**Somerset adoption ruling in relation to medical information considered by the ADM – briefing for ADCS**

[2021] EWHC 3004 (Fam) Case No: **FD21P00367** In the High Court of Justice Family Division Royal Courts of Justice 10 November 2021 Before: The Honourable Mrs Justice Roberts

**Summary**

The issue relates to the medical advice considered by the Agency Decision Maker (ADM) in relation to the decision to make an application to court for a Placement Order, as set out in the Adoption Agency Regulations 2005.

**Background**

In March 2021, in a family proceedings case in Somerset, it was identified that a child’s permanence report (CPR) did not contain a medical summary that was compliant with regulation 17 of the Adoption Agency Regulations 2005 (AARs 2005). The Designated Family Judge ordered the Local Authority to review compliance with regulation 15 and 17 of the AARs 2005 for all children subject to placement orders since the appointment of the current Adoption Agency Medical Advisor. The Court also questioned whether the appointment process for the Agency medical advisor had been appropriate.

The compliance review identified additional children’s cases which were not compliant with regs 15 and/or 17 of the AARs 2005.

The matter was then referred up to the High Court for consideration of the legality of placement orders where regulations 15 and/or 17 had not been complied with.

In November 2021, The Honourable Mrs Justice Roberts gave judgment on the cases of 10 Somerset children who had placement orders but were awaiting matching with adopters. She concluded that the placement orders remained valid and that the appointment process for the Agency medical advisor had been sufficient – [read the full judgment](https://www.judiciary.uk/judgments/somerset-county-council-v-nhs-somerset-clinical-commissioning-group).

The validity of placement orders for a further cohort of children who are placed with adopters and awaiting Adoption order hearings, will be considered by The Honourable Mrs Justice Roberts, in January 2022.

Coram/BAAF have provided a helpful summary of the context of this matter in an article for [Local Government Lawyer](https://www.localgovernmentlawyer.co.uk/child-protection/392-children-protection-news/49203-corambaaf-urges-councils-to-check-their-procedures-comply-with-adoption-agencies-regulations-2005-in-light-of-somerset-ruling), dated 30 December 2021.

**Learning and action**

As part of the learning from this matter, the local authority has developed, with QCs advice (to the LA and the CCG), regulation 15 and 17 compliant templates for completion by the Adoption Agency Medical Advisor, in all cases, prior to ADM decision. These are set out below, in the Appendix to this document.

In addition, Somerset has commissioned an independent review of its adoption processes and their compliance with the AARs 2005, through Coram/BAAF. The compliance review checklist, agreed with Coram/BAAF, is set out below, in the Appendix to this document.

**Appendix**

1. Medical Advisor, regulation 15 AARs 2005 – compliant report template



1. Medical Advisor, regulation 17 AARs 2005 – compliant report template



1. AARs 2005, adoption services compliance review checklist

