the AC Act 2002 and the above Regulations; and

- is not otherwise in conflict with any other legal obligations governing adoption law and practice

10.4 In accordance with these Regulations, a written record of the access and disclosure must be made including:

- a description of the information disclosed;
- the date on which the disclosure is made;
- the person to whom the information is disclosed; and
- the reason for the disclosure<sup>9</sup>.

## **11 DISCLOSURE OF INFORMATION IN RELATION TO A PERSON'S ADOPTION**

11.1 The Parties are aware that in relation to persons adopted:

### **Before 30/12/2005:**

- the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 (ISR) provide the framework for disclosing information to adopted adults, aged 18 and over, about their adoption, their family history and early life and for facilitating consented contact between adopted adults and their birth relatives<sup>10</sup>.

### **On or after 30/12/2005:**

- Section 56-65 of the AC Act 2002 and the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations (AIR) 2005 provide for an adopted adult, aged 18 or over, with the right at his request to receive from the appropriate adoption agency any information which would allow him to obtain a certified copy of his birth certificate (unless the High Court or the Family Court otherwise orders) or any prescribed information which had been disclosed to his adopters during the adoption process pursuant to ACA 2002 s54

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<sup>9</sup> Adoption Agency Regulations (AAR) 2005: Regulation 42.3, Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations (AIR) 2005/888: Regulation 11

<sup>10</sup> The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 (ISR) are made under the Adoption Act 1976.

- 11.2 Requests for the disclosure of “protected information” about an adopted child or an adopted adult (including requests for “protected information” from an adopted adult), must be made in writing and considered in accordance with the provisions of Section 60 or Section 61 of the AC Act, as supplemented by the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005.

## **12 DATA PROTECTION RELATED REQUESTS AND COMPLAINTS**

- 12.1 Under section 7 of the Data Protection Act 1998 (DPA 1998) individuals have a statutory right to gain access to personal information held about them and, if it is not accurate to ask for their personal information to be corrected.
- 12.2 This right is not absolute and exemptions apply where the disclosure of the requested personal data is prohibited or restricted by certain enactments and subordinate instruments in the interests of safeguarding the interests of the data subject himself or the rights and freedoms of another individual.
- 12.3 The provisions of the Adoption Agency Regulation 41 will prevail over section 7 of the 1998 Act by virtue of Schedule 1, Part II, paragraph 1 of the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000/419<sup>11</sup> exempts the right of subject access in relation to specified adoption records and reports<sup>12</sup>.
- 12.4 In the unlikely event of receiving a valid Section 7 request for adoption related information falling outside the terms of the exemption described in 12.3, the recipient will liaise with other relevant Parties in order to determine whether the RAA alone or another participating authority holds the information which is the subject of the request.

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<sup>11</sup> Data Protection (Miscellaneous Subject Access Exemptions) Order 2000/419 (as amended by The Adoption and Children Act 2002 (Consequential Amendments) Order 2005/3504)

<sup>12</sup> Adoption and Children Act 2002: Sections 57 to 62, 77 and 79 and Schedule 2; Adoption Agencies Regulations 2005 reg 42 subject to Regulation 42, the contents of the child's case records and the prospective adopters case records shall be treated by the adoption agency as confidential: Regulation 14; Adoption Agencies Regulations 2005: Regulation 41

- 12.5 Under Section 10 of the DPA, individuals have the right to make written representations objecting to their personal information being processed where the individual considers this is or has the potential to cause them substantial and unwarranted damage or distress.
- 12.6 In the event of a Section 10 notice or a complaint relating to the processing of Specified Data, the receiving Party will take reasonable steps to consult the Party from whom the personal information was obtained before responding to the request.
- 12.7 The Parties acknowledge their responsibility to ensure valid data protection related requests are processed within statutory time limits and/or in line with local customer services and complaint policies.

## **13 FREEDOM OF INFORMATION**

- 13.1 As public authorities for the purposes of the Freedom of Information Act 2000 (FoIA), the Parties to this ISA acknowledge their responsibilities in relation to handling requests for information.
- 13.2 In line with the Code of Practice issued under Section 45 of the FoIA, the Parties shall cooperate with each other in the event of receiving requests for information about or shared under this ISA.

## **14 RETENTION AND DISPOSAL**

- 14.1 Information relating to the child's case record and the prospective adopter's case record specified in the Adoption Agency Regulations 2005<sup>13</sup> together with the child's adoption record and the adoptive parents record as specified in the Disclosure of Adoption Information (Post-Commencement Adoptions)

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<sup>13</sup> Adoption and Children Act 2002, Section 56 & Adoption Agency Regulations 2005, Reg. 40: Preservation of case records

Regulations (AIR) 2005<sup>14</sup> must be preserved and retained for as long as is appropriate and only for as long as is necessary.

14.2 In line with Section 65(1) of the AC Act 2002, the relevant authority placing the child for adoption is responsible for maintaining the child's adoption record.

14.3 In the case of participating authorities, this obligation requires the:

- retention of specified information in relation to a person's adoption for at least 100 years from the date of the adoption order<sup>15</sup>.

14.4 The SMBC hosted RAA shall be responsible for the maintenance of the adoptive parents record.

14.5 In the case of the RAA these obligations include ensuring:

- the adopter record is retained only for as long as this is required;
- that 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
- formal processes are established to separate any protected information about a child's birth records from the family name of the adopter after the adoption order is granted.

14.6 Each Party agrees to comply with statutory guidance on adoption relating to the retention and disposal considerations relating to the records of children who do not proceed to adoption and the records of prospective adopters who are not approved<sup>16</sup>.

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<sup>14</sup> Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations (AIR) 2005/888: Regulation 4

<sup>15</sup> Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 (2005/288): Regulations 3, 4 & 6

<sup>16</sup> Department for Education – Statutory Guidance on Adoption (July 2014) (*issued under section 7 of the Local Authority Social Services Act 1970*) – see Chapter 9

- 14.7 Once Specified Data is no longer required, each Party undertakes to ensure it is securely and permanently disposed of in accordance with documented retention and disposal policies.

## **15 LOCAL AUTHORITY MAIN CONTACT – RESPONSIBILITIES**

- 15.1 Each participating local authority in the RAA shall ensure it has a Lead officer who is the main point of contact for the SMBC hosted RAA.
- 15.2 The Lead officer will be sufficiently senior and the initial point of contact for:
- all operational issues
  - escalating any dispute over the interpretation of the provisions in this agreement
  - breach notification
  - liaison on data protection and freedom of information requests
- 15.3 A list of the Lead officers for each authority and their contact details is outlined in Appendix 4

## **16 DEFINITIONS AND INTERPRETATION**

- 16.1 Appendix 5 outlines the relevant definitions applicable to this ISA.
- 16.2 All data protection terms shall be interpreted in accordance with the meaning ascribed to them in the Data Protection Act 1998 (DPA) and associated regulations.
- 16.3 This ISA is not intended to be legally binding and no legal rights shall arise between the Parties from these provisions save that it is acknowledged that the Parties as Data Controllers are responsible for ensuring that shared Specified Data once within their control shall be managed in accordance with

Adoption law and practice and processed in accordance with the eight data protection principles in the DPA identified in Appendix 6.

## **17 COMMENCEMENT AND TERMINATION**

- 17.1 This ISA shall take effect from the date the Parties fix their signatures below and shall continue in force for as long as SMBC continues to host the RAA or until this ISA is terminated.

## **18 REVIEW**

- 18.1 Other than the circumstances envisaged in 5.11, this ISA will be reviewed no later than February 2017 to reflect any actual or impending changes in policy and/or legislation

## **19 AUTHORISATION**

**SMBC – Regional Adoption Agency, Information Sharing Agreement signed for and on behalf of Stockport MBC:**

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Name: .....

Position: .....

**SMBC – Regional Adoption Agency, Information Sharing Agreement signed for and on behalf of Cheshire East Council:**

Name: .....

Position: .....

Organisation: .....

**SMBC – Regional Adoption Agency, Information Sharing Agreement signed for  
and on behalf of Manchester City Council:**

Name: .....

Position: .....

Organisation: .....

**SMBC – Regional Adoption Agency, Information Sharing Agreement signed for  
and on behalf of Salford City Council:**

Name: .....

Position: .....

Organisation: .....

**SMBC – Regional Adoption Agency, Information Sharing Agreement signed for  
and on behalf of Trafford Metropolitan Borough Council:**

Name: .....

Position: .....

Organisation: .....

## APPENDIX 1 – RELEVANT LEGISLATION

Local Authority Social Services Act 1970	<p>Section 7 – Local authorities to exercise social services functions under guidance of Secretary of State.</p> <p>Power for Secretary of State to issue statutory guidance relating to exercise of local authority functions (including adoption guidance)</p> <p>Schedule 1, defines social services functions</p>
Adoption Act 1976 <i>(provisions mostly repealed)</i>	<p>Part IV Status of adopted children</p> <p>Schedule 2 – rights relating to property, para 6</p> <p>Local Authority Adoption Service (England) Regulations 2003/370 <i>(retained under Reg. 15 of The Adoption and Children Act 2002 (Commencement No. 10 Transitional and Savings Provisions) Order 2005/2897 and amended by Local Authority Adoption Service (England) (Amendment) Regulations 2005/3339)</i></p>
Children Act 1989 <i>(as amended by Children and Families Act 2014)</i>	<p>Part III Support for children and families provided by local authorities in England</p> <ul style="list-style-type: none"> <li>• Provision of services for children and their families (section 17)</li> <li>• Duties of local authorities in relation to children looked after by them (section 22) <i>(amended by Children &amp; Families Act 2014)</i></li> </ul> <p>Part IV Care and Supervision</p> <ul style="list-style-type: none"> <li>• Effect of care order (section 33)</li> </ul> <p>Part V Protection of Children</p> <ul style="list-style-type: none"> <li>• Local authority duty to investigate (section 47)</li> </ul> <ol style="list-style-type: none"> <li>1. Children Act 1989 Representations Procedure (England) Regulations 2006/1738;</li> <li>2. The Care Planning, Placement and Case Review (England) Regulations 2010/959</li> <li>3. The Fostering Services (England) Regulations 2011/581 <i>(also made under Care Standards Act 2000)</i></li> <li>4. The Adoption and Care Planning (Miscellaneous Amendments) Regulations 2014/1556 <i>(also made under Adoption &amp; Children Act 2002)</i></li> <li>5. Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) (Amendment) Regulations 2014/670 <i>(also made</i></li> </ol>

	<p>under Care Standards Act 2000)</p> <ol style="list-style-type: none"> <li>6. The Adoption Agencies (Miscellaneous Amendments) Regulations 2013/985 (also made under Adoption &amp; Children Act 2002)</li> <li>7. The Care Planning, Placement and Case Review (England) (Miscellaneous Amendments) Regulations 2013/706 (also made under Care Standards Act 2000)</li> <li>8. The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013/984 (also made under Care Standards Act 2000)</li> <li>9. The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013/3239 (also made under Care Standards Act 2000)</li> </ol>
<p>Care Standards Act 2000</p> <p><i>(introduces registration; inspection and independent regulation of voluntary adoption agencies)</i></p>	<p>Part III, Local Authority services</p> <p>- S.43(3): " In relation to a local authority–</p> <ol style="list-style-type: none"> <li>(a) "relevant adoption functions" means functions under the Adoption and Children Act 2002 of making or participating in arrangements for the adoption of children or the provision of adoption support services (as defined in section 2(6) of the Adoption and Children Act 2002); and</li> <li>(b) "relevant fostering functions" means functions under section 23(2)(a) of the 1989 Act or regulations under any of paragraphs (a), (b) or (d) to (f) of paragraph 12 of Schedule 2 to that Act".</li> </ol> <ol style="list-style-type: none"> <li>1. Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005/2720 <i>(as amended by 2010/465) (also made under Adoption Children Act 2002)</i></li> <li>2. The Fostering Services (England) Regulations 2011/581 (also made under Children's Act 1989)</li> <li>3. Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) (Amendment) Regulations 2014/670 (also made under Children's Act 1989)</li> <li>4. The Care Planning, Placement and Case Review (England) (Miscellaneous Amendments) Regulations 2013/706 (also made under Children Act 1989)</li> <li>5. The Care Planning, Placement and Case Review and Fostering</li> </ol>

	<p>Services (Miscellaneous Amendments) Regulations 2013/984 (also made under Children Act 1989)</p> <p>6. The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013/253</p> <p>7. The Care Standards Act 2000 (Registration) (England) (Amendment) Regulations 2013/446</p> <p>8. The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013/3239 (also made under Children Act 1989)</p> <p>9. The Providers of Social Work Services (England) Regulations 2013/2668</p> <p>10. The Residential Family Centres (Amendment) Regulations 2013/499</p> <p>11. The Residential Holiday Schemes for Disabled Children (England) Regulations 2013/1394</p>
<p>The Adoption and Children Act 2002</p> <p><i>(as amended by Children and Families Act 2014)</i></p>	<p>1. Adopted Children and Adoption Contact Registers Regulations 2005/924</p> <p>2. Adoption (Recognition of Overseas Adoptions) Order 2013/1801</p> <p>3. Adoption Agencies Regulations 2005/389 <i>(as amended by Adoption Agencies and Independent Review of Determinations (Amendment) Regulations 2011/589; Adoption Agencies (Panel and Consequential Amendments) Regulations 2012/1410; 2013/953; Adoption and Care Planning (Miscellaneous Amendments) Regulations 2014/1556)</i></p> <p>4. Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005/890 (as amended by 2014/2696 and 2015/1685)</p> <p>5. Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005/2720 <i>(as amended by 2010/465)</i></p> <p>6. Adoption Support Services Regulations 2005/691 <i>(as amended by 2010/465 and 2014/1563)</i></p> <p>7. Adoption and Children (Miscellaneous Amendments) Regulations 2005/3482 <i>(amends various regulations, including 2005/389)</i></p> <p>8. Adoption and Children Act 2002 (Consequential Amendment to Statutory Adoption Pay) Order 2006/2012</p> <p>9. Adoption and Children Act 2002 (Consequential Amendments)</p>

	<p>Order 2005/3504</p> <ol style="list-style-type: none"> <li>10. Adoption and Children Act Register (Search and Inspection) (Pilot) Regulations 2014/1957</li> <li>11. Adoption and Children Act Register Regulations 2014/1492</li> <li>12. The Adoption Agencies (Miscellaneous Amendments) Regulations 2013/985 (also made under Children Act 1989)</li> <li>13. The Adoption and Care Planning (Miscellaneous Amendments) Regulations 2014/1556</li> <li>14. Adoptions with a Foreign Element Regulations 2005/392</li> <li>15. Care Standards and Adoption (Regulation of Establishments, Agencies and Adult Placement Schemes) (Amendment) Regulations 2009/1895 (amends various regulations)</li> <li>16. Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005/888</li> <li>18. Family Procedure Rules 2010/2955 (as amended 2012/679 and 2013/3204)</li> <li>19. Family Proceedings (Amendment) (No.2) Rules 2010/1064</li> <li>20. Family Proceedings Courts (Children Act 1989) (Amendment) (No.2) Rules 2010/1065</li> <li>21. Independent Review of Determinations (Adoption and Fostering) Regulations 2009/395</li> <li>22. Independent Review of Determinations (Adoption) Regulations 2005/3332</li> <li>23. Local Authority (Adoption) (Miscellaneous Provisions) Regulations 2005/3390</li> <li>24. Local Authority Adoption Service (England) (Amendment) Regulations 2005/3339 (<i>amending Local Authority Adoption Service (England) Regulations 2003/370</i>)</li> <li>25. Parental Orders (Prescribed Particulars and Forms of Entry) Regulations 2010/1205</li> <li>26. Restriction on the Preparation of Adoption Reports Regulations 2005/1711</li> <li>27. The Adoption and Children Act 2002 (Commencement No. 10 Transitional and Savings Provisions) Order 2005/2897</li> <li>28. The Adoption (Recognition of Overseas Adoptions) Order 2013/1801</li> </ol>
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	<p>29. Suitability of Adopters Regulations 2005/1712</p> <p>30. Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003/367 (<i>as amended by 2005/3341 and 2009/1898</i>)</p>
The Children and Adoption Act 2006	<p>1. Adoptions with a Foreign Element (Special Restrictions on Adoptions from Abroad) Regulations 2008/1807</p> <p>2. Special Restrictions on Adoptions from Abroad (Cambodia) Order 2008/1808</p> <p>3. Special Restrictions on Adoptions from Abroad (Guatemala) Order 2008/1809</p> <p>4. Special Restrictions on Adoptions from Abroad (Haiti) Order 2010/2265</p> <p>5. Special Restrictions on Adoptions from Abroad (Nepal) Order 2010/951</p>
Child Care Act 2006	<p>1. The Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2013/3193</p>
Children and Young Persons Act 2008	<p>1. The Children and Young Persons Act 2008 (Relevant Care Functions) (England) Regulations 2014/2407</p> <p>2. The Children and Families Act 2014 (Transitional Provisions) Order 2014/1042</p>
Protection of Freedoms Act 2012	<p>1. Disclosure and Barring Service (Core Functions) Order 2012/2522 (<i>as amended by The Disclosure and Barring Service (Core Functions) (Amendment) Order 2014/238</i>)</p>
Children & Families Act 2014 ( <i>amends Adoption &amp; Children Act 2002</i> )	<p>1. The Children and Families Act 2014 (Commencement No. 2) (Amendment) Order 2014/1134</p> <p>2. The Child Arrangements Order (Consequential Amendments to Subordinate Legislation) Order 2014/852</p> <p>3. Children and Families Act 2014 (Transitional Provisions Order 2014/1042</p>
Education & Adoption Act 2016	Part I, Adoption and Contact
European Communities Act 1972	<p>1. The Working with Children (Exchange of Criminal Conviction Information) (England and Wales and Northern Ireland) Regulations 2013/2945</p>

## APPENDIX 2 – STATUTORY GUIDANCE & OTHER GUIDANCE

### Adoption

1. Department for Education – Statutory Guidance on Adoption (July 2014) (*issued under section 7 of the Local Authority Social Services Act 1970*)<sup>17</sup>
2. Department for Education – Adoption: national minimum standards (July 2014)<sup>18</sup>
3. Department for Children, Schools and Family: Adoption: Access to Information and Intermediary Services (Practice Guidance)<sup>19</sup>

### Looked After Children & Children Act 1989

4. Court orders and pre-proceedings for local authorities April 2014 (Volume 1)<sup>20</sup>
5. The Children Act 1989 guidance and regulations (Volume 2): care planning, placement and case review June 2015<sup>21</sup>
6. The Children Act 1989 guidance and regulations (Volume 3): planning transition to adulthood for care leavers Publication date: October 2010 Implementation date: 1 April 2011<sup>22</sup>
7. Department for Education: The Children Act 1989, Guidance and Regulations, (Volume 4), Fostering Services (2011)<sup>23</sup>
8. Guide to the Children's Homes Regulations including the quality standards April 2015 (Volume 5)<sup>24</sup>

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<sup>17</sup> DfE Statutory Guidance (2013)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/270100/adoption\\_statutory\\_guidance\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/270100/adoption_statutory_guidance_2013.pdf) (last accessed 16/11/2016)

<sup>18</sup> DfE Adoption minimum standards (2014)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336069/Adoption\\_NMS\\_July\\_2014\\_for\\_publication.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336069/Adoption_NMS_July_2014_for_publication.pdf) (last accessed 4/11/2016)

<sup>19</sup> Department for Children, Schools and Family: Adoption: Access to Information and Intermediary Services (Practice Guidance) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/459609/Adoption\\_-\\_Access\\_to\\_Information\\_and\\_Intermediary\\_Services.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/459609/Adoption_-_Access_to_Information_and_Intermediary_Services.pdf)

<sup>20</sup> Court orders and pre-proceedings for local authorities April 2014 (Volume 1)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/306282/Statutory\\_guidance\\_on\\_court\\_orders\\_and\\_pre-proceedings.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306282/Statutory_guidance_on_court_orders_and_pre-proceedings.pdf)

<sup>21</sup> The Children Act 1989 guidance and regulations (Volume 2): care planning, placement and case review June 2015 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/441643/Children\\_Act\\_Guidance\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441643/Children_Act_Guidance_2015.pdf)

<sup>22</sup> The Children Act 1989 guidance and regulations (Volume 3): planning transition to adulthood for care leavers Publication date: October 2010 Implementation date: 1 April 2011

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/397649/CA1989\\_Transitions\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397649/CA1989_Transitions_guidance.pdf)

<sup>23</sup> Department for Education: The Children Act 1989, Guidance and Regulations, (Volume 4), Fostering Services (2011)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/274220/Children\\_Act\\_1989\\_fostering\\_services.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274220/Children_Act_1989_fostering_services.pdf)

<sup>24</sup> Guide to the Children's Homes Regulations including the quality standards April 2015 (Volume 5)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/463220/Guide\\_to\\_Children\\_s\\_Home](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/463220/Guide_to_Children_s_Home)

9. DfE: Promoting the education of looked after children Statutory guidance for local authorities (July 2014)<sup>25</sup>

10. DfE: Care of unaccompanied and trafficked children: Statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children (July 2014)<sup>26</sup>

11. DfE: Working with foreign authorities: child protection cases and care orders: Departmental advice for local authorities, social workers, service managers and children's services lawyers (July 2014)<sup>27</sup>

12. DfE: Children looked after by local authorities in England Guide to the SSDA903 collection 1 April 2014 to 31 March 2015 (October 2014)<sup>28</sup>

13. DfE: Court orders and pre-proceedings For local authorities (April 2014)<sup>29</sup>

14. DfE: Children in need census 2013 to 2014 guide Version 2.2, (March 2014)<sup>30</sup>

15. Child Trust Fund and Looked After Children: Guidance for Local Authorities in England, Wales and Scotland and Health and Social Services Trusts in Northern Ireland<sup>31</sup>

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[Standards\\_inc\\_quality\\_standards\\_Version\\_1.17\\_FINAL.pdf](#)

<sup>25</sup> DfE: Promoting the education of looked after children  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335964/Promoting\\_the\\_educational\\_achievement\\_of\\_looked\\_after\\_children\\_Final\\_23-....pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335964/Promoting_the_educational_achievement_of_looked_after_children_Final_23-....pdf)

<sup>26</sup> DfE: Care of unaccompanied and trafficked children  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/330787/Care\\_of\\_unaccompanied\\_and\\_trafficked\\_children.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330787/Care_of_unaccompanied_and_trafficked_children.pdf)

<sup>27</sup> DfE: Working with foreign authorities: child protection cases and care orders: Departmental advice for local authorities, social workers, service managers and children's services lawyers (July 2014)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/351145/Working\\_with\\_Foreign\\_Authorities\\_-\\_Child\\_Protection\\_and\\_Court\\_Orders.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/351145/Working_with_Foreign_Authorities_-_Child_Protection_and_Court_Orders.pdf)

<sup>28</sup> DfE: Children looked after by local authorities in England Guide to the SSDA903 collection 1 April 2014 to 31 March 2015 (October 2014)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/369750/SSDA903\\_GuidanceNotes\\_2014\\_15\\_v1.1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/369750/SSDA903_GuidanceNotes_2014_15_v1.1.pdf)

<sup>29</sup> DfE: Court orders and pre-proceedings For local authorities (April 2014)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/306282/Statutory\\_guidance\\_on\\_court\\_orders\\_and\\_pre-proceedings.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306282/Statutory_guidance_on_court_orders_and_pre-proceedings.pdf)

<sup>30</sup> DfE: Children in need census 2013 to 2014 guide Version 2.2, (March 2014)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299928/DFE-00338-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299928/DFE-00338-2014.pdf)

<sup>31</sup> Child Trust Fund and Looked After Children: Guidance for Local Authorities in England, Wales and Scotland and Health and Social Services Trusts in Northern Ireland  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/358155/Child\\_Trust\\_Fund\\_and\\_Looked\\_After\\_Children.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358155/Child_Trust_Fund_and_Looked_After_Children.pdf)

## APPENDIX 3 - SPECIFIED DATA

### **(A) Transitional phase**

#### **Sharing with RAA by participating authorities**

Information about prospective adopters will be supplied to the RAA by participating authorities in line with the same information requirements outlined in Part 4 and Part 8, Schedule 4 of the Adoption Agencies Regulations 2005/389<sup>32</sup>.

In so far as children in need of adoption may already have been matched with approved adopters, information about the child and about the child's family will be supplied to the RAA in line with the same information requirements outlined in Part 3 and Part 8, Schedule 1 of the Adoption Agencies Regulations 2005/389

### **(B) Regular Data Sharing**

#### **Sharing with RAA by participating authorities**

Information about the child in need of adoption and about the child's family will be supplied to the RAA in line with the same information requirements outlined in Part 3 and Part 8, Schedule 1 of the Adoption Agencies Regulations 2005/389.

In relation to Adoption Panels the participating authorities will share the information set out in Sections 17(2) and (3) of The Adoption Agency Regulations 2005/389

#### **Sharing by RAA with participating LAs**

Information about the child in need of adoption and about the child's family will be supplied by the RAA to the participating authorities in line with the same information requirements outlined in Part 3 and Part 8, Schedule 1 of the Adoption Agencies Regulations 2005/389 .

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<sup>32</sup> The Adoption Agencies Regulations 2005/389  
<http://www.opsi.gov.uk/si/si2005/20050389.htm> (last accessed 4/11/16)

## **Categories of data**

### **Adopters**

Each Local Authority will be sharing the following information relating to adopters:

- Enquiry information
- Prospective Adopter Reports – including medical information and statutory checks
- Approval Panel Minutes
- Information relevant to Adoption Support
- Letterbox information to enable ongoing indirect contact between birth parents and adopted children

### **Children placed for Adoption**

Prior to a Placement Order the following information is shared with the consent of the Court:

- Referral and assessment information
- Court Reports
- Child Profiles
- Child Placement report and associated documents e.g. medical reports and specialist assessments.
- Should be placed for Adoption Decision notices
- Adoption Support Plans

Post Placement Order the Local Authority is under an obligation to share this information with prospective adopters regardless of which agency has approved them.

## **Information Security**

All of the above data will be shared via the new CHARMS system.

There will be three processes for the transfer of the data into the new system:

- Local Authority staff will directly input data into the system;
- For one off data transfers a secure file transfer application called Sharefile will be used.
- Where the size of the data is so large so as to prohibit upload to Sharefile, data will be physically transferred via encrypted drive directly into the system providers' data centre.

## APPENDIX 4 – LOCAL AUTHORITY LEAD CONTACTS

### **Stockport Metropolitan Borough Council:**

Andrew Webb, Corporate Director

Email: [andrew.webb@stockport.gov.uk](mailto:andrew.webb@stockport.gov.uk)

### **Cheshire East Council:**

Nigel Moorhouse, Director of Children's Social Care/Deputy Director of Children's Services

Email: [nigel.moorhouse@cheshireeast.gov.uk](mailto:nigel.moorhouse@cheshireeast.gov.uk)

### **Manchester City Council:**

Amanda Amesbury, Strategic Lead Children's Social Care

Email: [a.amesbury@manchester.gov.uk](mailto:a.amesbury@manchester.gov.uk)

### **Salford City Council:**

Sharon Hubber, Assistant Director of Specialist Services

Email: [Sharon.Hubber@salford.gov.uk](mailto:Sharon.Hubber@salford.gov.uk)

### **Trafford Metropolitan Borough Council**

Anna Lomas, Strategic Lead, Children in Care

Email: [anna.lomas@trafford.gov.uk](mailto:anna.lomas@trafford.gov.uk)

## APPENDIX 5 – GLOSSARY OF TERMS

Term	Definition
“Consent”	Means the fully informed, freely given and unambiguous indication of person’s wishes in relation to how personal information about them is to be used and disclosed
“Common Law duty of confidentiality”	<p>An obligation or expectation of confidence is not confidentiality absolute and information may be lawfully disclosed:</p> <ul style="list-style-type: none"><li>• if the person owed the duty, gives consent</li><li>• in compliance with a court order or legal obligation</li><li>• where the public interest in disclosure overrides the public interest in the protection of the confidence</li></ul>
“Data Protection Act”	The Data Protection Act 1998 (as amended and supplemented from time to time)
“Data Controller”	Means as defined in Section 1 of the Act; a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed);
“Data Processor”	Means any person (other than an employee of the Data Controller) who processes personal on behalf of the Data Controller
“Data Subject Access request”	Shall have the same meaning as section 7 of the Data Protection Act 1998 (as amended by the Freedom of Information Act 2000). This provides a data subject with a statutory right of access to personal information unless the requested information is subject to an exemption
“First Principle of the Data Protection Act”	Means the data protection principle set out in paragraph 1 of Part 1 of Schedule 1 of the Act; Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met

“Freedom of Information Act 2000”	Means the Act giving the public the general right of access recorded information held by public authorities
“Section 56 information”	Means the specified information in Sections 56 to 65 of the Adoption and Children Act 2002 and supporting Regulations
“Information Commissioner’s Data Sharing Code of practice”	Means the code of practice designed to help Data Controllers share information fairly and lawfully in accordance with The Data Protection Act.
“Information Commissioner’s Privacy Notices Code of Practice”	Means the code of practice designed to help Data Controllers collect and use information fairly and transparently, in accordance with The Data Protection Act.
“Objection to processing” or “Cease processing notice”	Shall have the same meaning as the process described in Section 10 of the Data Protection Act 1998 (as amended by the Freedom of Information Act 2000)
“Personal Data”	<p>Means as defined in Section 1 of the Act as amended by Section 68 of the Freedom of Information Act 2000; Personal Data which relate to a living individual who can be identified—</p> <p>(a) from those data, or</p> <p>(b) from those data and other information which is in the possession of, or is likely to come into the possession of the Data Controller, and includes any expression of opinion about the individual and any indication of the intentions of the Data controller or any other person in respect of the individual</p>
“Privacy Notice/Fair processing”	A notice that must be given informing individuals of the reason for processing their personal information before the processing takes place, including how it is to be used and with whom it will be shared and why to ensure that the processing is undertaken fairly and transparently
“Processing”	as defined in Section 1 of the Act; in relation to information or data, means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including—

- a) organisation, adaptation or alteration of the information or data,
- (b) retrieval, consultation or use of the information or data,
- (c) disclosure of the information or data by transmission, dissemination or otherwise making available, or
- (d) alignment, combination, blocking, erasure or destruction of the information or data;

“Regional Adoption Agency”	Is the name given to the particular adoption services SMBC is hosting for the local authorities who are Party to this agreement
“Schedule 2 / Schedule 3 processing conditions”	Means the processing conditions in the DPA. At least one of the conditions must be met in schedule 2 to justify processing personal data and if also processing sensitive personal, an additional condition in schedule 3 must be satisfied.
“Schedule 2 condition 5(d)”	This DPA processing condition means the “the exercise of any other functions of a public nature exercised in the public interest by any person”.
“Section 45 FoIA Code”	Means the Code of Practice on the discharge of public authorities' functions under Part I of the Freedom of Information Act 2000
“Sensitive Personal Data”	Means personal data consisting of information as to— <ul style="list-style-type: none"> <li>(a) the racial or ethnic origin of the data subject,</li> <li>(b) political opinions,</li> <li>(c) religious beliefs or other beliefs of a similar nature,</li> <li>(d) whether or not the a member of a trade union</li> <li>(e) physical or mental health or condition,</li> <li>(f) sexual life,</li> <li>(g) the commission or alleged commission of any offence, or</li> <li>(h) any proceedings for any offence committed or alleged to have been committed, the disposal of such proceedings or the sentence of any court in such proceedings.</li> </ul>
“Specified Data”	Is an umbrella term which for the purposes of this agreement means both: <ul style="list-style-type: none"> <li>(1) personal and sensitive personal data as defined in s.1 of the DPA</li> <li>(2) the personal data types specified in Appendix 3</li> </ul>
“The Data Protection (Processing of Sensitive	This Order supplements the sensitive data processing conditions in schedule 3 of the DPA 1998.

Personal Data) Order 2000”

Paragraph 4 provides a condition for processing—  
(a) is in the substantial public interest;  
(b) is necessary for the discharge of any function which is designed for the provision of confidential counselling, advice, support or any other service; and  
(c) is carried out without the explicit consent of the data subject because the processing—  
(i) is necessary in a case where consent cannot be given by the data subject,  
(ii) is necessary in a case where the data controller cannot reasonably be expected to obtain the explicit consent of the data subject, or  
(iii) must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice the provision of that counselling, advice, support or other service.

Data Protection  
(Miscellaneous Subject  
Access Exemptions)  
Order 2000/419 (as  
amended by The Adoption  
and Children Act 2002  
(Consequential  
Amendments) Order  
2005/3504)

Means the Regulations providing exemptions from the right of subject access under section 7

## APPENDIX 6 – DATA PROTECTION ACT PRINCIPLES

The Data Protection Act 1998 contains eight data protection principles which taken together define the standards that must be met when processing personal data. The purpose of the Act is to make provision for the regulation of the processing of information relating to individuals including the obtaining, holding, use and disclosure of such information.

The eight data protection principles are that personal data is:

1. fairly and lawfully processed
2. processed for limited purposes
3. adequate, relevant and not excessive
4. accurate
5. not kept for longer than is necessary
6. processed in line with the rights of individuals
7. kept secure
8. not transferred to countries without adequate data protection