



Department
for Education

Consultation on Adoption and Fostering: tackling delay

Government response

May 2013

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ANY OTHER COMMENTS 52

Question 30: There may be other areas for revision that you think should be considered; we would be interested in hearing your views on what these might be and how these might reduce delay and bureaucracy whilst continuing to help ensure the welfare and safety of looked after children. Please use the box below to make your comments. 52

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Introduction

1. The Government has given adoption and fostering renewed impetus. Ministers want a modern and effective 21st century adoption and fostering system that meets the many and varied needs of children, foster carers and adopters; where decisions are taken swiftly and always in the best interests of the child. More foster carers and adopters are needed and fostering services and adoption agencies must ensure they are welcomed, supported and their capacity to meet the needs of children is considered quickly.
2. The Government has announced further wide ranging proposals designed to tackle the problem areas in the adoption system as set out in [An Action Plan for Adoption: Tackling Delay](#); addressing the shortage of adopters as set out in [Further Action on Adoption - finding enough loving homes](#); introducing a single first point of contact for prospective adopters – the National Gateway for Adoption; improving adoption support, as set out in [Supporting Families Who Adopt](#); and making significant improvements to statutory adoption leave and pay; introducing a day-one right to statutory adoption leave and enhancing the rate of statutory adoption pay to 90% of a person's average salary for the first six weeks. This brings adoption pay and leave in line with statutory maternity leave and pay.
3. To help local authorities implement the reform programme in their areas additional funding of £8 million in total was made available to local authorities by the Department for Education in 2012/13 in the form of the Adoption Improvement Grant. The funding was for activities to reduce the time it takes between children first entering care and being adopted; to improve the quality of decision making; and to increase the numbers of adopters being recruited and approved (including the impact of effective adoption support).
4. A further £150 million in the form of the [Adoption Reform Grant](#) will be given to local authorities in 2013/14 to make an immediate and transformative difference to children waiting to be adopted.
5. A new £1 million grant awarded to the Consortium of Voluntary Adoption Agencies (CVAA) ends in March 2014. The CVAA is distributing this money to Voluntary Adoption Agencies (VAAs) to enable the sector to increase the number of children placed with VAA approved adopters by more than the 20% year-on-year increase already committed to by the CVAA.
6. The Government is also considering wider fostering reform as part of the [Improving Fostering Services Programme](#). On top of the reforms covered in this consultation, the Programme focuses on improving the recruitment and retention of foster carers to help ensure children have a carer who can meet their needs; commissioning of fostering services; improving the status and support of long term foster placements; improving support when children return home to their birth family; and ensuring

foster carers, and the social workers who work with them, have the training they need.

7. The Government published its [Children and Families Bill](#) on 5 February 2013. The Bill would create an adoption system more focussed on the needs of children by reducing the delays they face and by more actively involving and supporting adopters. The provisions cover the following areas:
- **“Fostering for Adoption”** - would encourage local authorities to place children for whom adoption is an option with their potential permanent carers more swiftly, by requiring a local authority looking after a child to give consideration to placing them in a “Fostering for Adoption” placement where appropriate. This is a foster placement with foster carers who have also been approved as prospective adopters.
 - **Delay (for reasons of a child’s ethnicity)** - would reduce delay by removing the express statutory requirement that adoption agencies must give ‘due consideration’ to a child’s ethnicity when placing them for adoption, so that children are not left waiting in care longer than necessary because adults want a perfect or partial ethnic match.
 - **Adopter recruitment** - would give the Secretary of State the power to require local authorities to make arrangements for the recruitment, assessment and approval of prospective adopters to be carried out on their behalf by one or more adoption agencies (local authorities or voluntary adoption agencies).
 - **Adoption support** – would improve the current provision of adoption support by placing new duties on local authorities to inform prospective adopters and adopters of their entitlements, and to offer parents a personal budget in place of support services the authority was proposing to provide.
 - **Adoption Register** – would give approved prospective adopters a more active role in identifying children for whom they might be suitable adoptive parents by amending the current restrictions around “public inspection or search” of the adoption register so that they can access the register directly, subject to appropriate safeguards.
 - **Contact** – would reform the arrangements for contact between children in care and their birth parents or guardians and certain others, and between adopted children and their birth relatives and certain others, to reduce the disruption that inappropriate contact can cause to children.
 - **Adoption leave and pay** – would increase statutory adoption pay to 90% of a person's average salary for the first 6 weeks (in line with statutory maternity pay), introduce a new right for adoptive parents to attend adoption appointments to get to know a child being matched for adoption, and provide

statutory leave and pay for those parents expecting to adopt a child entering a "Fostering to Adopt" arrangement.

8. In September 2012 the Government published an online consultation document *Adoption and Fostering: tackling delay*, taking forward the proposals set out in [An Action Plan for Adoption: Tackling Delay](#) and in the [Improving Fostering Services Programme](#). The Children's Rights Director consulted looked after children via consultation events and a questionnaire and consulted adopted children via a survey.
9. The 12 week consultation covered: the approval process for prospective adopters, a fast track procedure for previous adopters and approved foster carers, the Adoption Register, matching agreement, early permanence - "Fostering for Adoption", sharing case records between fostering services and adoption agencies, the approval process for foster carers including the introduction of a brief report for foster carers and when personal referees are to be interviewed; terms of approval and delegating day to day decisions to foster carers. The Government also sought views on the size of adoption and fostering panels.

Summary of responses received and the Government's response

10. The consultation ran between 18 September and 7 December 2012 and 197 responses to the consultation document were received.
11. As some respondents may have offered a number of options for questions, total percentages listed under any one question may exceed 100%. Throughout the report, percentages are expressed as a measure of those answering each question, not as a measure of all respondents.
12. A breakdown of all respondents is as follows:

Local authority adoption/fostering team	81
Voluntary adoption agency/independent fostering agency	33
Sector organisation	19
Prospective adopter/adopter	15
Adoption/fostering panel	15
Prospective foster carer/foster carer	13
Judiciary/lawyer	2
Birth parent	1
Other*	18

**Those which fell into the 'other' category included charities, social workers, medical advisers and those respondents who did not specify.*

13. A list of organisations who responded to the consultation is set out in Annex A. The list excludes those who asked for their response to remain confidential.

Main findings from the consultation

14. The findings from the *Adoption and Fostering: tackling delay* consultation were clear:
 - the majority of respondents agreed that “Fostering for Adoption” would achieve its aim of placing children for adoption more easily and secure better outcomes for children. The greatest concern about the proposal was that the placement may not result in an adoption order being made.
 - the majority of respondents agreed the two stage adopter and foster carer approval processes, that adoption agencies should be required to refer details of children for whom adoption is the plan and approved prospective adopters to the Adoption Register, use of the complaint procedure in Stage One of the foster carer approval process (the pre-assessment stage), and removal of the requirement to interview personal referees where the applicant has been an approved foster carer in the last year.

15. The only subject to which respondents were strongly opposed was about the size of adoption and fostering panels and limiting the number of non-members attending the meeting.

Adopted children's views

16. The Children's Rights Director consulted adopted children on "Fostering for Adoption", the two stage approval process and the fast track procedure for previous adopters and approved foster carers. The majority of children were supportive of "Fostering for Adoption" and a mixture of adoptive parents and children themselves, were supportive of the two stage approval process and the majority of the children agreed with the proposed fast track procedure for previous adopters and approved foster carers. The Children's Rights Director's report [Changing adoption - adopted children's views](#) was published in December 2012.

Looked after children's views

17. The Children's Rights Director consulted looked after children via consultation events and a questionnaire. The consultation covered a range of issues, several of which were not part of the main consultation questions, but which gave a wider picture of children's views regarding their experience of foster care. The main part of the public consultation which the children commented on concerned the delegation of authority to foster carers. The children clearly supported the proposed change in the law to write into children's placement plans which people could make decisions in each of the proposed areas of decision making. A number of the children also shared the view of other respondents to the public consultation that "faith and religious observance" should be removed from the list of specified decision making areas. The Children's Rights Director's report [Children's views on fostering](#) was published in November 2012.

ADOPTION

Question 1: Are there any circumstances in which more than 10 working days would be needed for an adoption agency to provide detailed information about adoption to a potential prospective adopter (following an initial approach by him/her to an agency or the National Gateway for Adoption for general information)? If yes, please explain what those circumstances would be.

18. There were 129 responses to this question.

45 (35%) Yes

58 (45%) No

26 (20%) Not Sure

19. Views were mixed on the question of whether there were any circumstances in which more than 10 working days would be needed for an adoption agency to provide detailed information about adoption to a prospective adopter (following an initial approach to an agency or the National Gateway for Adoption for general information). By a narrow majority, respondents considered that it was reasonable to expect agencies to provide such information within 10 days.

20. 33 (26%) respondents believed that the ability to meet this deadline would be dependent on the type of information needed. They said that sending out pre-prepared general information packs, making an initial telephone call or issuing an invitation to an information session could certainly be done in 10 working days or less. However, it was felt that running information sessions or visiting the prospective adopter within this timescale would be problematic.

21. 16 (12%) respondents highlighted lack of resource, particularly within small agencies, as a reason why the 10 day deadline might not be met. Staff absence and surges in requests for information were mentioned as being the main causes. Running information sessions on a fortnightly basis was thought to be unmanageable and not cost-effective where attendance rates might be small. A number of respondents also said that they had to secure the services of interpreters for prospective adopters for whom English was their second language, which was not always possible to do within the specified period.

22. Inability to contact prospective adopters, due to their unavailability within the 10 day window, once they had made an initial enquiry was also mentioned, along with the need to gauge their readiness to absorb anything more than general information at such an early point in the process.

23. A number of respondents requested clarity on the specific information which it was necessary to impart to prospective adopters at this stage.

Next steps

24. We will amend the statutory adoption guidance to include the requirement for adoption agencies to provide detailed information about adoption within 10 working days, through a pre-planned telephone call, an information session, a visit, or similar arrangement with the prospective adopter. Where an agency is not recruiting or knows that it will not have the capacity to undertake assessments in the immediate future it should inform the prospective adopter and advise him/her to contact the National Gateway for Adoption or another agency which it knows is recruiting.

Question 2: Are there any circumstances in which an agency may need more than five working days to decide whether to accept a registration of interest from a potential prospective adopter? If yes, please explain what those circumstances would be.

25. There were 129 responses to this question.

79 (61%) Yes

29 (23%) No

21 (16%) Not Sure

26. Most respondents thought that there were circumstances in which an agency might need more than five working days to decide whether to accept a registration of interest from a prospective adopter.

27. It was acknowledged that, in the most straightforward cases, this might be possible. However, 47 (36%) respondents felt that five days did not allow for more complex cases where issues which could preclude a prospective adopter from the process might be explored, and perhaps resolved, given a longer period. Examples of such issues included:

- medical problems
- unsuitable housing, for which a home visit may be necessary
- on going IVF treatment
- convictions
- previous unsuccessful applications and the need to wait for information from other agencies
- issues resulting from CRB checks which needed to be followed up
- enquiries to overseas countries and seeking legal advice on immigration status in cases of intercountry adoption.

28. 21 (16%) respondents cited lack of resource as a reason why the five day turnaround of registrations of interest might not be met, given the need for time to consider registrations fully. Times of peak demand, such as following recruitments drives, National Adoption Week, government announcements and overseas crises were noted as particular circumstances where agencies might struggle to meet the given timescale.

29. 18 (14%) respondents stressed that there were procedures which had to be followed from receipt of the registration of interest to feeding back to the prospective adopter, which could not be completed in five days. This included making contact, whether by telephone or face to face, and documenting these meetings, gathering evidence, considering and discussing each case prior to approval or rejection, providing records to support the decision and informing the prospective adopter.

30. 9 (7%) respondents identified 10 days as a more realistic timescale given the reasons above, along with unavailability of the prospective adopters during the five day period and the need to respect their wishes to proceed at a pace that suited them. It was suggested that there should be provision for extending the five day deadline in complex cases.
31. There was some concern that a five day timescale could result in hasty decisions being made, with inappropriate registrations being accepted because of a lack of time to scrutinise them fully, or borderline applications being ruled out unfairly by risk averse agencies.
32. It was noted that, where a decision could not be made within the five day period, the prospective adopter should be notified of this, within this timeframe, and that there should be no negative impact on the agency's scorecard for not meeting the deadline.
33. There was also a view that clearer guidance was needed, such as specific criteria to be applied, to assist agencies in making decisions on the acceptance of registrations of interest.

Next steps

34. We will amend statutory adoption guidance to require adoption agencies to decide whether or not to accept a registration of interest from a prospective adopter within five working days, unless there are exceptional circumstances which mean that more time is needed.

Question 3: Should adoption agencies be required to visit or have a meeting or pre-planned telephone call with prospective adopters during Stage One of the process to ensure that they have the opportunity to ask for more information or training based on their particular needs?

35. There were 128 responses to this question.

- 57 (45%) Visit
- 45 (35%) Meeting
- 23 (18%) Pre-planned telephone call
- 35 (27%) All of the above
- 2 (2%) None of the above
- 7 (5%) Not sure

36. Respondents believed that each of the options for speaking with prospective adopters during Stage One of the process were useful in ensuring that they had the opportunity to ask for more information or training based on their particular needs.

37. Visiting the prospective adopters was the most popular option with 49 (38%) respondents saying that it was important to meet them in their home surroundings. Respondents could see many advantages to this, such as:

- it provided an opportunity to verify the address and assess its suitability
- prospective adopters were likely to be more relaxed in their own surroundings and more likely to ask questions than they would at a meeting
- visits could be made outside office hours to suit prospective adopters' needs
- a home visit might be less daunting than a meeting at the agency and less likely to put people off the process
- it would be easier to discuss personal or confidential issues in a private setting
- it provided an opportunity to meet children or family members in the household.

38. 9 (7%) respondents considered that contact with prospective adopters during Stage One provided a sound basis for Stage Two of the process. It was felt that one to one contact helped agencies to build a rapport with prospective adopters by answering their questions, ascertaining their individual training needs and exchanging information. On going dialogue, it was felt, helped to establish a mutually supportive relationship where agencies could guide them through the

process whilst gathering evidence to help make an informed decision on whether to allow progression to Stage Two.

Next steps

39. We will amend the statutory adoption guidance to include a new requirement for adoption agencies to visit or have a meeting or pre-planned phone call with prospective adopters, whichever is considered most appropriate in each individual case.
40. The statutory guidance will emphasise that Stage 1 is adopter-led and will focus on initial training and preparation. During this stage the agency will focus on obtaining the statutory checks and references.

Question 4: Should adoption agencies be required to agree with prospective adopters an 'agreement' to set out the responsibilities of the prospective adopter and the agency during Stage One of the process? If no, please explain why not.

41. There were 128 responses to this question.

118 (92%) Yes

5 (4%) No

5 (4%) Not Sure

42. Few respondents disagreed with the proposal for adoption agencies to be required to agree with prospective adopters an 'agreement' to set out the responsibilities of the prospective adopter and the agency during Stage One of the process.

43. 50 (39%) respondents stated that this would provide clarity for prospective adopters as they would know exactly what was expected of them throughout Stage One. Indeed, a number of respondents said that this represented good practice by agencies and was something that they already used, in the form of a handbook or toolkit, for example. It was suggested that the proposed agreement should set out timescales in order to keep the process timebound to avoid drift and that, in addition to formal requirements, it should outline things that prospective adopters were advised to do. Respondents thought that having a written agreement would be helpful in the case of disputes or appeals as, if clearly set out, it should leave no room for misunderstanding or ambiguity. It was also acknowledged that the agreement would be beneficial to both parties as each could be assured of the commitment of the other.

44. It was proposed that the basic agreement should be consistent across agencies, possibly linked to the [Adopters' Charter](#), but with the flexibility to tailor it to individual needs. Respondents also stressed that it should be kept simple and clear as a cumbersome document might be off-putting to prospective adopters.

Next steps

45. Following the consultation we have concluded that using the word 'agreement' in the regulations could be problematic: there might be circumstances in which the agency and the prospective adopters cannot agree the content of the document and the agency could be in breach of any statutory requirement to agree the content of the document with the prospective adopter. To avoid this we will amend the Adoption Agencies Regulations 2005 to require adoption agencies to prepare a Stage One Plan in consultation with prospective adopters but make it clear in the statutory guidance that the Stage One Plan may be locally referred to as an 'agreement'.

Question 5: How might we make Stage One of the process even more adopter-led?

46. There were 54 responses to this question.
47. Respondents generally supported the idea of Stage One of the process being more adopter-led as it would help agencies to assess how motivated prospective adopters were, their commitment to the process and their capacity to drive their own learning.
48. There was a view however that this should not mean that the responsibility for completing Stage One lay entirely with prospective adopters, with 54 (27% of the total number of respondents) stating that they would need support from the agency. Respondents were keen that prospective adopters should not be lost from the process because they felt unable to lead their own learning. It was noted that the ability of some to progress through the first stage would be greater than others, depending on whether they were new to the process or had some experience and whether they were proactive in initiating their own research. There were concerns expressed about prospective adopters who had English as their second language or who were not computer literate or had no access to a computer, as they would need extra support to be able to participate fully in the process. Respondents also recognised the need to allow prospective adopters to take Stage One at their own pace and not to impose timescales which some might not be able to meet.
49. Respondents suggested a number of ways by which agencies could provide support to allow the process to be more adopter-led, including:
 - allocating a social worker which prospective adopters could call on to help them through the process and who would check in with them regularly to ensure they had interpreted learning materials correctly
 - arranging links with approved adopters, for example running talks/seminars from people who had been through the process or providing prospective adopters with an approved adopter 'buddy'
 - providing a range of tools to meet the various learning styles of prospective adopters such as: e-learning packages, DVDs, reading lists, literature, case studies and questionnaires, including in other languages where necessary
 - encouraging prospective adopters to do as much as possible to progress their own application, for example:
 - tracing ex-partners
 - preparing their own children
 - performing a self-assessment, such as checking their own home for safety
 - encouraging them to seek opportunities to develop their childcare

skills, such as taking up voluntary work in a playgroup

- preparing a portfolio to evidence their research and writing up their adoption process 'journey'.

Next steps

50. We are currently considering a number of the options suggested during the consultation. Prospective adopters will be able to speak to experts on the National Gateway for Adoption telephone helpline. Self-preparation materials will also be available on the Gateway website. We will consider the ideas suggested through the consultation when developing the content.

Question 6: Should a prospective adopter who wants to take a break during Stage One of the process be required to restart this stage when he/she is ready to pursue his/her interest in becoming an adoptive parent? If no, please explain why not.

51. There were 127 responses to this question.

56 (44%) Yes 27 (21%) No 44 (35%) Not Sure

52. There was no clear consensus on this question, with less than half of the respondents who answered agreeing that a prospective adopter who wanted to take a break during Stage One of the process should be required to restart this stage when they were ready to pursue their interest in becoming an adoptive parent.

53. Over a third of respondents were not sure about this proposal with 83 (65%) believing that any decision on the need to restart Stage One following a break would be dependent on the individual circumstances of each case and should be at the discretion of the agency concerned. Respondents believed that, in reaching a decision, agencies would need to consider:

- the reason for requesting the break
- the length of the break
- how much of Stage One had been completed before the break
- whether the problem which instigated the break had been resolved; and
- how much knowledge the prospective adopters had retained following the break.

54. It was agreed that a re-entry interview would be a suitable means to establish this information and determine whether Stage One needed to be restarted.

Next steps

55. We will amend the statutory adoption guidance to leave this to the discretion of the adoption agency concerned based on the individual circumstances of each case.

Question 7a) Should prospective adopters be able to request an extension of longer than two months to Stage Two of the process?

56. There were 128 responses to this question.

108 (84%) Yes

6 (5%) No

14 (11%) Not Sure

57. The majority of respondents agreed that prospective adopters should be able to request an extension of longer than two months to Stage Two of the process.

58. 61 (48%) respondents said that any request to extend Stage Two would be dependent on the particular circumstances relating to the request and that agencies should be relied upon to use their professional judgement to assess whether an extension was appropriate. It was believed that agencies were best placed to decide whether a break was required for good reason, whether it could signify a prospective adopter's lack of readiness to adopt or that they found the pace of assessment unmanageable.

59. 31 (24%) respondents thought that allowing an extension could be an essential means of ensuring that prospective adopters were not lost from the process, given that some might be minded to drop out if they found the pressure of fixed timescales too much. It was stressed that, if the process was to be adopter-led, prospective adopters must have some flexibility to proceed at a pace they felt comfortable with, even if this meant exceeding set timescales. Respondents noted that some might need to take stock, refocus or put their application on hold if necessary.

Question 7b) If yes, in what circumstances and by how much should they be able to extend Stage Two before having to restart the approval process from scratch?

60. A number of circumstances under which Stage Two could be extended were suggested, the main reasons being:

- 52 (54%) bereavement of a close relative
- 34 (35%) illness in the family or long term health issues requiring extensive or prolonged treatment
- 19 (20%) house move, extension to, or refurbishment of, property

61. Other circumstances mentioned included:

- redundancy, job loss, seeking employment, settling into new employment, work commitments
- financial issues, clearing debt
- undergoing counselling

- pregnancy, miscarriage, pursuing IVF treatment
 - caring responsibilities for relatives
 - settling children into school
 - extended holiday
 - giving up smoking
 - gaining experience of working with children
 - awaiting overseas checks
 - seeking whereabouts of ex-partner(s)
 - religious festivals.
62. On the question of the length of extension which could be granted, 23 (24%) respondents thought that six months was likely to be sufficient time to resolve any issues which had led to the request to extend. 6 (6%) respondents considered that three months was a more reasonable timescale.
63. 57 (59%) respondents however thought that it was not possible to be prescriptive on timescales and that each case should be assessed on its own merits. It was suggested that agencies should be able to use their discretion as circumstances would differ in each case and the ability to deal with something like bereavement would depend on the individual concerned. Providing guidelines was proposed, as a means to help agencies in their decision making, along with maintaining regular contact throughout the extended period to try to minimise delay.

Next steps

64. We will amend the Adoption Agencies Regulations 2005 to allow prospective adopters to determine how much longer they may need for Stage Two.

Question 8: In order to facilitate completion of Stage Two of the process within the required four month timescale, should the time prospective adopters have to consider their papers before submission to the adoption panel (currently 10 working days) be reduced? If yes, to how many working days should it be reduced?

65. There were 126 responses to this question.

74 (59%) Yes 41 (32%) No 11 (9%) Not Sure

66. Most respondents were in favour of reducing the time prospective adopters had to consider their papers before submission to the adoption panel.

67. 54 (43%) respondents suggested that this timescale could be reduced to five days, believing the current 10 day period to be overly generous and representing a significant proportion of the four month period allowed for Stage Two. It was noted that many prospective adopters currently waived their right to 10 days, given that the papers should not contain anything unexpected if the assessment process had been open and transparent.

68. Where respondents disagreed with reducing the 10 day period, they felt that a shorter timescale could put undue pressure on prospective adopters who might need time to fully digest and reflect on the contents of the papers before submission to the panel. It was recognised that where irregularities had been found in the paperwork, prospective adopters would need time to contact their social worker to have any incorrect information checked out and changed. Moreover, respondents felt that, if an application had been rejected, prospective adopters were likely to need 10 days to compose a response and to take legal advice, if necessary.

Next steps

69. We will amend the Adoption Agencies Regulations 2005 to reduce the time that prospective adopters have to consider their papers before submission to the adoption panel from 10 to five working days unless there are exceptional circumstances.

Question 9a): Should the fast-track procedure for previous adopters and approved foster carers be extended to include adopters who were approved in England or Wales prior to the coming into force of the Adoption and Children Act 2002 (this would mean that those who have been approved for more than seven years ago would be included)?

70. There were 133 responses to this question.

32 (24%) Yes

75 (56%) No

26 (20%) Not Sure

71. More than half of the respondents who answered this question disagreed with the proposal to fast track the procedure for adopters who were approved in England or Wales prior to the coming into force of the Adoption and Children Act 2002.

72. 59 (44%) respondents thought that an approval could not be considered current if it was made seven or more years ago given the likelihood of a change in circumstances during that time. It was acknowledged that there had been changes in legislation, guidance and standards in the last seven years, along with improvements to training and preparation which had raised the expectations made of prospective adopters. As such, it was felt that older approvals were of limited value today. There was no clear view of a specific timescale by which previous approvals could be considered valid, with suggestions ranging from two to five years. Respondents proposed that, in the interests of safeguarding, statutory checks would still need to be undertaken however long the previous approval had been made.

Question 9b): If yes, what should the criteria for inclusion be?

73. Respondents said that it should be at the agency's professional discretion whether to fast track previously approved adopters and that the criteria on which they should base their judgement could include:

- no significant change in circumstances or family make-up
- whether or not they had kept in contact with the agency
- evidence of relevant and recent knowledge, training and experience
- references or letters of support from social workers or previous agencies.

Question 9c): Which, if any, other groups should be included?

74. 7 (32%) respondents said that carers with special guardianship orders should be included.

75. 6 (27%) respondents suggested including approved foster carers with long term, stable placements, given that they undertook on going training, remained in contact with social workers and were assessed annually.

76. 6 (27%) respondents thought that professionals with relevant qualifications or experience of looked after or vulnerable children, such as social workers or teachers should be eligible for fast-tracked applications.
77. 5 (23%) respondents did not consider there were any other groups which should be included. They felt that only those who had undertaken the rigorous approval process were suitable for the demanding task of adoption.
78. 4 (18%) respondents suggested family, friends and kinship carers if they were able to demonstrate that their current placements were successful.
79. Other suggestions included:
 - adopters who planned to adopt a named child, such as a sibling of a child they had already adopted
 - respite carers
 - intercountry adopters.

Next steps

80. The fast track process will only apply to previous adopters and approved foster carers but will not extend to include those adopters in England and Wales who were approved to adopt prior to 30 December 2005 when the Adoption and Children Act 2002 came fully into force.
81. We do not propose to extend the fast track process to other groups or professionals, such as social workers and teachers. Although they might have valuable experience to offer that does not mean that they will necessarily have the parenting skills required for the challenging role of an adoptive parent without going through the full approval process.

Question 10: What would be a reasonable timescale for completion of the fast track process? How could this process be made to work well and efficiently for all involved?

82. There were a range of views on what could be considered a reasonable timescale for completion of the fast track process, ranging from two months in the case of recent adoptions and where checks were still current, through to a full six months.
83. 48 (63%) respondents opted for four months given that it should be possible to bypass Stage One of the process and move directly to Stage Two. Four months was believed to be sufficient time to gather the paperwork from the previous assessment, acquire any additional information needed and resolve any residual issues, undertake checks, arrange medicals, visit referees, complete the assessment of suitability and prepare the prospective adopter's report for the panel.
84. 34 (45%) respondents thought that the timescale should be dependent on the individual circumstances of each case and should be left to the discretion of the agency concerned, given that the timescale imposed would be dependent on:
- the needs of the child
 - the availability of the adopter and their willingness and capacity to be fast-tracked
 - which checks were needed
 - the demands of the agency and its resource levels
 - the ability to access archived files
 - the quality of the previous agency's assessment and the necessity to conduct further work
 - the skills of individual social workers
 - whether checks from abroad were needed.
85. On the question of how this process could be made to work well and efficiently for all involved, 9 (12%) respondents identified training, both for the adopter and for social workers. For the former, it was suggested that tailored, refresher training would be useful, whilst for the latter training was suggested to enable the process to be conducted efficiently and for the shortened timeframe to be achieved. There was also a view that collaborative working between professionals would support the fast-track process.
86. There were some reservations that fast-tracking could result in a lack of quality and depth of assessment which might impact on the stability and longevity of placements.

Next steps

87. We will amend the Adoption Agencies Regulations 2005 to impose a four month limit for completion of the fast track approval process for previous adopters and approved foster carers. This will include the time taken to access information from adoption agencies and fostering services which will have 15 working days to provide this.

Question 11: Should adoption agencies be required to refer children and prospective adopters to the Adoption Register immediately providing the referral does not 'go live' for three months, where they are actively seeking a local match?

88. There were 124 responses to this question.

69 (56%) Yes

34 (27%) No

21 (17%) Not Sure

89. The majority of respondents agreed that adoption agencies should be required to refer children and prospective adopters to the Adoption Register immediately, providing the referral did not 'go live' for three months, where they were actively seeking a local match.
90. Respondents considered that this proposal enabled all possible routes to be utilised to help reduce delay in a child being matched with a prospective adopter. Immediate referral to the Adoption Register was the preferred option for some, particularly where a child could be difficult to place locally, such as where a match for a BME child was needed in an area where the local demographic was limited.
91. A further benefit was considered to be the ability for the Adoption Register to provide national, strategic data on recruitment of adopters and matches made across the country, to inform future service development and help to address gaps in provision.
92. Where respondents disagreed with the proposal it was largely due to the opinion that a local match was preferable, given difficulties with contact and support at a distance and the propensity for disrupted placements where a child was moved out of their area of origin. Respondents highlighted the work of regional consortia which widened the opportunities for making local matches and stressed the need to pursue local options before referral to the Adoption Register. It was thought that prospective adopters should have provision to opt out of referral to the Register if they were unwilling to consider a match outside their local area.
93. Bureaucracy and cost were also cited as reasons why referral to the Adoption Register was not feasible. Respondents thought it to be an unnecessary burden for agencies to have to make referrals, for little realisable benefit. It was noted that, where a potential local match was possible, it would require needless, extra paperwork and resource to make a referral and to notify the Register to remove a child/prospective adopter when the match had been made. Respondents stressed that most matches were made within three months so the extra work could prove nugatory and, moreover, deflected resource away from the main task of securing

placements. The issue of cost was thought to be a possible barrier if referral to the Adoption Register incurred a fee.

Next steps

94. We will amend the Adoption Agencies Regulations 2005 to:

- place a duty on local authorities to refer a child's details to the Adoption Register as soon as possible after, and no later than three months from, the decision that the child should be placed for adoption unless they are actively considering a match for the child with a particular prospective adopter
- place a duty on adoption agencies to refer a prospective adopter's details to the Adoption Register (subject to his/her consent) as soon as possible after, and no later than three months from the decision that the prospective adopter is suitable to adopt unless they are actively considering matching him/her with a particular child
- require local authorities to ensure that all information about a child referred to the Adoption Register is kept up to date; and
- require all adoption agencies to agree with approved prospective adopters a matching agreement setting out what the approved prospective adopters will do and by when to search for a child for whom they believe they are suitable to adopt. The matching agreement will also make clear how the adoption agency will support the prospective adopter with this task.

EARLY PERMANENCE – “FOSTERING FOR ADOPTION”

Question 12: Do you agree that the "Fostering for Adoption" practice will enable children to be placed with their likely adoptive families more easily, and has potential to secure better adoption outcomes for more children than at present? If no, please explain why not.

95. There were 162 responses to this question.

96 (59%) Yes

18 (11%) No

48 (30%) Not Sure

96. Most respondents agreed that “Fostering for Adoption” would enable children to be placed with their likely adoptive families more easily and had potential to secure better adoption outcomes for more children than at present.
97. 50 (31%) respondents highlighted the importance of early permanence leading to better outcomes for children, believing that “Fostering for Adoption” would enable children to develop an attachment from the outset with their carers, leading to a lasting relationship and a stable family life. Concurrent planning was acknowledged as having had good results for children and it was felt that spending less time in state care and not having to suffer numerous placement moves could only be beneficial.
98. 32 (20%) respondents stated that “Fostering for Adoption” placements should only be approved for carers with the right qualities. Dependence on the court’s approval of the placement order before a child could be adopted, it was felt, would limit its appeal to prospective adopters. Respondents believed that matching would need to be robust to ensure that only those people who were resilient and could manage such uncertainty were chosen.
99. Respondents also recognised that “Fostering for Adoption” might only be a suitable option for a small proportion of children. It was thought that it would work best where there was little chance of a child returning to his/her parents, such as relinquished babies and siblings of children who had already been adopted. It was envisaged that placing older children in this way could be problematic as the nature of the care arrangements could be confusing, they might not feel secure and could be less likely to make an attachment, leading to a more difficult placement.
100. There was a body of opinion which questioned the need for “Fostering for Adoption” when courts were working to 26 week timescales. It was believed that this prevented the need to put arrangements in place pending the court’s decision as there was limited scope for reducing delay.

Question 13: Do you consider that there are any barriers to "Fostering for Adoption" working successfully, and if so what are they?

101. There were 161 responses to this question.

123 (76%) Yes 5 (3%) No 33 (21%) Not Sure

102. Few respondents were unable to anticipate barriers to "Fostering for Adoption" working successfully.
103. 68 (42%) respondents viewed the effect on both the child and the prospective adopter, if the placement did not result in adoption, as being the greatest barrier. Some were concerned that "Fostering for Adoption" conferred the risk to the prospective adopter and stressed that it must be made clear from the outset that there was a possibility that the child could return to their birth parents or relatives, if the court decided that it was in their best interest. It was noted that prospective adopters might already be vulnerable having suffered loss through miscarriage or failed IVF treatment and, as such, might not have the resilience to cope with having to give up a child who had been in their care. Respondents thought that the uncertainty of the arrangements could lead to inability to make an attachment.
104. 35 (22%) respondents identified the need for support and training as a barrier. It was accepted that "Fostering for Adoption" could be a challenging option for prospective adopters, who might not have the skills of foster carers in dealing with children who had been removed from their birth parents. Respondents suggested that specialised training was needed to ensure that there was full understanding of the process and that carers were equipped to deal with issues such as contact and attachment. Having a support plan in place was proposed to help prevent placements from breaking down.
105. 31 (19%) respondents highlighted difficulties with contact arrangements in that prospective adopters would need to maintain the rights of children placed under "Fostering for Adoption" to remain in contact with their birth parents.
106. 13 (8%) respondents mentioned problems in protecting the confidentiality of prospective adopters where birth parents might seek to know where their children had been placed and threaten the stability of the placement. It was noted that their anonymity could be compromised via contact arrangements and should they be required to give evidence in court in the presence of the child's parents.
107. Respondents found that the blurring of the boundaries between foster care and adoption raised questions about entitlement to adoption leave and fostering allowance which would need to be considered. Lack of entitlement to adoption leave until the placement order was granted, it was noted, might lead to prospective adopters having to take unpaid leave at the time the child was placed. Managing working arrangements was also thought to be a potential barrier as it might prove necessary for a prospective adopter to have to leave work before their planned

adoption leave. Respondents felt that foster carers were unlikely to be prepared to apply for adoption under “Fostering for Adoption” arrangements if it meant losing their fostering allowance.

108. A further barrier which was identified was the possibility of legal intervention on the part of birth parents, where they felt that placing their child with carers, with a view to adoption, before the case had been heard in court, could be deemed to be pre-empting the court’s decision. Further, the courts might be resistant to approving a care plan under “Fostering for Adoption” arrangements for the same reason.
109. There was some concern that “Fostering for Adoption” could deplete the pool of available carers as the uncertainty might deter people who might otherwise have applied for adoption, whilst more people could be lost to fostering if they chose to adopt instead.

Next steps – questions 12 and 13

110. We will implement the amendments to the Care Planning, Placement and Case Review (England) Regulations 2010 as consulted. This will enable local authorities to approve as temporary foster carers, prospective adopters who have been approved to adopt and who can meet the needs of the child. The child will be able to move in with the family who could to adopt him/her before the court has made a placement order. The child’s legal placement will be a fostering placement and not “placed for adoption”. If the court makes a placement order the child will stay with their carers but the legal placement will change to “placed for adoption”.
111. With the Department for Business, Innovation and Skills, we will bringing forward proposals to change legislation to enable the entitlements to adoption leave and pay, and shared parental leave and pay, to be available for eligible parents in “Fostering for Adoption” placements. The implementation of these changes will be made as part of the new system for shared parental leave and pay, which is due to be implemented in 2015.

ADOPTION AND FOSTERING

Question 14: Do you agree with the revised point (i.e. prior to termination of approval) at which fostering services would be required to comply with a request for access to a foster carer's case records by a service the carer is moving to? If no, please explain why.

112. There were 122 responses to this question.

117 (96%) Yes

2 (2%) No

3 (2%) Not Sure

113. An overwhelming majority of respondents agreed with the proposal that fostering services must provide access to a foster carer's records prior to termination of approval. This was considered to be good practice as it helped to ensure that information which might affect an assessment was shared and therefore helped to speed up the process. Respondents requested that clear guidance was provided to address issues such as how records were accessed and conformity with the Data Protection Act. It was also noted that it was essential to get the written consent of those foster carers concerned before their information was shared.

Question 15: Do you agree with the revised timeframe of 10 working days for providing the access? If no, please explain why.

114. There were 123 responses to this question.

80 (65%) Yes

26 (21%) No

17(14%) Not Sure

115. Most respondents thought that the proposed 10 day timeframe for fostering services to provide information was acceptable and that this approach ensured a timely assessment process.

116. 39 (32%) respondents thought that 10 days was an unrealistic timeframe given that it might be necessary to retrieve archived files from other premises, seek permission to share information on third parties and redact information from lengthy and complex records.

117. 12 (10%) respondents were of the view that 28 days was a more achievable timescale, which would allow this work to be undertaken. It was suggested by some that the request should be made within 10 days but that 28 days was needed to provide the information required. There was also a view that the timeframe should reflect data protection regulations that currently applied to information requests.

Question 16: It is proposed that the amendments to record sharing should be implemented immediately upon the coming into force of the amending Regulations. Do you foresee any problems with the proposed implementation? If yes, please explain why.

118. There were 114 responses to this question.

21 (19%) Yes 79 (69%) No 14 (12%) Not Sure

119. Most respondents could not foresee any problems with the proposed implementation. Where difficulties were anticipated they included:

- resource implications related to preparing records for other agencies which could be a particular burden for smaller agencies
- the cost of additional administration functions associated with the need to comply with requests for records, along with fees incurred for making such requests
- ability to meet the 10 day timescale in complex cases or at times of high demand
- data protection issues, such as obtaining written consent to disclose information and the viewing of non-related confidential data.

Question 17: Do you agree that provision should be made for a fostering service to have access to an adopter's or prospective adopter's records, and for an adoption agency to have access to a foster carer's, prospective foster carer's, adopter's or prospective adopter's case records in order to inform an assessment of their suitability to adopt or foster? If no, please explain why.

120. There were 125 responses to this question.

118 (94%) Yes 1 (1%) No 6 (5%) Not Sure

121. Few respondents failed to agree with the proposal for fostering services and adoption agencies to have access to approved/prospective adopter and foster carer records in order to inform an assessment of their suitability to adopt or foster.

122. Such arrangements for information sharing were viewed as good practice in that they would make for a more efficient, faster and cost-effective assessment process. The benefits of minimising duplication of assessment, reducing paperwork and of adopters and foster carers having 'portable' records were recognised in helping to reduce delays.

123. There were some reservations expressed, such as:

- the ability to meet the proposed five/10 day timescales given the need to prepare files, seek third party approval for disclosure and redacting information
- maintaining confidentiality of information held on file, such as that relating to previously adopted children, in the interests of safeguarding
- the need to seek the prospective adopter/foster carer's consent to share their records
- the possibility that agencies might charge for providing information
- the opportunity for adopters/foster carers to tamper with their records if they were given access to them.

Next steps - questions 14-17

124. We will amend the Adoption Agencies Regulations 2005 and the Fostering Services (England) Regulations 2011 to require:

- fostering services to comply with a request for access to a foster carer's case records by a service the carer is moving to or an adoption agency to which the carer is applying to adopt
- adoption agencies to comply with a request for access to a prospective adopter's or adopter's case records by a fostering service to which the prospective adopter or adopter is applying to become a foster carer.

125. Although the majority of respondents agreed that the proposed 10 day timescale was acceptable, some respondents were concerned that it might not provide fostering services with sufficient time to seek consent to share and prepare the relevant documents for sharing. In recognition of these views, the above Regulations will be amended to introduce a 15 working day timeframe for the original fostering service or adoption agency to provide a fostering service or adoption agency with access to an applicant's case records. Before giving access, the fostering service/adoption agency will need to ensure that any information referring to a child, or a person who has not consented to their information being shared, is redacted.

126. These changes will be implemented immediately upon the coming into force of the amending Regulations with no transitional arrangements.

Question 18: It is proposed that a fostering service should be able to collect certain information specified in the Fostering Services (England) Regulations 2011 (including CRB checks, health check and references), before deciding whether to proceed to a formal assessment of an applicant's suitability to foster. Do you agree with the proposed start point of the assessment?

127. There were 137 responses to this question.

107 (78%) Yes

15 (11%) No

15 (11%) Not Sure

128. The majority of respondents agreed that the starting point of the assessment should be once certain information specified in the Fostering Services (England) Regulations 2011 (including CRB checks, health check and references) had been collected.

129. It was noted that, under the current process, applicants were not always clear when assessment had begun and the proposed delineation between information gathering ending and assessment starting was welcomed.

130. Views were mixed on whether performing checks first would reduce delays or add to them. It was noted that CRB checks and references, for example, could take several months to be returned which would hold up the start of the assessment process, whereas at present both could be done concurrently. It was suggested that waiting when very little seemed to be happening might prove frustrating for applicants.

131. 22 (16%) respondents believed that the proposed two stage process would help to save wasted resource on beginning the assessment only to find that unsatisfactory references and/or checks proved the applicant to be unsuitable. The assessment process was accepted as being long, invasive and resource-intensive and any measure which would help to prevent this being undertaken unnecessarily was thought to be beneficial.

Next steps

132. We will amend the Fostering Services (England) Regulations 2011 so that the pre-assessment (Part 1) and assessment (Part 2) stages can be carried out concurrently.

133. If the applicant is deemed unsuitable to foster due to issues made apparent via pre-assessment information, then the service may terminate the application even if the assessment (Part 2) stage has begun. The applicant will not have the right to make representations to the provider or to seek a review by the Independent Review Mechanism (IRM), but may make a complaint via the fostering service's complaints process.

Question 19: Do you think that applicants deemed unsuitable to foster before the start of the assessment who are unhappy with this decision should have the option of:

a) making representations to the fostering service (which would be considered by the service's fostering panel, whose recommendation would be taken into account by the decision maker in coming to a final decision about whether to start an assessment)

134. There were 132 responses to this question.

58 (44%) Yes 65 (49%) No 9 (7%) Not Sure

135. There was no clear consensus of opinion on this question, with just under half of respondents disagreeing that applicants deemed unsuitable to foster before the start of the assessment, who were unhappy with this decision, should have the option of making representations to the fostering service.

136. 9 (7%) respondents stressed that not everyone was suitable or had the right to foster and that the decision not to proceed with the assessment should be deemed to be final. It was acknowledged that such decisions were not taken lightly and that checks would have been scrutinised fully before coming to a conclusion. Respondents felt that agencies must retain the right to reject unsuitable applicants given that the task of caring for vulnerable looked after children could only be trusted to suitable people.

137. Allowing unsuccessful applicants to make representation to the fostering panel was also judged by some to be a waste of time and resource. At such an early stage, it was considered to be unnecessary to use the panel's time to consider "appeals" against a decision where there was little likelihood of the application proceeding. It was suggested that the normal complaints procedure would be sufficient and that matters could be resolved in writing to avoid the administration that would be required to convene a panel.

138. Where respondents agreed with the proposal, they felt that it was only fair to offer unsuccessful applicants some form of redress. It was proposed that a quorum would be sufficient to consider such representations in order to save the time of the full panel.

b) complaining via the fostering service's complaints procedure which would consider whether there had been maladministration in coming to the decision not to proceed to assessment

139. There were 126 responses to this question.

97 (77%) Yes 16 (13%) No 13 (10%) Not Sure

140. Most respondents agreed that applicants deemed unsuitable to foster before the start of the assessment, who were unhappy with this decision, should have the option of complaining via the fostering service's complaints procedure.
141. Respondents noted that this worked well at present as it gave unsuccessful applicants the right to complain without having to involve the panel. It was considered that the complaints procedure must be independent of the original decision making for transparency. Respondents believed that there were likely to be fewer applicants complaining about maladministration than those challenging the decision not to proceed with the assessment.

c) neither of the above

142. There were 37 responses to this question.

5 (14%) Yes

26 (70%) No

6 (16%) Not Sure

143. Few respondents thought that unsuccessful applicants should not be able to access either of the avenues for appeal proposed, as it was generally deemed necessary for those unable to proceed to assessment to have some form of redress.

Next steps

144. We will amend the Fostering Services (England) Regulations 2011 so that applicants deemed unsuitable to foster before the start of the assessment (Part 2) stage will be able to lodge an official complaint with the fostering service if they are unhappy with this decision.

Question 20: Once an assessment has been started, it is proposed that the fostering service should be able to terminate it via a brief report if their decision maker considers there is sufficient evidence that the prospective foster carer is unsuitable to foster. A prospective foster carer who disagrees can make representations to the fostering service or seek an independent review from the Independent Review Mechanism. Do you agree with the proposal to introduce brief reports for prospective foster carers?

145. There were 137 responses to this question.

118 (86%) Yes

7 (5%) No

12 (9%) Not Sure

146. The majority of respondents agreed with the proposal to introduce brief reports for prospective foster carers.

147. The main benefit, identified by 15 (11%) respondents, was that this would save time and resources in that the assessment process could be curtailed where there were significant issues around suitability. It was believed that this would stop any nugatory work for agencies in completing a full assessment and would allow prospective foster carers to know the outcome of their assessment as soon as possible. Respondents also noted that this brought the fostering process in line with that of adoption.

148. There were some reservations expressed about giving prospective foster carers the option to seek independent review through the Independent Review Mechanism (IRM). Respondents thought it unnecessary and wasteful for straightforward cases and suggested that the IRM should only be used where full assessment had been conducted.

149. Clarification on the format of the brief report was sought, respondents proposing that a standard template or pro forma would be helpful to ensure that the right level of brevity was used.

Next steps

150. We will amend the Fostering Services (England) Regulations 2011 so that fostering services can terminate an assessment of a prospective foster carer if evidence emerges during an assessment which leads the assessing social worker to judge that the prospective foster carer is not suitable to foster. The assessing social worker would prepare a brief, rather than a full, assessment report for submission to the fostering panel setting out their reasons.

151. Where the decision maker terminates an assessment at the brief report stage the applicant must be informed of their right to make representations to their fostering provider or apply for an independent review by the IRM.

Question 21: Do you agree that the requirement to interview two personal referees should be removed where (a) the applicant has been an approved foster carer in the last year (whether or not a child was placed); and (b) there is a written reference from their current or previous fostering service?

152. There were 137 responses to this question.

78 (57%) Yes 47 (34%) No 12 (9%) Not Sure

153. Most respondents were in favour of the proposals to remove the requirement to interview two personal referees where an applicant had been an approved foster carer in the last year (whether or not a child was placed); and where there was a written reference from their current or previous fostering service.

154. 21 (15%) respondents considered it important to have a reference from an applicant's current or previous fostering agency. It was felt that this would give a good indication of an applicant's suitability to foster by identifying any particular issues which it was essential to disclose in order to make a full assessment. Respondents cautioned, however, that such references could be prejudiced by differences between the agency and the foster carer, particular where they parted on bad terms.

155. 19 (14%) respondents maintained that it was still necessary to retain the right to interview two personal referees, as it was believed that circumstances could change within a year of approval. It was not considered an onerous task, which could be done by phone, but might reveal information not known to the former agency. Personal references were considered to provide a good insight into how a family functioned by people who knew them well. They were also viewed as a vehicle for disclosing safeguarding issues and, as such, would allow the agency to make a more informed decision on suitability to foster.

156. A number of respondents found the proposal too prescriptive and noted that it should be at the agency's discretion which references they wished to pursue.

Next steps

157. Fostering services that want to continue to interview personal referees are free to do so but we will amend the Fostering Services (England) Regulations 2011 so that fostering services will not be required to interview personal referees where the applicant has been an approved foster carer in the previous year and the previous fostering service has provided a reference.

Question 22: Do you agree that the requirement to wait 28 calendar days to change a foster carer's terms of approval should be removed if the foster carer has given written agreement to the change and there is a written statement on whether the foster family has any additional support needs as a result of the change and if so how these will be met?

158. There were 140 responses to this question.

133 (95%) Yes 3 (2%) No 4 (3%) Not Sure

159. There was almost universal approval of the proposal to waive the requirement to wait 28 calendar days to change a foster carer's terms of approval if they had given written agreement to the change and there was a written statement on whether the foster family had any additional support needs as a result of the change and how these would be met.

160. Few respondents could see the rationale for waiting 28 days, with 26 (19%) saying that such a period was unnecessary and restrictive. Lifting the 28 day wait was thought to be helpful in allowing looked after children to be placed more quickly and making placements less disruptive in that children would not have to be moved while the 28 day period elapsed, pending the change in terms of approval.

161. It was noted that care must be taken to ensure that the proposal did not result in foster carers being coerced into agreeing to changes in their terms of approval or making inappropriate placements.

162. Respondents who wished to retain the 28 day period thought that this allowed for discussion and considered it did not represent a long time in respect of a placement which could last years.

Question 23: Do you foresee any problems with the proposed implementation? If yes, please explain why

163. There were 129 responses to this question.

24 (19%) Yes 85 (66%) No 20 (15%) Not Sure

164. Most respondents did not foresee any problems with the proposed implementation, however they identified the need for guidance and training and time to change their procedures in line with new regulations.

Next steps – questions 22-23

165. We will amend the Fostering Services (England) Regulations 2011 to remove the requirement to wait 28 calendar days to change a foster carer's terms of approval and make clear, in statutory guidance, the requirement for a written statement

setting out whether the foster family has any additional needs as a result of the change to the terms of approval and how these will be met.

Question 24: Are there any elements of the adoption approval process described in Chapter 1 (paragraphs 7.1 - 7.12.3) that we should consider applying to the fostering assessment and approval process? If yes, please state which elements we should consider applying to the fostering assessment and approval process.

166. There were 93 responses to this question.

30 (32%) Yes 28 (30%) No 35 (38%) Not Sure

167. There was no strong view either way on the question of whether there were elements of the adoption approval process that could be applied to the fostering assessment and approval process.

168. It was stressed that fostering and adoption were two different processes and that trying to align procedures might lead to assessment and approval not being fit for purpose in either case. There was some support for having a generic first stage for assessment as statutory checks and preparation could be similar for both prospective adopters and foster carers. Stage Two however was accepted as needing different, focused assessments.

169. Other suggestions for aligning the processes included:

- having one panel for judging on both adoption and fostering applications
- extending the National Gateway to accommodate fostering
- devising a national e-learning training package for prospective adopters and foster carers
- using the Independent Review Mechanism for both fostering and adoption at Stage Two of the assessment process.

Next steps

170. We are grateful for the various suggestions from respondents. We will consider these suggestions as part of our [*Improving Fostering Services programme*](#).

DELEGATED AUTHORITY

Question 25: Do you agree that these [medical or dental treatment, education, leisure and home life; faith and religious observance, use of social media and any other matters considered relevant] are the right areas of decision making to specify in the Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013? If no, please explain why not.

171. There were 134 responses to this question.

113 (84%) Yes 11 (8%) No 10 (7%) Not Sure

172. The majority of respondents agreed that the listed areas of decision making, i.e:

- medical or dental treatment
- education
- leisure and home life
- faith and religious observance
- use of social media; and
- any other matters considered relevant

should be specified in the Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013. The only area where there was some disagreement was 'faith and religious observance' where it was considered inappropriate for carers to impose their own beliefs on the children in their care.

173. The proposal was welcomed in that it represented a culture shift in moving authority from the corporate parent to foster carers, by empowering them to make everyday decisions about the children in their care. Having the areas set out in the placement plan, it was noted, would also leave no room for doubt for professionals, such as headteachers and doctors, that the foster carer had authority in these matters. It was regarded as helping to normalise the experience of children in foster placements as their foster carer would be able to act as any parent would, without having to rely on their social worker's approval.

174. There was a view from some that delegated authority should be reviewed on a case by case basis, dependent on the experience of the foster carer, the needs of the child, the nature of the placement and any legal implications.

175. Several respondents requested that 'medical or dental treatment' should read 'medical *and* dental treatment'.

Question 26: Do you agree that statutory guidance should be amended to provide additional detail about what is covered by these areas of decision making, who might be expected to make particular decisions and what factors might lead to a decision to depart from that expectation?

176. There were 137 responses to this question.

103 (75%) Yes 17 (12.5%) No 17 (12.5%) Not Sure

177. Most respondents agreed that statutory guidance should be amended to provide additional detail about what is covered by the specified areas of decision making, who might be expected to make particular decisions and what factors might lead to a decision to depart from that expectation.
178. 30 (22%) said that it was essential to provide clear guidelines to ensure clarity about those specific areas where decision making could be delegated to foster carers. It was noted that this would help to provide consistency across local authorities and agencies so that all were applying the guidelines in the same way. There was a view from some that statutory guidance would bring over-regulation and that best practice guidance, possibly based on that of the Fostering Network and the British Association for Adoption and Fostering, could be adopted instead.
179. 13 (9%) respondents welcomed statutory guidance as a means of enforcing the importance of trusting foster carers to make decisions about the children in their care and to cut the current bureaucracy of having to refer issues for social worker approval. New statutory guidance was viewed as a positive step in removing any misunderstanding around which areas of decision making had been delegated to foster carers and would help looked after children to have the same experience as their peers in these matters.
180. 12 (9%) respondents highlighted the problem of lack of understanding of the current guidelines on delegated authority on the part of social workers, managers and the Independent Reviewing Officer. It was thought that clear statutory guidance might help to stop inconsistent implementation of delegated authority arrangements. The suggestion was made to agree those areas of decision making which were to be granted to foster carers and set them out in each child's placement plan so that there could be no room for ambiguity or cause for disagreement.
181. There was a body of opinion which felt that the child's birth parents and/or those with parental responsibility should not be excluded from decisions made about their child/ren.

Next steps – questions 25 and 26

182. We will amend the Care Planning, Placement and Case Review (England) Regulations 2010 to specify that *medical and dental treatment, education, leisure*

and home life; faith and religious observance, use of social media and any other matters considered relevant must be covered in the placement plan in terms of who has the authority to take particular decisions.

183. We will retain “faith and religious observance” within the list of decision making areas that must be covered in the placement plan in terms of who has the authority to take particular decisions, but will make clear in statutory guidance (Children Act 1989 Guidance and Regulations Volume 4: Fostering Services) that these are decisions that is appropriate for the child and their parents to take, rather than the foster carer.
184. We will provide guidance on each of the decision making areas, including a framework for how responsible local authorities should make decisions about delegation of authority.

Question 27: We propose that the amendments relating to requiring the placement plan to cover specified areas of decision making should be implemented at the next review of the child's care plan following the amending Regulations coming into force. Do you foresee any problems with the proposed implementation? If yes, please explain why.

185. There were 131 responses to this question.

28 (21%) Yes

82 (63%) No

21 (16%) Not Sure

186. Most respondents did not foresee any problems with implementing amendments related to requiring the placement plan to cover specified areas of decision making at the next review of the child's care plan, following the coming into force of the Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013.

187. Keeping delegated authority arrangements under regular review, and documenting them in the placement plan, was thought to be beneficial, though 10 (8%) respondents thought that social workers and other officials would need training in this area. They reiterated the problem of lack of understanding of the guidance and believed that this would need to be rectified if the care plan review process was to be effective.

188. A further problem identified was the possibility of legal challenge from birth parents if they had not been consulted on areas for decision making delegated to those caring for their children. The legal position for agencies was also called into question where they had delegated authority to a foster carer and their decision making was later found to be at fault.

Next steps

189. We will amend the Care Planning, Placement and Case Review (England) Regulations 2010 to require children's placement plan's to be updated in line with the new requirements at the next review of the child's care plan.

190. The Government is developing new training for social workers who work with looked after children and foster carers, which will include requirements and expectations around delegation to foster carers.

Question 28: Do you agree that there should be a requirement in statutory guidance for local authorities to publish a policy on delegation of authority to foster carers and residential workers?

191. There were 135 responses to this question.

114 (85%) Yes

11 (8%) No

10 (7%) Not Sure

192. The majority of respondents agreed with the proposal to require local authorities to publish a policy on delegation of authority to foster carers and residential workers.

193. 22 (16%) respondents considered that making this a requirement in statutory guidance would add weight to the need for local authorities to have a clear policy on delegated authority. This, it was also felt, would ensure consistency across all local authorities and would set out the respective responsibilities of the local authority and foster carer, unequivocally.

194. A number of respondents pointed out that local authorities already had such measures in place and that, as such, it was unnecessary to regulate.

Next steps

195. We will amend the statutory guidance to require local authorities to publish a policy on delegation of authority to foster carers and residential workers.

CALL FOR VIEWS - ADOPTION AND FOSTERING PANELS

Question 29: We are concerned that some adoption agencies have large adoption panels and that this may be leading to delay and be intimidating to prospective adopters. We consider that these issues may also apply to fostering panels. We are therefore minded to restrict the size of adoption and fostering panels to a maximum of five members with a quorum of three (or four for joint panels). We are also minded to limit participating non-panel members to two. We would appreciate your views on this.

196. There were 149 responses to this question.

197. Most respondents did not support the proposal to restrict the size of adoption and fostering panels to a maximum of five members with a quorum of three (or four for joint panels) or to limit participating non-panel members to two.

198. Whilst 33 (22%) respondents agreed that a panel of 12 members could be intimidating and that some reduction was required, there was little support for the numbers proposed. A number of views were expressed, with the general consensus being that panels should be comprised of at least seven members, with a quorum of no less than five.

199. 118 (79%) respondents thought that a quorum of three members was too small to provide the rigour required to conduct the important job of deciding on the future care of a child, particularly in difficult or complex cases. Respondents stressed the weight of judgement placed on an adoption/fostering panel, to act as corporate parent, maintain quality assurance and ensure the safeguarding of every child they placed. A quorum of three was also considered to be open to bias, insular practice and even collusion; something, it was felt, the challenge of a larger quorum prevented. It was also noted that a larger quorum provided a better number for voting.

200. 104 (70%) respondents said that reducing the size of the panel would result in the loss of experience, expertise and perspective, when it was believed that a wide spectrum of views resulted in more balanced judgements. There was some concern that losing diversity on the panel might mean it became dominated by people with fixed views and risked losing the robustness of decisions informed by a wide range of differing outlooks. It was also mentioned that the attendance of 'lay' people on the panel, such as adoptive parents, should not be lost as they were the people that prospective adopters could most easily relate to. Respondents identified the need to maintain attendance by a number of people, including:

- agency advisers
- social workers
- legal, medical and educational advisers

- elected members
- childcare professionals
- adopted people
- birth parents.

201. Respondents found that the proposal to reduce the number of observers permitted to attend to two, limited its ability to include Ofsted inspectors, future panel members and those who would benefit from attendance as part of their training, such as newly qualified social workers.

202. 63 (42%) respondents were not convinced that it was the size of the panel which was intimidating and which caused delay and questioned the evidence base to substantiate this claim. A number of respondents mentioned that feedback from those who had attended panels was generally positive and that few said they found the size of the panel daunting. Delays were thought to be few; respondents stating that this was largely due to panel dates being planned in advance for the year and the ability to call on members from a central list. It was also stressed that delay would be more prevalent with smaller numbers as the absence of one member in a quorum of three was more likely to lead to its cancellation, whereas a larger group could probably still sit if one member was unable to attend.

203. 25 (17%) respondents said that it was good practice to brief and prepare prospective adopters/foster carers before going before a panel so that they knew what to expect and therefore be less anxious. Informing them of the size and composition of the panel was suggested as a means of making the process less daunting.

204. 20 (13%) respondents stated that the skills of the chair in welcoming people to the panel and putting them at their ease contributed to making it less of an ordeal. Several said that it was customary for the chair to explain the process beforehand, and provide feedback afterwards, to make the experience as informal as possible so that they were not intimidated.

Next steps

205. We will not introduce a maximum number of adoption or fostering panel members or restrict the number of non-panel members attending an adoption or fostering panel meeting. We will keep this under review.

ANY OTHER COMMENTS

Question 30: There may be other areas for revision that you think should be considered; we would be interested in hearing your views on what these might be and how these might reduce delay and bureaucracy whilst continuing to help ensure the welfare and safety of looked after children. Please use the box below to make your comments.

206. Whilst respondents generally agreed, in principle, with the need to reduce delay and shorten the assessment process, they were concerned that this might be at the cost of maintaining standards. It was noted that the proposals left little time for prospective adopters to prepare themselves emotionally for the journey that lay ahead of them, and that rushing procedures might have the negative effect of losing them from the process altogether. The propensity for hurried decision making to lead to poor matches and disrupted placements was also viewed as a risk associated with reducing timescales.

207. A number of respondents highlighted bureaucracy as a cause of delay, citing, amongst other things, assessment paperwork, requests for data and monitoring for compliance. The need for reassessment of foster carers when moving from one area to another was also thought to be unnecessary and time-consuming and respondents suggested portability or a national register of approved carers. The Independent Review Mechanism was mentioned as an expensive process which was not considered cost-effective, given the small minority of cases on which it had any impact.

208. Other themes raised under this question included:

- the need to speed up the court process for adoptions as it was felt that much of the delay currently could be attributed to the slowness of the judicial system
- failure to focus on the needs of the child within the consultation, respondents believing that the process itself had become the overriding issue; it was suggested that children should also be consulted to ascertain their views on current procedures
- lack of resource within local authorities, given the current economic climate, to meet the demands of the faster processes proposed within the consultation.

Next steps

209. The responses have been particularly helpful in identifying concerns and bringing to our attention practical difficulties with some of the proposed time limits in the adoption and fostering assessment processes and in highlighting potential for delay in the proposed fostering approval process. Consequently, changes will be made to the Adoption Agencies Regulations 2005, the Care Planning, Placement and Case Review (England) Regulations 2010, the Fostering Services (England) Regulations 2011 and to the statutory guidance for fostering services and adoption agencies.
210. Revised impact assessments have been prepared for the approval process for prospective adopters and legislation on referrals to the Adoption Register, and the assessment and approval process for foster carers. These impact assessments will be published alongside the above Regulations on legislation.gov.uk. To search for an impact assessment, please go to <http://www.legislation.gov.uk/search/impacts>

Annex A: List of organisations that responded to the consultation

4Children

Action for Children

Adolescent and Children's Trust

Adopt Together - Faith in Families

Adopt West Mids

Adoption Matters Northwest

Adoption UK

Association of Directors of Children's Services

Association of Lawyers for Children

Association of School and College Leaders

Barnardo's

Bath and North East Somerset Council, Adoption and Permanence Panel

Bath and North East Somerset Council, Family Placement Team

Berkshire Adoption Advisory Service

Birmingham City Council

Blackburn with Darwin Borough Council

Blackpool Council

Borough of Poole

Bournemouth Adoption and Permanence Panel

Bournemouth Borough Council Adoption Services Team

Bournemouth Borough Council Children's Social Care

Bracknell Forest Council

Brighton and Hove City Council

Brighton and Hove Council

Bristol City Council

British Association for Adoption and Fostering South West Regional Group

British Association of Adoption and Fostering

British Association of Social Workers

Buckinghamshire County Council

Cambridgeshire County Council

Cheshire East Council

Chrysalis Care

City of York Council

Clifton Children's Society Adoption

College of Social Work, The

Consortium of Voluntary Adoption Agencies

Consulting Matters Ltd

Coram

Derby City Council

Durham County Council

East Sussex County Council

Eden Foster Care

Equality and Human Rights Commission

Essex County Council

Essex Foster Carers Association

Families for Children

Family Rights Group

Family Society - Adoption Focus

Foster Care Associates

Foster Care Associates/Core Assets Fostering

Fostering Network

Fostering Through Social Enterprise

Fusion Fostering

Gateshead Council

Gloucestershire County Council

Gloucestershire County Council, Fostering Recruitment Team

Halton Borough Council

Hertfordshire County Council

Intercountry Adoption Centre

ISP

Kent County Council

Knowsley Metropolitan Borough Council

Leeds City Council

Leicester City Council

Local Government Association

London Borough of Barnet

London Borough of Camden

London Borough of Enfield

London Borough of Enfield, Fostering Panel

London Borough of Hackney

London Borough of Haringey

London Borough of Islington Adoption Panel

London Borough of Islington, Children's Services

London Borough of Lewisham, The

London Borough of Merton

London Borough of Richmond

London Borough of Tower Hamlets

London Borough of Waltham Forest Foster Panel

London Borough of Wandsworth

Luton Borough Council

Milton Keynes Council

Nationwide Association of Fostering Providers

Norfolk County Council

North Lincolnshire Council

North Tyneside Council

North Yorkshire County Council

Northamptonshire County Council

Northern Regional Consortium of Adoption Agencies

Norwood

Nottingham City Council

Nottinghamshire County Council

Office of the Children's Commissioner

Ofsted

Orange Grove Fostercare

Oxfordshire County Council

Portsmouth City Council Adoption Service

Research in Practice

RIKS Consultancy Ltd

Rotherham Metropolitan Borough Council

Royal Borough of Hammersmith and Fulham, The

Royal Borough of Kingston Upon Thames

Royal Borough of Windsor and Maidenhead

Scope

Sefton Metropolitan Borough Council

Sheffield Adoption Panel

Sheffield Children's Hospital NHSF Trust

Sheffield City Council

Shropshire Council Fostering Panel

SITBC

Slough Borough Council

Soldiers, Sailors, Airmen and Families Association

Somerset County Council

South Central Group of Local Authorities

South Gloucestershire Council

South Tyneside Council, Adoption Service

Southend Borough Council

Staffordshire County Council

Stoke on Trent City Council

Suffolk Adoption Agency, Suffolk County Council

Sunderland City Council, Adoption Panels

Sunderland City Council, Adoption Service

Telford and Wrekin Council

Time for Children Fostering Agency

Time Out Fostering

Trafford Metropolitan Borough Council

Warwickshire County Council

West Berkshire Council

West Sussex County Council

Wiltshire Council

Wokingham Borough Council Children's Services

Xcel 2000

Yorkshire Adoption Agency

The list excludes individuals and those respondents who asked for their response to remain confidential



Department
for Education

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