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# **Part 19 - Informing family members**

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CoramBAAF  
41 Brunswick Square  
London  
WC1N 1AZ  
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# Using Part 19

A 'Part 19 application' refers to Part 19 of the Family Procedure Rules 2010, which sets out a process for an application to the court where there is no other prescribed procedure. In adoption cases this procedure can be used where adoption is being considered for a child, but the mother does not want family members to be told of the child's existence. A local authority should investigate the possibility of a family placement for the child, but may not breach the mother's confidentiality without the permission of the court.

If a child's mother does not want to tell the child's father that she intends to place the child for adoption, Rule 14.21 allows an adoption agency or local authority to ask for directions about involving a father who does not have parental responsibility, and Rule 19.2 says that this must be done using the Part 19 procedure.

If the child is the subject of care proceedings, the family court may give directions within those proceedings about whether to join a father without parental responsibility to the proceedings or whether to approach other family members, so a separate Part 19 application is not necessary.

If there are no proceedings, but the mother is looking to relinquish the child for adoption, the local authority cannot guarantee that the mother's wish for confidentiality will be respected. When an adoption application is made, the court might take a different view and require family members to be informed of the application. This will cause anxiety to the prospective

Written by  
Alexandra  
Conroy Harris,  
CoramBAAF  
Legal Consultant.

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adopters and the mother, and delay in permanence for the child. If a family member is identified as a suitable carer, the child may be moved after many months in their potential adoptive placement. A Part 19 application will resolve the issue at an early stage without the need to issue care or placement proceedings.

A Part 19 application can also be used where the child is a citizen of another country. The court can be asked whether or not the authorities of that country should be given notice of the child's birth and invited to play any part in proceedings involving the child. If in any proceedings a Children's Guardian is appointed for the child, the consulate of the appropriate country must be informed as required by Article 37 of the Vienna Convention on [Consular Relations 1963](#). In such a case the court cannot override the Convention and a Part 19 application would be redundant.



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# Making a Part 19 application

A Part 19 application can be made without naming a respondent or serving notice of the application on any other person, although it will usually be appropriate for the mother to be named as a respondent. The local authority submits the [appropriate application form](#), including evidence either on the form or attaching a statement. The court may list the case for hearing or give directions. In practice the court is very likely to give directions for the appointment of a Children's Guardian and for the mother to be able to put her case.

Although the intention in adoption cases is that a Part 19 application should be considered swiftly, there is no timetable to dictate how quickly an application should be considered. Unfortunately, as Part 19 is not a very common application for the Family Court to deal with, these applications can sometimes be held up in the court office, or not given the prompt attention that they require. It can be helpful for the local authority legal department to liaise with the court office to alert them to the application and to remind them of the need to prioritise such applications. The court should immediately refer the application to the Designated Family Judge for allocation.



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# How the Court will approach a Part 19 application

A mother cannot be 'forced or coerced' by the Court to identify the father of her [child](#). The father, or other relatives, can sometimes be identified by information already available, or can be identified by investigation. The court can direct a local authority to carry out further investigations and to inform family members of the existence of the child and the proposal that the child be adopted.

The leading case on notifying fathers and relatives is [A, B And C \(Adoption: Notification Fathers And Relatives\) \[2020\] EWCA Civ 41](#) in which three separate appeals with very different facts were considered. In each the decision of the Court of Appeal was that the mothers' wishes should not be followed. In making the decision on whether to inform fathers or relatives, the court should consider:

- The decision on whom to notify and consult is not a 'decision relating to the adoption of a child' and so the child's welfare is not the paramount consideration;
- The mother has a right to respect for her private life, but her wish for confidentiality can be overridden when necessary to protect the interests of others;
- If the father has parental responsibility withholding notification can only be justified by compelling reasons

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- If the father or relative has established a family life with the mother or the child there must be strong reasons to interfere with their Article 8 rights
  - The nature and strength of the relationship between the mother and the father or relative;
  - The likelihood of a family placement being a realistic option for the child
  - The impact on the mother and the risks of notifying against her wishes;
  - Cultural and religious factors, either where the knowledge of the pregnancy may be a risk to the mother or others, or where there may be particular importance to the child of maintaining a link to the birth family;
  - The likelihood of confidentiality being maintained and the impact on the mother, child and prospective adopters if information is disclosed later on;
  - The impact of delay – any application will cause delay, but there may be cases where that delay will have far-reaching consequences for the child, for example where a particular adoptive placement may be lost;
  - Other relevant matters – this list is not limited to issues identified in this case;
  - Confidentiality is the exception rather than the rule, and the profound significance of adoption and fairness to others require a careful balancing of all of the relevant factors in each individual case.