



Department
for Education

Draft statutory guidance on adoption

**For local authorities, voluntary adoption
agencies and adoption support agencies**

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Summary

About this guidance

This statutory guidance covers the legislative requirements and expectations on local authorities and Voluntary Adoption Agencies (adoption agencies) in arranging adoptions for children for whom adoption is the best permanence outcome for them, including intercountry adoptions. It covers also the legislative requirements on adoption agencies and adoption support agencies in the disclosure of information and facilitating contact for adopted adults and birth families.

Local authorities alone can apply for a placement order, must maintain an adoption support service designed to meet the needs of all those affected, and carry out an assessment for adoption support services to certain persons. Local authorities must also provide an intercountry adoption service. Voluntary Adoption Agencies (VAAs) may provide an intercountry adoption service and provide adoption support services if permitted to do so by its conditions of registration.

This statutory guidance applies to England only and is issued under section 7 of the Local Authority Social Services Act 1970. This requires local authorities, in exercising their social services functions, to act under the general guidance of the Secretary of State. Local authorities must comply with this guidance unless there are exceptional reasons that justify a departure.

Expiry or review date

This guidance will next be reviewed in 2015.

The following guidance and information documents are now cancelled:

- Adoption and Children Act 2002 statutory adoption guidance dated July 2013
- Adoption and Children Act 2002 statutory adoption guidance (intercountry adoption) dated 2005
- Practice guidance – Preparing and Assessing Prospective Adopters (2006)
- Practice guidance on assessing adoption support needs of adoptive families (2008)
- Adoption financial support standardised means test (2005).

What legislation does this guidance refer to?

While the Children Act 1989 sets the general framework for the support of children in need and planning for their future if they become looked after, the Adoption and Children Act 2002 provides the framework for implementing plans for adoption and is the principal piece of legislation.

- The Children Act 1989 and associated regulations;
- The Data Protection Act 1998;
- The Adoption and Children Act 2002 and associated regulations;
- The Children and Adoption Act 2006 and associated regulations;
- The Local Authority Social Services Act 1970.

Who is this guidance for?

This guidance is for:

- Local authorities and VAAs: social workers working with looked after children, birth family and prospective adopters, adoption teams, family finding teams, adoption support service advisers and team, adoption panels, agency advisers, medical advisers, legal advisers and agency decision makers.
- Adoption Support Agencies.

Key points

Since the publication of the statutory guidance in July 2013, the Government has taken forward a number of adoption changes through the Children and Families Act 2014. These changes will:

- enable children to move in with their potential adoptive families much earlier (known as Fostering for Adoption);
- remove the barriers to good placements caused by undue emphasis on finding a “perfect” ethnic match;
- engage approved prospective adopters more closely in the matching process by opening up the Adoption and Children Act Register to them;
- improve adoption support;
- make changes to post adoption contact;
- enable structural reform of the adopter recruitment system so that it becomes more responsive to demand;

- enable prescribed individuals to access intermediary services to facilitate contact between them and birth relatives of adults adopted before 30 December 2005.*

This document reflects some of those legislative changes. The main changes are about:

- adoption agencies no longer having to give due consideration to a child's religious persuasion, racial origin and cultural and linguistic background when matching a child and prospective adopters;
- deciding early whether it is in the interests of each child to be placed for adoption with their sibling or separately;
- adopter-led matching and in pilot areas approved prospective adopters will be able to access the Adoption and Children Act Register and identify children for whom they might be appropriate adopters. In the pilot areas approved prospective adopters who have expressed a willingness to care for a child on a Fostering for Adoption (FFA) basis will be able to access details of children who are being considered for a FFA placement;
- contact orders that either allow or prohibit contact at and after the adoption order stage;
- information that local authorities must provide about adoption support.

The guidance now includes:

- a chapter on intercountry adoption;
- an annex on placing a child with relatives abroad prior to a possible adoption and
- an annex that lists the abbreviations used in the guidance.

We have removed chapter 8 of the July 2013 statutory guidance (Adoption Agency and Local Authority Responsibilities in Court proceedings). This chapter has been incorporated into the *Statutory Guidance on court orders and pre-proceedings*.

Guidance on FFA is also included in the statutory guidance *Children Act 1989 Guidance and Regulations: Volume 2: Care Planning, Placement and Case Review*.

*Guidance on this subject will be incorporated into chapter 10 later in 2014.

Introduction

The child is the most important person in the adoption process. His or her welfare is paramount and must be at the centre of it. The child's views are to be taken into account in all adoption decisions.

Unnecessary delays in the adoption process and in finding a suitable family for a child may prove detrimental to the child's welfare and their chances of adoption. Agencies should take the following steps as a minimum to make the process work well for the child, birth parents and prospective adopters/adopters:

- make robust, well evidenced, and timely decisions;
- eradicate unnecessary delay in the agency's internal processes;
- make combined care and placement order applications (where possible) and adhere to the court's timetable;
- begin family finding activity as soon as adoption is being considered;
- recruit and approve more prospective adopters for the 6,000¹ children who are subject to a placement order;
- place a child for adoption with a prospective adopter who can best meet most of the child's identified needs even if that prospective adopter does not share the child's race, religion, culture or language, or has been approved by another agency;
- encourage approved prospective adopters to participate in identifying children they might be suitable to adopt;
- provide an effective adoption support service;
- make contact arrangements that are right for the child and keep those arrangements under review.

¹ As at 31 March 2013

Chapter 1: Children

Chapter 1 explains what the adoption agency must do when considering adoption for a child. This is the first step towards permanence for the child. The agency must begin family finding activity as soon as adoption is under consideration. The chapter is also about placing a child with foster carers who are also approved adopters, where the local authority is considering adoption, but has either not made the adoption decision or has not yet obtained a placement order (FFA and concurrent planning).

Planning for permanence

1.1. Unnecessary delays in the adoption process may have an adverse effect on the child's development and welfare and may reduce their chances of being adopted. The child's need for a permanent home must be addressed and a permanence plan should be made as early as possible; well before and no later than the second statutory review (four months after the child becomes looked after) (see *Children Act 1989 Guidance and Regulations: Volume 2: Care Planning, Placement and Case Review*). The adoption scorecards expect that children for whom adoption is the plan will be placed with their prospective adoptive family, on average, within 14 months of entering care by 2016.

Fostering for Adoption and concurrent planning

1.2. A child may be placed with carers who are both approved prospective adopters and approved foster carers. This is a fostering placement under the Children Act 1989 where a child for whom the agency is considering adoption or is satisfied should be placed for adoption (but for whom they do not have parental consent or a placement order) is placed with approved foster parents who are also approved prospective adopters. The advantage of this type of placement is that the child will be able to be placed much earlier with foster carers who are likely to go on to become the child's adoptive family.

Fostering for Adoption

1.3. Section 22C of the 1989 Act requires the local authority to consider placement with dually approved carers whenever it is considering adoption or where the decision has been made that the child ought to be placed for adoption, but where the agency does not yet have authority to place the child for adoption through either a placement order or parental consent. (See the statutory guidance - *Children Act 1989 Guidance and Regulations: Volume 2: Care Planning, Placement and Case Review*).

Concurrent Planning

1.4. Concurrent planning is a well-known practice for placing children with dually approved carers. It involves placing a looked after child with approved foster carers who,

as well as providing temporary care for the child, bring them to regular supervised contact sessions with their parents and other relatives. In addition, the carer may spend time with the parents at both ends of contact sessions to update them on the child's progress. This enables a relationship to develop which is supportive to the parents. The agency provides focussed support via a contact supervisor whose role is to advise the parents to help them to change their lifestyle and improve their parenting skills with the aim of enabling their child to return home to them. If this is the outcome, the child will have maintained contact with their parents and have sustained their attachment because of the regular contact visits. But the carers are also approved as adopters so that if the parents' rehabilitation plan is not successful, the child may be placed with the carers for adoption, ensuring a continuity of attachment. Concurrent planning is usually used in cases where the local authority is still attempting rehabilitation with the birth family, but expects that adoption will become the plan should rehabilitation with the birth family be not successful.

Temporary approval of adopters as foster carers for a named child

1.5. Regulation 25A of the Care Planning, Placement and Case Review (England) Regulations 2010 provides for the temporary approval of prospective adopters as foster carers for a named child where the child's local authority are satisfied that placement with that person is the most appropriate placement for the child and is in his or her best interests.

Considering adoption for a child

1.6. Where adoption is the preferred permanence option, an adoption plan must be commenced and the information on the care plan transferred to the adoption plan. It is at this point that AAR 11 provides that AAR 12-17 apply, as the agency is clearly considering adoption for the child.

1.7. Because adoption, unlike any other permanence option, involves the ending of a child's legal relationship with their parents and family and the creation of a lifelong relationship with new parents, the Act and the AAR lay down particular procedures to be followed. Not only does the Act require the court to finalise the adoption process through the making of an adoption order (if that is the right decision for the child), but AAR 19 also requires the ADM to decide whether the child should be placed for adoption after the procedures set out in AAR 12-18 have been complied with. A decision at the child's statutory review that adoption should be the plan for the child is therefore only the first of many steps in the adoption process, which will lead – subject to the scrutiny of the plan in accordance with the AAR – to a formal ratification of the plan for adoption under AAR 19.

1.8. These procedures constitute a safeguard for both the child and the parents, but it is important that compliance with them does not lead to unnecessary delay in securing the child's future. The steps that have to be taken in accordance with AAR 12-19 and this

part of the guidance should not be considered in isolation, or as sequential steps. The key duties of the adoption agency under AAR 12-19 consist of:

- providing information and counselling to the child and parents (and other family members as appropriate);
- gathering information (including on the wishes and feelings of the child and parents) needed to complete the child's permanence report (CPR);
- referring the report to the agency's decision-maker or panel and
- making a decision as to whether the child should be placed for adoption.

The child's adoption case record

1.9. Once the decision is made that adoption is the permanence plan an adoption case record is to be set up and the documents listed in AAR 12 will form part of this record.

1.10. Adoption case records have a special status under AAR 39-43 and the Disclosure of Adoption Information (Post-Commencement) Regulations 2005. Consequently, a distinction is made between this record and the 'looked after child' case record kept under the 1989 Act or the equivalent record kept by a voluntary agency accommodating a child under section 59(1) of the 1989 Act. This is despite the fact that the information contained in the latter will form the first documents included within the adoption case record.

Counselling and informing the child

1.11. As far as is reasonably practicable – which will of course be influenced by the age and understanding of the child – the agency must ensure that the child is provided with counselling and information about adoption (including written information) in accordance with AAR 13. This details particular aspects that must be considered with the child. Local authorities are required by regulation 3 of the Local Authority Adoption Service (England) Regulations 2003 to have a Children's Guide that will be useful for this purpose.

1.12. Counselling should help a child – subject to age, background and development – to understand over time what adoption would mean for them now and in the longer term. The child should be helped to understand why the agency considers they should not stay with their own family or current carer and why adoption is the preferred option for their permanence. They also need to know about the implications adoption may have for contact with their parents, brothers and sisters, wider family members and others.

1.13. English will not be the first language for some children, while others may have communication or learning impairments. Agencies must ensure that someone who can communicate easily with the child provides the counselling. Counselling also needs to be given in a way that is sensitive to the child's religious beliefs or other values and in an environment where the child is able to talk and ask questions in a way that enables them to gain an understanding of their situation.

Counselling and informing the child's family and others

1.14. As with any other type of planning for a child, it is essential to involve the parents and others who are important to the child. In addition to the consultation that is required under the 1989 Act, AAR 14 imposes a particular duty in respect of counselling and the provision of information when adoption is being considered. Although the Act does not require the formal consent of the child's father (where he does not have parental responsibility) to adoption or placement for adoption, where the father's identity is known and the agency is satisfied it is appropriate to do so, the agency must provide the father with counselling and information. Where the father's identity and whereabouts can be ascertained it should be rare for the agency to decline to offer him information and counselling.

1.15. The information to be provided to parents under AAR 14 includes written information, and information about the legal implications of adoption, and the processes involved. Agencies should give the parents opportunities to discuss and to ask questions. It is important that social workers help parents to understand that information they can provide about the child's and their own background and history will be valuable to the child as they grow up. It would be ideal if their consent can be obtained to the sharing of information with the child in the future, e.g. when they seek information from the agency after reaching adulthood (see chapter 10). The parent's independent support worker also has a role to play in encouraging the parents to provide information for the benefit of the child.

1.16. As well as explaining the matters set out in AAR 14, the agency must be clear about why it considers the child should not be returned to the parent or guardian and should be placed for adoption. The consequences of the adoption process for parental responsibility, for contact with the child and how this will change if the agency is given authority to place the child for adoption should also be made clear.

1.17. The agency's counselling must include an explanation that the 1989 Act contact obligations would be replaced by the contact arrangements provided for under the Act and by the AAR if the agency obtains authority to place the child for adoption. The agency should also explain the right that the parent or guardian and others have to apply for a contact order under section 26(2) and 26(3) of the Act.

1.18. The agency should offer the parents the services of an independent support worker – someone who can provide advice and support and is either from another adoption agency or adoption support agency or, at least, not a member of the team of social workers who are responsible for the child's case. Where the parents are opposed to the idea of adoption they may refuse to accept counselling from the local authority that is proposing this plan. In such cases the agency should offer to arrange counselling through another agency, and should also encourage the parents to consult their own solicitor as soon as possible. Where the parents have declined to accept counselling the

agency should record this, and details of any offers of counselling it has made, on the child's case record. The agency should also ensure that the parents' legal advisers and/or independent support worker are aware of the situation.

1.19. In many circumstances, parents (and some of their family members) whose children are being considered for adoption may be hard to reach or to engage with because of their own additional needs, including learning difficulties, mental health problems, or drug or alcohol misuse. Agencies should consider, perhaps in conjunction with specialist services provided for people with these difficulties, imaginative ways of engaging with 'hard to reach' parents.

1.20. It may be that at a later stage in the process the parents will come to accept the need for their child to be placed for adoption, or their opposition may be modified at least to the extent that they are prepared to discuss the issue. The agency should make every effort to maintain contact with the parents throughout the adoption process, through their solicitor if necessary, and should be ready to offer counselling at any time, even if this has previously been rejected. This is appropriate not only for the parents' sake, but will also assist the agency in being able to provide the child and their adoptive parents with up to date information about the parents and, where appropriate, to consider future contact plans. In due course, if the child is placed for adoption, and an adoption application is made to the court, the parents will (unless they have already given consent and explicitly stated that they wish not to be involved) receive notice of the court hearing. At this point it will be helpful for the adoptive parents and the child to know whether it is likely that the parents will wish to apply to the court for leave to oppose the adoption order.

1.21. The parents' counselling should be sensitive to their ethnic origins and religious beliefs. English will not be the first language for some parents while others may have communication or learning impairments. Agencies must ensure that someone who can easily communicate with the parents provides the counselling. Agencies may wish to consider collaborating with each other to commission translations of written information appropriate to children and parents within their local community. Any learning disability/sensory impairment should also be recognised and counselling must be sensitive to it. The wishes and feelings of the child's parent, guardian or others should be recorded on the child's case record as this information will need to be included in the CPR and be taken into account during the matching process. This would include:

- where the parent or guardian is willing to consent to the child being placed for adoption and whether their consent would relate to an identified prospective adopter or would be general consent to placement with any prospective adopter chosen by the agency;
- where the parent or guardian rejects the agency's adoption proposal for the child and suggests alternative care arrangements.

1.22. The agency should explain that any information obtained will be safeguarded, and the circumstances in which it will be shared with others, including the adoption panel, prospective adopter when the child is placed, the court and, at the appropriate time, the child. The parent should be given information about the provisions of the AIR and the child's right to request information when they reach age 18, and encouraged to consider what information, mementoes and photographs they might wish to leave with the agency to be passed on to the child in the future (see chapter 10).

1.23. Where the parents wish to conceal from members of their family the fact of the child's existence, or the fact that they are seeking their adoption, the agency will be faced with a conflict between the parents' right to privacy and the child's right to know, and perhaps the chance of being brought up by their extended family. Where the agency considers that it is likely to be in the child's interests to be given this opportunity, it should encourage the parents to consider the matter from the point of view of the child. Generally, the courts have been reluctant to override a parent's determination for the extended family not to be informed but, as with fathers without parental responsibility, agencies should avoid giving parents any undertaking that the birth or the proposed adoption will be kept secret. Each case will have to be considered on its own facts.

Counselling fathers without parental responsibility

1.24. The paramount consideration for the agency must be the child's welfare. Where the agency considers that it is appropriate – i.e. that it is in the child's best interests - the agency must take all reasonable steps to trace and counsel the child's father, if his identity is known.

1.25. If the father's identity cannot be established, the agency should seek legal advice. Each individual case will need to be considered and legal advice sought. One option would be to seek a direction from the court on whether it is lawful to place the child for adoption without consulting the father. Another option, available only to local authorities, is to apply for a placement order where the local authority considers that the requirements for section 31 of the 1989 Act are met (conditions for making a care order threshold criteria).

1.26. Where the mother gives consent to placement for adoption, or advance consent to adoption, and subsequently marries the child's father, the father would acquire parental responsibility and thus become a parent within the meaning of the 1989 Act. However, sections 52(9) and 52(10) of the Act provide that, if the child is placed, the father is deemed to have given his consent, although he may of course later withdraw it, provided he does so before an application has been made to court for an adoption order. Unless such a father withdraws his deemed consent, the adoption process should continue.

Relinquishment for adoption of children aged less than six weeks

1.27. Where a pregnant woman approaches the agency and indicates that her intention is to relinquish the child for adoption, the agency should provide her with pre-birth counselling. This counselling should include explaining the options for the child's future care:

- staying with the parent or parents, with close support where possible;
- short-term foster care, with the aim of returning the child with support;
- long-term placement within the child's wider family or
- placement for adoption.

1.28. The mother should be given an explanation of the procedures for both placing her child for adoption and the adoption order, and the legal implications of adoption. This must include that her consent to her child's adoption will not be effective until six weeks after the child's birth. The agency should ascertain and record her wishes and feelings.

1.29. The agency should also provide pre-birth counselling and ascertain the wishes and feelings of the expected child's father. Where the agency knows the father's identity and is satisfied it is appropriate to do so, the agency should also counsel him and any other person the agency considers relevant to the child, and it should ascertain their wishes and feelings. AAR 14 should be followed, where it is reasonably practicable for the agency to do so.

1.30. The agency should consider the care options for the child and where it considers that adoption is the preferred option it should:

- commence the CPR and the health report;
- arrange for the agency medical adviser and adoption panel to be ready to consider the case as soon as possible after the child is born and
- begin family finding so that the baby can be placed for adoption with prospective adopters once the decision-maker has decided that the child should be placed for adoption and placed with those specific prospective adopters.

1.31. When the child is born, the agency should counsel the mother, and where it is reasonably practicable and the agency considers it appropriate, the child's father, to ascertain whether they still wish to relinquish the child for adoption. If they do, the agency should immediately complete the CPR needed for the adoption panel to consider whether the child should be placed for adoption and, where this is the case, whether the child should be placed with particular adopters. With enough preparation the adoption panel should be ready to consider the case within a day or so of the birth.

‘Consent’ where the child is under six weeks old

1.32. Section 52(3) of the Act makes it clear that any consent to adoption given by a mother before her child is six weeks old is ineffective. Special provision is made for those cases where it is desirable to place a child as soon as possible, but formal consent to adoption must not be sought before the child is 6 weeks old.

1.33. Where the ADM decides that the child should be placed for adoption and the parent has been notified, the agency must not seek at this stage to obtain the formal consents to placement for adoption or to adoption using the prescribed forms under sections 19 and 20 of the Act. The agency may ascertain, after careful counselling, whether the parent is prepared to agree to the child being placed for adoption with a prospective adopter identified in any agreement, or with any prospective adopter who may be chosen by the agency, and to enter into an agreement with the agency. See Annex D for the form and AAR 35(4). This would not apply to any case where care proceedings were in train. A mother who signs an agreement to placement during the six week period and then changes her mind, does not need leave to oppose the adoption. A CAF/CASS officer should not be asked to witness consent during the six week period.

1.34. The agency should provide additional counselling for the parent or guardian where it is seeking to obtain their signed agreement to the placement for adoption of their child aged under six weeks. The agency should make it clear orally and in writing that:

- the parent or guardian retains full parental responsibility until they give their formal consent under section 19 of the Act, after the child reaches the age of six weeks or a placement order is made or an adoption order is made;
- the parent or guardian may only have contact with the child by agreement with the agency or by order of the court;
- if the parent or guardian asks for the child to be returned, the child must be returned by the agency unless an emergency protection order or a care order or a placement order or an adoption order has been made in relation to the child.

1.35. Subject to the agreement being signed, the agency may now place the child. It should seek to maintain contact for the child with the parents and when the child reaches the age of six weeks, ascertain whether they are prepared to formally consent to their child being placed for adoption with a prospective adopter identified in the consent, or with any prospective adopter who may be chosen by the agency. The parents should also be asked if they would like to give their advance consent to the making of a future adoption order (see sections 19 and 20 of the Act).

1.36. If they are not prepared to give their consent to their child being placed for adoption and they ask for their child be returned to them, the agency must comply with

that request unless there are grounds for seeking a placement order, or instituting other proceedings.

Obtaining information about the child and the child's family

1.37. AAR 15 and Parts 1 and 2 of Schedule 1 set out the agency's duties in respect of gathering and recording information about the child, and AAR 16 and Part 3 of Schedule 1 do so in respect of information about the child's family.

Health assessment

1.38. Once the agency is considering adoption for the child, it should immediately consult its medical adviser to ascertain whether the health information already obtained is sufficient, and sufficiently up to date, to fulfil the requirements of the regulations and the need for full information for the child, the adoption panel/decision-maker and the prospective adopter.

1.39. Where a new health assessment is needed, this should be organised in sufficient time to allow the medical adviser to complete their part of the CPR. Delay in commissioning any necessary examination and further report could make it impossible to comply with the timescales for the completion of the CPR. If the agency does not have parental responsibility for the child, and the child is too young to consent on their own behalf to a health assessment, the consent of a parent or guardian will be needed. The cooperation of parents will also be needed to obtain the fullest possible information about the health history of the child (including prenatal and neo-natal health) and family. AAR 15(4) provides that if the child is of sufficient understanding and refuses to submit to medical examinations or tests the adoption agency is not obliged to make arrangements for these.

Access to health information

1.40. The primary legislation that governs access to health information is the Data Protection Act 1998. This Act and its regulations provide that an application for access to medical health records may be made to the family doctor. For example, by the patient, a person authorised in writing to make the application on the patient's behalf and a person having parental responsibility for the patient, where the record is held in England or Wales and the patient is a child. The latter would include an agency where it has acquired parental responsibility for the child, such as with an interim care order, care order or placement order.

1.41. The 1998 Act also provides that access shall not be given to the health record that, in the opinion of the record holder, would disclose:

- information likely to cause serious harm to the physical or mental health of the patient, or of any other individual. See the Data Protection (Subject Access Modification) (Health) Order 2000; or

- information relating to or provided by an individual, other than the patient, who could be identified from that information and who has not consented to the disclosure. See section 7(4) of the 1998 Act.

The Department of Health² and the British Medical Association³ have issued guidance on confidentiality and disclosure

1.42. Where a parent lacks the capacity to give consent to disclosure of health information about themselves or the child, reference should be made to the code of practice issued under the Mental Capacity Act 2005.

1.43. In planning arrangements for accessing and disclosing health information, the agency should consult its medical and legal advisers in advance, as they can help to ensure the agency's policies and procedures accord with the 1998 Act and the medical profession's ethical guidelines and practice. The agency should also ensure that it complies with the NHS Confidentiality Code of Practice, which is based on the common law of confidentiality, the 1998 Act, and other areas of law surrounding confidentiality.

Child's permanence report

1.44. The CPR is prepared where the agency is considering adoption for the child. The social worker who knows the child best should compile the CPR provided they meet the requirements of the Restriction on the Preparation of Adoption Reports Regulations 2005 (see chapter 8).

1.45. The CPR must include all the information about the child and their family and a summary by the agency's medical adviser on the state of the child's current physical and mental health and behaviour and, if age appropriate, a developmental assessment, their health history and current and future health care needs. The detailed health reports are submitted to the adoption panel if the medical adviser considers that this is necessary. The agency should make the medical adviser aware of all medical information about the child and their family.

1.46. The accuracy of the CPR is essential, since it will not only form the basis on which decisions are made about whether the child should be placed for adoption but will also assist the agency in matching the child with an appropriate prospective adopter. The CPR will be the source of the information about the child on which the prospective adopter will rely. The child, on reaching adulthood, will be able to request a copy of the CPR under the AIR and may have to rely on this document as the principal source of information about their pre-adoption history.

1.47. It is important therefore that the information contained in the CPR is checked against the original sources of information. Those parts of the CPR that contain factual information about the birth family should be shared with the relevant family members to

² Confidentiality: NHS Code of Practice.

³ Confidentiality and disclosure of health information tool kit.

enable them to confirm their accuracy and agree to it being passed on to the child in due course. Any such agreement should be clearly recorded on the child's case record. Each of the child's parents should also be shown those parts of the CPR which set out their views and wishes, and given the opportunity, if they so wish, to express these in their own words. Where writing is not their preferred means of communication, they could be assisted to express their wishes by other means such as an audio-recording. Where the child is old enough, they should also be encouraged to confirm that their views have been accurately stated. The CPR should make it clear whether the parents have seen the CPR, or parts of it, and include any comments they have expressed on it.

1.48. The CPR must contain an analysis of the options that have been considered by the agency for the future care of the child, and explain why adoption is considered the preferred option.

1.49. AAR 16, as well as listing the items of information to be included in the CPR, requires that it contain any other information which the agency considers relevant and helpful. The social worker will need to think carefully about which documents should be sent to the adoption panel or ADM. It is unhelpful to them to receive hundreds of pages through which they have to sift to find the important information, so a summary of the information, agreed by all parties, should be provided to them. The full reports must, however, be available to them.

1.50. Where court proceedings are taking place, it is important that the children's guardian's views are conveyed to the ADM, particularly if these differ from those of the local authority. There may also be expert reports available which have been prepared in connection with the court proceedings. Although this may sometimes give rise to difficulties of timing, it is essential that these or a summary (agreed between the local authority's legal adviser and the other parties to the proceedings) be made available to the decision-maker.

Referral to the adoption panel or ADM

1.51. Table 1 sets out when to refer a case to the adoption panel or ADM. The adoption panel and the ADM should be sent the same reports and information as each other except that all medical reports and information referred to in AAR 17(2D)(ii) and (iii) must be sent to the ADM.

Table 1: Referral to the adoption panel or ADM

	Circumstances	Refer to adoption panel	Refer direct to decision-maker without referral to adoption panel	Authority to place: Apply for placement order or Obtain parental consent
1.	Child accommodated by the local authority or relinquished for adoption and the birth parent has indicated they will consent to their child being placed for adoption - no court scrutiny of the agency's adoption plan	Yes	No	Parental consent
2.	Care order made and the birth parent has indicated they will consent to their child being placed for adoption – no court scrutiny of the agency's adoption plan	Yes	No	Parental consent
3.	Care Order made and the birth parent has indicated they will consent to their child being placed for adoption, but the agency considers there is a possibility that the birth parent will change their mind and not give their consent	Yes	No	Parental consent/placement order

		account the effect on the child of any unnecessary delay.		
4.	The child is placed for adoption by the local authority or is being provided with accommodation by them and the agency is not authorised to place the child for adoption and the child has no parents or guardians or the local authority considers that the conditions in section 31(2) of the Children Act 1989 applies	No	Yes	Placement order
5.	Care proceedings in progress	No	Yes	Placement order
6.	Care order made and birth parent has indicated that they will not give consent to their child being placed for adoption	No	Yes	Placement order

Note: The above applies equally to a looked after child who is to be adopted by prospective adopters from overseas.

Action following ADM decision

1.52. If the decision is that the child should not be placed for adoption, the agency must convene an urgent review to consider alternative plans.

1.53. If the decision is that the child should be placed for adoption, the child's social worker should alert the family finding team so that they can step up their search for prospective adopters and the local authority's legal advisers if a placement order is required. Local authorities must not wait until a placement order is made before starting their family finding work. To do so would cause unnecessary delay for the child. See the statutory guidance *Court orders and pre-proceedings* that outlines the processes that take place during placement proceedings.

Consent to placement for adoption

1.54. Section 19 of the Act provides that a parent may consent to the placement for adoption of their child, and that this consent may be to placement with any prospective adopter chosen by the agency, or to a specific prospective adopter. In the latter case, the consent may (but is not required to) provide that, in the event of the placement with a specific prospective adopter being terminated before an adoption order is made, the agency may place the child with a prospective adopter of its own choosing.

1.55. Section 20 of the Act provides that a parent, who gives consent to the child being placed for adoption, may also give their advance consent to the making of an adoption order. At the same time they will have the option of making a statement that they do not wish to be informed of any application for an adoption order (although they may retract such a statement later). This situation could arise where a parent has requested their child be adopted and is clear that they wish to have no further involvement with the plans for the child. If such a statement is made, AAR 12 requires that this is recorded on the child's adoption record and at the same time, a copy is filed at court.

1.56. The agency must explain to the parent the consequences of giving consent to placement, in particular the fact that a withdrawal of their consent will be ineffective once an application has been made for an adoption order (which could be made any time after the child has lived with the prospective adopter for 10 weeks). They should also ensure that the parent understands the position about contact and the provisions of section 26 of the Act.

1.57. Where a parent wishes to give consent to the placement of their child with a specific prospective adopter, that person must be identified in the form of consent. There may however be some cases where the prospective adopter's identity is to remain anonymous. That prospective adopter will make use of the procedure in the court rules for using a serial number rather than their name on any notice of the application sent to the parents. In such a case, the characteristics and circumstances of the prospective adopter will have been described to the parents, and it is important that the agency is able to identify them by means of a file reference that is provided to the person responsible for witnessing consent.

1.58. The agency should explain to the parent the procedure for the formal witnessing of consent. They should provide the parent with contact details for the social worker and any support worker to enable the parent to get in touch if they have any queries, or if they are considering withdrawing their consent. They should also emphasise to the parents the importance of their keeping the agency informed about their own whereabouts. This will benefit not only the parent receiving information about their child's progress, but also the child as it will help avoid possible delays in notifying the parent when the adoption application is made to court.

1.59. Where the parent or guardian who is willing to consent is resident in England or Wales, the provisions of AAR 20 apply, and a CAFCASS officer (if the child lives in England) or Welsh family proceedings officer appointed by the National Assembly for Wales (if the child lives in Wales) will witness consent.

1.60. The agency must request that CAFCASS appoint an officer to witness the parent's or guardian's consent to placement or to adoption, prior to court proceedings. The agency must send with that request the information specified in Schedule 2 (see AAR 20).

1.61. For consent to be effective, the CAFCASS officer will need to be satisfied that the parent or guardian fully understands the consequences of giving consent and that they are willing to do so unconditionally (section 52(5) of the Act). The CAFCASS officer must witness the parent or guardian sign the consent to placement form. The CAFCASS officer must sign the form and notify the agency in writing, including the consent form with the notification. The CAFCASS officer must keep a copy of the original form. Once formal witnessed consent is given, the agency is authorised to place the child for adoption.

1.62. The agency must place the original consent form on the child's adoption case record, and must be ready to provide it to the court - delivering it by hand or sending it by recorded delivery - when the prospective adopter make their application to the court for an adoption order. A copy of the consent form will not be acceptable. Any notice that the parent does not wish to be informed of an application for an adoption order, or withdrawal of such a statement, must also be kept on the child's case record.

1.63. Where the CAFCASS officer is not satisfied that the parents wish to give their full consent, or has doubts that they fully understand its implications, or considers that they are not competent to give consent, they will be directed by CAFCASS guidance to notify the agency. In these circumstances consent cannot be given, and it will be necessary to make an application for a placement order.

1.64. Where a parent or guardian lives outside England and Wales and is prepared to give their consent, the agency is required by AAR 20A(1) to arrange for an 'authorised person' to witness the consent. The agency is also required to send to that person the information specified in Schedule 2. AAR 20A(2) stipulates that an authorised person is:

- in Scotland, a Justice of the Peace or a Sheriff;
- in Wales, a family proceedings officer;
- in Northern Ireland, a Justice of the Peace;
- outside the UK:
 - any person authorised by law in the place where the consent is given to administer an oath for any judicial or other legal purpose
 - a British consular officer

- a public notary or
- an officer holding a commission in any of the regular armed forces of the Crown.

Chapter 2: Adopter Approval

Chapter 2 explains what the adoption agency must do in assessing and approving prospective adopters. The agency should implement strategies to recruit and approve more prospective adopters so that the 6,000⁴ children nationally who are subject to a placement order can benefit from being placed swiftly with an adoptive family. The chapter details the two stage approvals process and the fast-track process for some prospective adopters. The agency is to direct potential adopters to the National Gateway for Adoption (operating as First4Adoption) or other adoption agencies when they are not needed by that agency.

Seeking Information

2.1 Potential adopters will generally start their adoption journey by seeking information about adoption and may approach different agencies to find out about the process and their policies.

2.2 Agencies should respond impartially to requests for information and provide this within ten working days through an information session, a visit, pre-planned telephone call or similar arrangement with the potential adopter. This may need to take place in the evening or at the weekend to fit around the potential adopters' life style and working patterns.

2.3 Where an enquiry is about intercountry adoption, the agency should provide information about their policy on fees and an estimate of the cost the prospective adopter will have to pay to the agency and to the Department for Education. The agency should try to find out whether the potential adopter has considered adopting a looked after child. Many people believe that they would not be able to adopt a child in this country and it is important that agencies dispel the many myths around domestic adoption. People that the agency feels may be unsuitable to adopt a looked after child in England should not be advised to apply to adopt a child from overseas.

Registration of Interest

2.4 Once a potential adopter has received information about adoption, they will decide either that adoption is not right for them or will wish to formally register their interest with an adoption agency to enter Stage One of the approval process. From this point, they are referred to as prospective adopters.

2.5 The agency should decide within five working days from receipt of a registration of interest form whether to accept this, unless there are exceptional circumstances that mean that more time is needed.

⁴ As at 31 March 2013

2.6 Adoption agencies must not refuse to accept a registration of interest on the grounds of a prospective adopter's ethnicity, age, health, sexual orientation, religious beliefs or because they do not share the same ethnicity, culture or religious beliefs as the children waiting for an adoptive family.

2.7 There is no upper age restriction on applying to become adoptive parents, but there is a minimum age of 21 years. The agency's medical adviser should investigate and obtain relevant information about a prospective adopter's health in order to be satisfied that they are able to adopt a child or children and have a reasonable expectation of caring for the child through childhood and into adulthood.

2.8 Where an agency declines a registration of interest it should provide the prospective adopter with a clear written explanation of the reasons.

2.9 Where an agency accepts a registration of interest it must set up a case record in respect of the prospective adopter (AAR 23). The registration of interest form should be part of this record. Chapter 9 of this guidance deals with the confidentiality and preservation of this and other adoption case records.

Eligibility to Adopt

2.10 An individual or couple cannot apply for an assessment of their suitability to adopt unless they meet, or would meet, the eligibility criteria to apply for an adoption order. The criteria are that:

- the prospective adopter(s) is at least 21 years old;
- the prospective adopter or one of the prospective adopters is domiciled in a part of the British Islands or the prospective adopter or both of the prospective adopters have been habitually resident in a part of the British Islands for a period of not less than one year before they apply to the court for an adoption order; and
- neither prospective adopter(s) nor an adult member of their household has been convicted or cautioned in respect of a specified offence.

Establishing Domicile and Habitual Residence Status

2.11 Domicile and habitual residence are legal concepts that are undefined and subject to case law. Whether someone is domiciled or habitually resident in the British Islands will depend upon all the circumstances and facts of an individual case. Wherever there is an issue about the domicile and habitual residence status of an individual, they should seek their own independent legal advice prior to considering adoption. For those considering intercountry adoption they should consider the immigration requirements for bringing a child into the UK (see www.gov.uk). The adoption agency may also wish to seek legal advice.

2.12 A person is domiciled in the country in which they either have or are deemed to have their permanent home. In law, everyone must have a domicile, and can only have one domicile at any time. A person receives at birth a domicile of origin that remains their domicile, wherever they go, unless and until they acquire a new domicile (a domicile of choice). A person may acquire a domicile of choice by residing in a country other than their domicile of origin with the intention of continuing to reside there indefinitely. The intention that must be shown is the quality of residence. It is not sufficient for there to be an intention to reside in a country for a fixed period of time or until some clearly foreseen and reasonably anticipated event happens.

2.13 Whether or not a person is habitually resident in the British Islands will depend on the circumstances of their particular case and all facts must be considered. Habitual residence will not solely be determined by the place where a person is living at the time. The term indicates the quality of residence rather than mere duration and requires an element of intention. The term suggests that personal presence must continue for some time. Many factors must be taken into account, including bringing possessions, doing everything necessary to establish residence before coming, having a right of abode, seeking to bring family, and “durable ties” with the country.

2.14 There is no requisite period of residence. Someone who leaves the British Islands in order to take up employment elsewhere may acquire habitual residence in another country and retain habitual residence in the British Islands because of the type of links they have maintained. It is also possible to be habitually resident in two countries at the same time. Factors such as possession of a property, type of employment contract, financial arrangements and location of bank accounts, and local connections are just some of the many factors that may be relevant to any question relating to habitual residence.

Stage One – The Pre-Assessment Process

2.15 Stage One begins when the agency notifies the prospective adopter that they accept their registration of interest in adoption. Stage One focuses on initial training, preparation and on undertaking prescribed checks and references to decide whether the prospective adopter is suitable to adopt a child or children.

2.16 Agencies are required to draw up a Prospective Adopter Stage One Plan (AAR 22). Under the guidance of the agency, the prospective adopter should feel that this stage of the process is ‘adopter-led’, and the Stage One Plan should be agreed with the prospective adopter as far as possible (it may be referred to as an ‘agreement’).

2.17 Stage One should take no more than two months unless the agency is satisfied there are good reasons for it to take longer or upon the request of the prospective adopter. In this case the agency may delay making their pre-assessment decision and agencies should detail the reasons for the extended timescale in the prospective adopter’s case record.

Counselling, Information and Preparation for Adoption

2.18 AAR 24 requires the agency to provide adoption preparation for the prospective adopter. Some prospective adopters may already have recent experience of caring for a child, as parents, foster carers or child minders. Some may be applying to adopt for a second time. The agency should discuss and agree the nature of the preparation that is most appropriate for the prospective adopter. Adoption preparation may be provided by the agency itself or by another agency or an adoption support agency. In order to maximise the use of resources, and to avoid unnecessary delay, agencies should consider creatively whether they could arrange with neighbouring agencies to provide joint preparation groups.

2.19 All prospective adopters will need some form of adoption preparation. The agency will need to decide its form and substance, arranging preparation that takes into account the prospective adopter's circumstances. Preparation should be designed to help prospective adopters make an informed decision about pursuing adoption based on an understanding of the qualities they have to offer a child.

Police checks

2.20 The safety and welfare of the child are paramount and under AAR 25 the agency must conduct Disclosure and Barring Service (DBS) checks on the prospective adopter and any adult members of their household.

2.21 The agency should make it clear that the prospective adopters will not be able to proceed to Stage Two where criminal record checks identify them or an adult member of their household as having been convicted of a specified offence or police caution in respect of a specified offence.

2.22 Where an agency will not learn the full history by conducting a criminal record check and other background checks on the prospective adopter, for example, where they have lived abroad for an extended period, it should decide whether it should carry out any other checks or take up additional references. The agency should ensure it has sufficient information to justify continuing with Stage One but not delay the approval process. If it decides not to proceed, it should provide the prospective adopter with a written explanation of the reasons.

2.23 An agency may not consider a prospective adopter suitable to adopt a child if they or any adult member of their household has been convicted of a specified offence committed at age 18 or over, or has received a police caution in respect of a specified offence that they admitted at the time the caution was given. In such circumstances the agency must notify the prospective adopter in writing, with reasons, immediately.

2.24 A "specified offence" means:

- an offence against a child;⁵
- an offence specified in AAR, Part 1 of Schedule 3;
- an offence contrary to section 170 of the Customs and Excise Management Act 1979. This relates to goods which are prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography) where the prohibited goods included indecent photographs of children under the age of 16 or
- any other offence involving bodily injury to a child, other than an offence of common assault or battery.

2.25 Information relevant to the prospective adopter's assessment that the agency has obtained from the DBS should be retained by the agency on the prospective adopter's case record for a limited time only. This information should be destroyed when the agency decides that the prospective adopter is suitable to adopt a child unless required for an adoption with a foreign element. The agency should note on the prospective adopter's case record that it has destroyed the DBS information and that this information had led the agency to form a particular view, without citing the information itself.

2.26 Where the criminal record checks disclose previous convictions or cautions for non-specified offences, the agency may consider that the prospective adopter is not suitable to adopt. In such circumstances, the agency must exercise its discretion and decide whether to continue with Stage One. If it decides not to proceed, it must notify the prospective adopter in writing, with reasons, immediately.

Health checks

2.27 Agencies have a duty to satisfy themselves that prospective adopters have a reasonable expectation of continuing in good health. Mild chronic conditions are unlikely to preclude people from adopting, if the condition does not place the child at risk through an inability to protect the child from commonplace hazards or limit them in providing children with a range of beneficial experiences and opportunities. More severe conditions will raise a question about the suitability of a prospective adopter, but each case will have to be considered on its own facts and with appropriate advice.

2.28 The agency must obtain a written report from a registered medical practitioner about the health of the prospective adopter following a full examination. The report must include the matters specified in Part 2, Schedule 4 of the AAR, unless the agency has received advice from its medical adviser that such an examination and report is unnecessary.

⁵ Within the meaning of section 26(1) of the Criminal Justice and Court Services Act 2000. However, it does not include an offence that is contrary to section 9 of the Sexual Offences Act 2003 (sexual activity with a child) where the offender was under the age of 20 and the child was aged 13 or over at the time the offence was committed.

2.29 The agency's medical adviser will need to provide a summary of the prospective adopter's state of health as part of the prospective adopter's report (a requirement of Stage Two). The adviser will need to form a view as to the adequacy of the medical reports received and to advise whether additional specialist opinion should be obtained. The prospective adopter's current GP may not have a full health history of the prospective adopter, particularly if they have received private medical care outside the NHS.

References

2.30 AAR 26 and Part 1 of Schedule 4 requires the prospective adopter to provide the names of three referees, not more than one of whom should be related to them. The agency must prepare a written report of the interviews held with each of the referees. Where the agency considers it necessary, it may seek references from ex-partners of prospective adopters.

2.31 The agency must ascertain whether the local authority in whose area the prospective adopter has their home has any information about them that may be relevant to the assessment. Local authorities asked for this information should comply promptly with these requests and provide this information within 15 working days wherever possible. In requesting information from a local authority, the agency should seek to ascertain whether records held by social services and education departments, including the child protection register, hold relevant information about the prospective adopter.

2.32 Further guidance on sharing information for the purposes of adopter assessments can be found in *Assessment and Approval of Foster Carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services* (July 2013).

Stage One – Pre-Assessment Decision

2.33 Where an agency decides that a prospective adopter is not suitable to adopt during or at the end of Stage One, it must inform the prospective adopter of the decision and provide them with a clear written explanation of the reasons why they will not be able to proceed. Prospective adopters who wish to complain about this decision may make a complaint using the agency's local complaints procedure. The Independent Review Mechanism is not available for decisions made during Stage One.

2.34 If a prospective adopter wishes to take a break between Stage One and Stage Two, or an agency recommends such a break, this will be subject to a maximum of six months. Where this break is longer than six months the prospective adopters will need to restart Stage One. Agencies should respond within five working days of contact from the prospective adopter and offer them a re-entry interview. The Stage One Plan should take into account activities undertaken previously.

2.35 Where an agency considers that a prospective adopter may be suitable to adopt a child or children, the agency must notify them of its decision and explain that they must

notify the agency within six months of the date of the agency's notification if they wish to proceed to Stage Two. Stage One ends with the agency's decision.

Fast-track approval process

2.36 There is a fast-track process for certain adopters and foster carers who can bypass Stage One and enter the process at Stage Two. They should receive a tailored assessment (which may include elements of Stage One where the agency considers it necessary) to take account of such factors as their previous experience of adopting or fostering in general and experience of the differing needs of the children they have previously adopted/fostered.

2.37 Those eligible for the fast track process are:

- adopters who have previously adopted in a court in England or Wales after having been approved under the Adoption Agencies Regulations 2005 (or corresponding Welsh provision);
- intercountry adopters who adopted after having been assessed under the Adoptions with a Foreign Element Regulations 2005 and
- anyone who is an approved foster parent at the time they apply to adopt after having been assessed under the Fostering Services (England) Regulations 2011 (not including those temporarily approved under the 2010 Regulations).

2.38 Foster carers who express an interest in adopting children in their care or adopters expressing an interest in a specific child should be advised that the adoption procedures apply in their case as in any other.

2.39 The foster carer needs to understand the eligibility for adoption support. If the agency has not placed the child for adoption with them and the foster carer applies directly to court for an adoption order that the local authority opposes, they and the child will be limited in their eligibility under the Adoption Support Services Regulations 2005 to counselling, advice and information only. However, if the local authority supports the application to the court for an adoption order, the foster carer and the child will be eligible for assessment of their adoption support needs as is the case for any looked after child.

2.40 It should be made clear to foster carers, or those who apply to be approved for specific children, that their assessment will be in respect of their suitability to adopt generally and that, if they are approved, their suitability to adopt a specific child or children will be addressed separately as part of the matching process.

Fostering for Adoption and concurrent planning

2.41 The agency should discuss with the prospective adopter whether they might be interested in fostering a child for whom an agency is considering adoption or where there has been a decision that the child should be placed for adoption but there is no parental

consent or a placement order. Such placements are known as Fostering for Adoption (FfA) and include practices such as concurrent planning. There is no need for the agency to assess and approve the prospective adopter as a temporary foster carer at the same time as they are carrying out the adopter approval process although they can do so if they and the prospective adopter wish to do so; simultaneous assessment and approval is the normal practice for concurrent planning.

2.42 Where the prospective adopter has not been approved as a foster carer, but agrees to foster a child for whom the local authority is considering adoption, they may be temporarily approved as a foster carer for a named child when that is the most appropriate placement for the child (see Regulation 25A of the 2010 Regulations). The child's local authority can arrange for the foster care assessment and approval of an approved adopter. A VAA can undertake the foster carer assessment if it is also a fostering agency.

2.43 The agency should indicate on the prospective adopter's report if the prospective adopter is interested in FfA. This will allow local authorities to match the prospective adopter with a child requiring a FfA placement. Guidance on the temporary approval of an approved prospective adopter as foster parent for a named child can be found in the *Children Act 1989 Guidance and Regulations: Volume 2: Care Planning, Placement and Case Review*.

Stage Two – The Assessment Process

2.44 Prospective adopters are not able to formally commence Stage Two of the process until they have successfully completed Stage One and have notified their agency that they wish to proceed with the assessment process within six months of the agency decision.

2.45 Stage Two should generally be completed with the same agency as Stage One. There could be occasions where a prospective adopter will need to undertake Stage Two with a different agency, for example if they move area or the agency identifies capacity issues which would delay a move to Stage Two. In such circumstances it would be up to the new agency to decide whether to accept the prospective adopter at Stage Two and, if they did, any case records would have to be transferred to the new agency under AAR 43.

2.46 Stage Two starts when the agency receives notification from the prospective adopters that they wish to proceed with the assessment process. Stage Two should take four months unless there are exceptional circumstances that mean the agency cannot make the decision within that time, or the agency delays making the decision upon the request of the prospective adopter. Reasons for any extensions should be recorded on the case record.

2.47 Stage Two is about intensive training and assessment. The social worker should explain how Stage Two will operate and what will be required of the prospective adopter.

The social worker should explain the decision making process and the role of the adoption panel and the IRM.

2.48 Agencies must prepare, in consultation with the prospective adopter, a prospective adopter assessment plan including information about the assessment process, any applicable timescales, agreed training and any other matters that the agency considers relevant. This should be agreed, as far as possible, with the prospective adopter, and may be referred to locally as an 'agreement'.

2.49 Agencies should provide any necessary intensive training and in parallel, carry out an assessment of the prospective adopter's suitability to adopt and produce a report of that assessment.

2.50 AAR 30 and Parts 1 and 3 of Schedule 4 list the information that the agency must obtain for inclusion in the prospective adopter's report. The report itself is one of those to which the Restrictions on the Preparation of Adoption Reports Regulations 2005 apply. AAR 30(2) lists the information that must be included in the report.

2.51 Stage Two ends with the agency decision-maker's decision about the suitability of the prospective adopter to adopt a child. If a prospective adopter is considered unsuitable to adopt during Stage Two, the prospective adopter will be able to make representations to the agency or request a review by the Independent Review Mechanism.

2.52 Where the agency considers that more time is needed or a prospective adopter wants more than four months to complete Stage Two, the agency may delay making their decision on the suitability of the prospective adopter. If the decision is delayed the agency must detail the reasons for the extended timescale on the prospective adopter's case record, along with supporting evidence.

Second opinion visits

2.53 The social worker who assesses the prospective adopter should draft the report for the adoption panel highlighting any issues of concern and submit it to their team manager. The manager may arrange for a second person to visit the prospective adopter to discuss the concerns or seek clarification. The Manager must remain mindful of the timeframe for Stage Two. The second person could be a team manager or another adoption social worker. A visit by another person should only take place where clarification is needed but should not be routinely carried out. The author of the report and the countersigning officer should both sign and date the report, state their qualifications and experience, and confirm that they have complied with ARR 3.

Reports to the adoption panel

Full prospective adopter's report

2.54 AAR 30(2) sets out the contents of the prospective adopter's report. Except in cases where a 'brief report' is appropriate, the agency will present this to the adoption

panel, together with the other documents specified in AAR 30(6). The agency must tell the prospective adopter that the case is to be presented to panel. It must give them a copy of the prospective adopter's report and invite them to send their observations on that report within 5 working days (unless there are exceptional circumstances). The medical report and references should not be sent to the prospective adopter.

Brief prospective adopter's report

2.55 AAR 30(4) provides for cases where the agency's assessment of the prospective adopter, while still incomplete, reveals information that leads the agency to consider that the prospective adopter is unlikely to be suitable to adopt. Under AAR 30(4) the agency may prepare a brief prospective adopter's report (brief report) even though it may not have obtained all the information required by AAR 30.

2.56 A decision not to complete the full assessment is a serious step to take and advice should first be sought from the social work team leader or line manager. Depending on the nature of the information, advice may also need to be sought from the agency's medical adviser or legal adviser, or both. The agency should explain its concerns to the prospective adopter and offer counselling, involving other professionals as appropriate.

2.57 As with the full report, a copy of the brief report must be given to the prospective adopter who must be invited to send their views to the agency within 5 working days or longer if there are exceptional circumstances. Once this time has elapsed or when the views are received if earlier, the report (and any information obtained under AAR 30) should be sent to the panel together with any observations from the prospective adopter.

Review of approval: AAR 30D

2.58 Approved prospective adopters should be quickly matched with a child and, where possible, the adoption agency should begin looking for a match alongside the approvals process.

2.59 AAR 30D(2) requires the agency to review the prospective adopter's approval periodically until a child is placed for adoption with them or a match is under active consideration. Such a review must be held a year after approval and, subsequently, at yearly intervals or more frequently if the agency considers it necessary.

2.60 Where the agency completes its review and considers that the prospective adopter remains suitable to adopt, it need only inform the prospective adopter and record its view on the prospective adopter's case record. In the case of prospective intercountry adopters, the agency must notify the Department for Education's Intercountry Adoption Team of the outcome of the review.

2.61 Where the information gathered in the review suggests to the agency that the prospective adopter may no longer be suitable to adopt, AAR 30D(4) sets out the steps that the agency must take. As with the original approval process, the report that the agency presents to the adoption panel must be shared with the prospective adopter so

that they may make comments. The rest of the process, including the rights of the prospective adopter in the event of an unfavourable outcome, is the same as for the original approval process.

Chapter 3: Family Finding and Matching

Chapter 3 explains what the adoption agency must do when it proposes to place a child with approved prospective adopters. Unnecessary delays in finding a suitable family for a child can prove detrimental to the child's welfare and their chances of adoption. Family finding should begin as soon as adoption is under consideration and approved prospective adopters should be encouraged to participate in identifying children they might be suitable to adopt. The primary consideration in deciding the type of adoptive family for the child is their ability to meet the needs of the child. Adoptive families who can do so are not to be excluded for reasons such as being older, single, or of a different ethnicity to the child, unless those certain characteristics are necessary to meet that child's particular needs.

Matching considerations

3.1 Making a good match between a child and prospective adopter is a highly skilled task and is vital for both the child and the prospective adopter. The agency has to consider a range of issues: meeting the child's identified needs; the parenting skills of the prospective adopter; working quickly to avoid the damaging effect of delay; and using the agency's resources effectively. The approach to matching should be informed by research and best practice as well as being practical and realistic.

Draft guidance – these paragraphs are new

3.2 In trying to identify a suitable prospective adopter for a child, the agency should bear in mind that the most suitable family may be one that has been approved by another agency. It should seek a suitable prospective adopter for a child from their own agency, other adoption agencies, agency consortia and the Adoption and Children Act Register (the Register). The agency should use also other matching services such as Adoption Activity and Exchange Days and publications such as *Children Who Wait* and *Be My Parent*, subject of course to appropriate consents.

3.3 The chosen prospective adopter should be the one who can best meet most of the child's identified needs even though that prospective adopter has been approved by another agency. The agency should not put barriers in place, such as ruling out single prospective adopters. The emphasis should be on what skills and qualities the prospective adopter must have in order to meet the child's needs and the agency should consider how the prospective adopter's parenting capacities could be supported and developed alongside the child's changing needs. Taking this approach will put the child in an excellent position of being placed quickly with a new, safe and loving family.

Ethnicity of children and prospective adopters

3.4 A prospective adopter can be matched with a child with whom they do not share

the same ethnicity, if they can respect, reflect or actively develop a child's racial identity from the point they are matched and as they develop throughout their childhood. The Government is clear that a black, Asian or mixed ethnicity prospective adopter can be a successful adopter of a white or mixed ethnicity child and a white prospective adopter can be a successful adopter of a child who is black, Asian or of mixed ethnicity.

3.5 Section 1(5) of the Act has been repealed to ensure that in placing a child for adoption, differences in ethnicity, religion, culture or language are not given such undue emphasis or prominence that they result in potential placements not being explored or an otherwise satisfactory adoption placement not going ahead. This is particularly important when black children wait a year longer to be adopted than white children, and some children simply grow out of the chance of adoption.

3.6 In the past a very cautious approach to matching has been taken, with an emphasis on achieving same race placements where possible, or as a compromise, allowing partial ethnic matching. This has been based on the assumption that transracially adopted children might not have their identity needs adequately met, and that they might not develop a positive racial identity. Over time, research has established that identifiable differences and lack of a shared heritage do not act as barriers to a successful adoption placement.

3.7 It is important that when social workers are looking for an adoptive family for a child, that they avoid placing the child's ethnicity above other characteristics without strong, well analysed reasons for doing so. An ethnic match is an advantage in an adoption but that is just one of a large number of considerations to be taken account of when matching prospective adopters and children. In practice, ethnicity has frequently been given undue significance in matching. One study found that children's profiles often included the specific requirement for the prospective adopter to match the child's ethnicity, with "same race" placements dominating the Child Permanence Report over and above other needs. This study also found that some social workers were so pessimistic about finding ethnically matched prospective adopters that there was little family finding activity.⁶

3.8 What matters in the matching of a child with a prospective adopter of differing ethnicity are the qualities, experiences and attributes the prospective adopter can draw on and their level of understanding of how discrimination and racism operates in society at both an individual and an institutional level. It is therefore vital that the prospective adopter has the openness, strength and insight to support the child or young person if they are confronted by racism when growing up. When such characteristics are present in a prospective adopter the placements can be made with confidence.

3.9 The prospective adopter needs to demonstrate that they fully understand that

⁶ Selwyn, J., David Quinton, D., Harris, P., Wijedasa, D., Nawaz, S., Wood, M., (2008) Pathways to permanence for children of black, Asian and mixed ethnicity: dilemmas, decision-making and outcomes.

having a child from a different ethnic group will present a number of challenges, not least that there may be visible differences that can affect a child's self-esteem and increase their possible feelings of difference. For example, the child may have to deal with questions from their peers about why they are "different" to their family.

3.10 The child's Life Story book can play an important role in helping a child come to terms with his or her ethnicity when it differs from that of his or her adoptive parents (see chapter 7). All children with a plan for adoption must have a Life Story book

Culture, Religion, and Linguistic Background

3.11 Section 1 of the Act is clear that in reaching a decision in relation to the adoption of a child, the paramount consideration of the court or agency must be the child's welfare, throughout his or her life. While the agency is required to take account of the birth parents'/relatives' wishes about the child's future upbringing it may be not be possible to meet their wishes – the child's welfare is paramount.

3.12 When a child has developed a sense of his or her culture or religion, and where he or she has already begun to speak a language other than English, it is important to find prospective adopters who, while not necessarily sharing any of these, are willing and able to help the child develop these important elements of their future identity.

3.13 Where a child is very young, particularly when still in infancy, it is important not to make assumptions about religion, culture or language and these should not be imposed on a very young child. A sense of one's culture is developed over time and it should not be assumed that an infant possesses a cultural, linguistic or religious background. These issues can be explored with the child as he or she grows up and a sensitive prospective adopter will encourage the child, if he or she wishes to do so, to probe these aspects of their birth parents' background. All prospective adopters should help children placed with them to understand and appreciate their background and, particularly in the case of older children, their religion, linguistic or cultural background, for example, celebrating cultural or religious festivals. Prospective adopters should be able to access support, education and training to strengthen their skills together with their knowledge and understanding of the child's birth heritage, to help the child develop a healthy racial and adoptive identity.

3.14 A child's view of these issues is likely to change and develop over time as they grow up (see also Life Story book in chapter 7).

Siblings

3.15 There should be a clear decision making process which enables social workers to decide early whether it is in the best interests of each child to be placed together or separately, and the impact on each child of that decision. The decision making process should be set out clearly with the supporting information and evidence so that all the professionals who are involved in making decisions about each child's future can see how and why the decision was reached. It will also be important in future for the child, as

an adult, to be able to see how and why a decision was reached. The decision should be based on a balanced assessment of the individual needs of each child in the group, and the likely or possible consequences of each option on each child. Agencies may wish to have a formal assessment process in place to assist with the analysis and decision making.

3.16 There are many factors that may need to be considered in reaching a decision on whether to place siblings together or separately. These will include:

- the nature of the sibling group – for example, do the siblings know each other; how are they related;
- whether the children have formed an attachment, and if so the nature of that attachment (secure, insecure or otherwise);
- the health needs of each child;
- each child's view (noting that a child's views and perceptions will change over time)
- other relevant factors.

This means that the agency is better able to make robust, evidenced decisions on whether it is in the interests of each child to be placed separately or together.

3.17 Family finding should begin as soon as adoption is under consideration, and before the ADM decides that the child should be placed for adoption or a placement order is made. Some details may need to be withheld to manage confidentiality issues. AAR 12A(2) requires the agency, where it is considering adoption for two or more siblings, to consider whether they should be placed separately or together.

Placing a child with birth relatives

3.18 Local authorities are required by section 22C of the 1989 Act to consider a placement with relatives, friends or other persons connected with the child if the looked after child cannot return to their birth parents. Where this solution is the right one for the child, the placement is likely to be secured under an informal arrangement, a fostering arrangement or by a residence or special guardianship order, but the appropriateness of adoption by a relative should not be automatically ruled out.

3.19 There may be some circumstances where the security provided by the irrevocability of an adoption order, and its lifelong effect, would be best for the child and outweigh the potential drawbacks of the 'skewing' of family relationships. One such example is a placement with relatives living overseas, where the receiving state may require the child to be adopted. In such cases, the local authority should contact the

Department for Education's Intercountry Adoption Team as soon as such a placement is being considered.

Single prospective adopters

3.20 Single prospective adopters of both genders can have much to offer an adopted child. Some children may find it easier to relate to just one parent or prefer not to relate closely to a mother or father figure if there are negative associations from the past. Issues of emotional and financial support, health and future close relationships will need to be carefully explored with single prospective adopters.

Older children and prospective adopters

3.21 Where older children need adoptive parents, older and more experienced prospective adopters could take on the care of these children if they enjoy sufficient health and energy to meet the child's varied demands. Remember, there is no upper age restriction on applying to become adoptive parents, but they must be at least 21 years old. The more mature person has a greater experience of life; some may be established in their careers and others may have already brought up children of their own and have developed good parenting skills.

3.22 The age of the prospective adopter must also be considered in the light of the gap in age between them and the child to be placed with them. Too large a gap may have an adverse effect upon the child and possibly upon their relationship with the adoptive parents. Where a child has already suffered change, deprivation and loss in their early years, demands on adoptive parents, both physical and emotional, are likely to be considerable, particularly as the child grows older.

Smoking

3.23 There is no legal reason why a child cannot be matched with a prospective adopter who smokes. A local authority may have to restrict smokers as regards the age and type of child who may be placed with them, especially a child under five, or with disabilities that keep them indoors or who has a heart or respiratory problem or glue ear. An agency has a duty to consider the effects of smoking on children in their care. Agencies should therefore discuss with the prospective adopter the issues and implications of smoking such as expecting them to ensure that a child is not exposed to smoke. Discussions about smoking should be undertaken in the spirit of promoting the health of the prospective adopter and practical strategies should be made available to support those who wish to stop.

Draft guidance – these paragraphs are new

The Adoption and Children Act Register

3.24 The Register holds information on children waiting to be adopted and approved prospective adopters who are available and able to meet the needs of children needing an adoptive family.

3.25 The agency must refer children to the Register following the decision that the child should be placed for adoption where the agency has not identified particular prospective adopters with whom it is considering placing the child. Referrals must be made as soon as possible after, and no later than three months from, the ADM's decision that the child should be placed for adoption (AAR 19). If legal proceedings are on-going at this stage, and the child is subject to an interim care order, referral to the Register can be made provided the necessary consents and the court's agreement have been obtained.

3.26 The agency must refer prospective adopters to the Register as soon as possible and no later than 3 months from approval unless they have identified a particular child with whom they are considering placing with the prospective adopter. The agency must also have obtained the consent of the prospective adopter before referral. Prospective adopters may choose to refer themselves to the Register, three months after approval, using the Adopter Self-Referral form (AD02). This form is available from the Register's website. Where a local authority is aware that a particular prospective adopter approved by another adoption agency can best meet the needs of a child, they should negotiate with the agency as soon as possible about the possible placement of the child with that family.

3.27 When the ADM approves a prospective adopter as suitable to adopt a child, the agency should provide them with information that explains the role of the Register and includes the Register's website address.

3.28 The agency must ensure that the information that the Register holds on the children and prospective adopters is up to date. Any change in the child or prospective adopters' circumstances must be notified to the Register.

3.29 Approved prospective adopters should be encouraged to identify children they might be suitable to adopt. This can be through attending Adoption Activity and Exchange Days and viewing publications such as *Children Who Wait* and *Be My Parent*.

3.30 From [**Note:** date to be confirmed], in a number of pilot areas, approved prospective adopters will be able to access the Register and identify children for whom they might be appropriate adopters. Prospective adopters will need to discuss with their own social worker the particular needs of the child so that they can decide whether they wish to pursue that match. Social workers will have a crucial role to play in helping prospective adopters reach that decision and the final matching decision will remain with the adoption agency. Opening up the Register in this way should increase the speed of

matching and it should also lead to more matches. A list of local authorities that are participating in the pilots will be available at the Register's website.

3.31 The Act makes provision for the Register to contain information about children who may be placed for purposes other than adoption. Details of children that are being considered for a Fostering for Adoption placement in the pilot areas will be held in a separate section of the Register. This will ensure that access is limited and only open to approved prospective adopters who have expressed a willingness to care for a child on a Fostering for Adoption basis.

3.32 Scotland and Wales have established their own Registers but there will continue to be protocols with Wales, Scotland and Northern Ireland in order to allow the sharing of appropriate information on adopters and children awaiting adoption – so that the chances of adoption are maximised.

Proposing a placement

3.33 Where the agency is considering the placement of a child for adoption it may identify a number of possible prospective adopters. It needs to compare their potential to provide a stable and permanent family for the child, based on the child's permanence report (CPR), the prospective adopter's report and other information it has collected and assessed.

3.34 Once the agency has identified the family it considers most appropriate as a 'match' for the child, it will need to comply with the requirements of AAR 31. The first stage is to provide the prospective adopter with a copy of the child's permanence report and other information the agency considers relevant.

3.35 Agencies must make available to the prospective adopter all material facts about the children that may be placed with them. It is unacceptable for agencies to withhold information about a child and provide a picture that bears little relation to the reality. The information provided must include full details of the child's background. This includes the history of any abuse or neglect and/or sexualised behaviour on the part of the child, their history in care, including the number and duration of placements, educational progress (or difficulties), behaviour and comprehensive information about physical and mental health and development, and the implications for the future. Such information is a vital tool for prospective adopters if they are to be able to make an informed decision as to whether to accept the placement of the child and, once the child is placed, to understand and deal effectively with the child's particular needs.

3.36 The agency must meet the prospective adopter to discuss the proposed placement, be ready to answer their questions and provide, as far as possible, whatever further information they need. The agency must ensure that it records the prospective adopter's views about the proposed placement, including any view they have about proposed contact arrangements.

3.37 If the agency thinks, following this initial sharing of information and discussion, that the proposed placement should proceed it must carry out (if it is a local authority) an assessment of the support needs of the adoptive family – the child, the prospective adopter and any other children of the prospective adopter - in accordance with the Adoption Support Services Regulations 2005. The agency must also consider the arrangements for future contact between the child and appropriate members of their birth family or other people important to the child. If the placing authority is a VAA, it should explain to the prospective adopter that they may request that their local authority assess their needs for adoption support services, and should assist them in this process. If the local authority undertaking the assessment asks for a copy of the child's permanence report and the prospective adopter's report to inform its assessment, the VAA must comply with this request.

3.38 AAR 31(2)(d) sets out the matters that must be included in the adoption placement report that must now be prepared for the adoption panel. This is a report that falls within the Restriction on the Preparation of Adoption Reports Regulations 2005 (ARR), see chapter 8. In the case of a VAA supplying a report, it would be helpful for the report to include any information about the adoption support proposed by the local authority.

3.39 AAR 31 does not require the agency to include in the report the views of the child about the proposed placement, but where this has been discussed with the child, and particularly where the child already knows the prospective adopter (perhaps as their current foster carers), this will be relevant information to be included in the report. In appropriate circumstances, the proposed placement will also have been discussed with the child's birth family and their views should be included in the report.

3.40 Before it is sent to the panel, a copy of the adoption placement report must be given or sent to the prospective adopter so that they may express their views on it in writing. AAR 31(3) specifies that the prospective adopter must be given 10 working days to comment on the report. It will also be helpful, particularly in the case of any proposal to provide adoption support services, if the agency has discussed the outcome of its assessment of the family's support needs in advance of completing the report.

3.41 At the expiry of the 10 working days or earlier if the prospective adopter's views are received the agency must send the report to the adoption panel together with the other documents specified in AAR 31. The agency must also supply, so far as reasonably practicable, any other relevant information requested by the panel.

3.42 In the case of a proposed inter-agency placement, the child's agency must open its own prospective adopter's case record (see AAR 23) and place on this the documents and information it has received from the prospective adopter's agency.

Chapter 4: Adoptions with a Foreign Element

Chapter 4 sets out the general considerations and the duties of adoption agencies that apply to all adoptions with a foreign element. Adoptions with a foreign element are also known as intercountry adoptions or overseas adoptions. See also chapter 2 that explains the duties of an adoption agency when assessing the suitability of prospective adopters to adopt a child whether from England or overseas and gives guidance on establishing domicile and habitual residence.

Domestic Law

4.1 The legal framework for adoptions with a foreign element is set out in primary and secondary legislation, in particular

- Chapter 6 of the Adoption and Children Act 2002 (the Act);
- The Children and Adoption Act 2006 (the 2006 Act);
- The Adoption Agencies Regulations 2005 (the AARs); and
- The Adoptions with a Foreign Element Regulations 2005 (the FERs).

4.2 Prospective adopters who are habitually resident in the British Islands, wishing to adopt from a country outside the British Islands, must follow the intercountry adoption processes and comply with the requirements and conditions set out in the legislation.

4.3 The FERs provide additional requirements for, and set out additional procedures in relation to, the adoption of children habitually resident outside the British Islands by prospective adopters habitually resident in the British Islands (inbound adoptions) and the adoption of children habitually resident in the British Islands by prospective adopters habitually resident outside the British Islands (outbound adoptions). The FERs apply particular provisions of the AARs to intercountry cases. The AARs and the FERs must be read together.

International Law

4.4 The UK implemented the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption 1993 (the Hague Convention) with effect from 1 June 2003. This provides the framework for the operation of adoptions with a foreign element between Convention countries and keeps the interest of the child central to the process and to any decisions that are made.

Recognition of Adoptions – intercountry and overseas

4.5 There are two types of intercountry adoption – those made under the terms of the Hague Convention, and those not made under the terms of the Hague Convention.

Hague Convention

4.6 Adoption orders made under the terms of the Hague Convention are automatically recognised in the UK (and in all countries that have implemented the Hague Convention). The adoption order may be made in the child's or the adopters' country of origin.

Non-Hague Convention

4.7 Adoption orders made in the child's country of origin, but not made under the terms of the Hague Convention are not normally recognised in the UK. If the adopters decide to return to the UK with the child they will have to apply to a UK court for an adoption order in order for the adoption to be recognised in the UK; section 83 of the Act may apply.

4.8 If the adoption order is made in a country that is prescribed in the Adoption (Recognition of Overseas Adoptions) Order 2013 (the Recognition List) or, up to 2 January 2014, the Adoption (Designation of Overseas Adoptions) Order 1973, then the adoption order will be automatically recognised in the UK. If the adopters decide to return to the UK they will not have to readopt in a UK court for the adoption to be recognised, but section 83(1)(b) of the Act may still apply.

Restrictions on bringing children into the UK

4.9 Section 83 of the Act applies to anyone habitually resident in the British Islands, who:

- brings, or causes another to bring, a child who is habitually resident outside the British Islands into the UK for the purpose of adoption by the British resident, or
- at any time brings, or causes another to bring, into the UK a child adopted by the British resident under an external adoption effected within the period of twelve months ending with that time.

An adoption is within the scope of section 83 even if the adoption is by a person habitually resident in the British Islands and another person, i.e. where a couple is adopting and only one of them is habitually resident in the British Islands. Section 83 does not apply if the child is to be adopted under a Convention adoption.

4.10 It is a criminal offence to bring a child into the UK where section 83 of the Act applies without complying with the relevant requirements, see Annex F.

4.11 Adopters who are habitually resident in the British Islands must also comply with the requirements of section 83 of the Act when bringing a child into the UK, unless the adoption is being made under the terms of the Hague Convention. Not to do so is a criminal offence.

4.12 Where a person habitually resident in the British Islands brings a child back to the UK for the purposes of adoption they will always be caught by section 83(1)(a) and must have complied with the requirements of the FERs otherwise an offence is committed.

4.13 Where a child has been adopted domestically in a foreign country, section 83(1)(b) of the Act only applies where the child is being brought into the UK within 12 months of the external adoption being effected. An external adoption means an adoption (other than a Convention adoption) of a child effected in a country outside the British Islands regardless of whether that adoption is recognised here or is a full or simple adoption (i.e. any domestic adoption carried out in a country outside the British Islands).

Hague Convention Adoptions where England is the receiving state

4.14 The Hague Convention aims to establish safeguards to protect the best interests of the child and put in place a system of cooperation between countries to prevent the abduction, sale, and trafficking of children. The Department for Education provides Central Authority functions under the Hague Convention for prospective adopters who live in England.

4.15 The AARs set out the process for assessing and approving prospective adopters who wish to adopt from outside the British Islands. The FERs set out some additional requirements to those assessments for the purposes of intercountry adoption, and set out the steps that the adopter and the adoption agency must take for the adoption to be made under the terms of the Hague convention.

4.16 Where the prospective adopter is suitable to adopt a child habitually resident outside the British Islands, the agency must send the application and supporting documents to the Intercountry Adoption Team at the Department for Education.

Non-Hague Convention Adoptions where England or Wales is the receiving state

4.17 This section addresses intercountry cases where England or Wales is the receiving State, and the Convention is not in force in the State of origin of the child

4.18 The AARs set out the process for assessing and approving prospective adopters who wish to adopt from a country outside the British Islands. The FERs set out some additional requirements to those assessments for the purposes of intercountry adoption, and set out the steps that the adopter and the adoption agency must take for the adoption to be made.

4.19 Where the country is not one prescribed in the Recognition List the adoption order is not recognised in the UK and the child must be readopted in a UK court for the adoption to be recognised.

4.20 Where the prospective adopter is assessed as suitable to adopt a child habitually resident outside the British Islands, the agency must send the application and supporting documents to the Intercountry Adoption Team at the Department for Education.

Pre and post adoption reports for the child's State of origin

4.21 In addition to the requirement in the FERs, individual countries may require additional pre and/or post adoption reports. This is a private arrangement between the agency and the State of origin and it is the responsibility of the prospective adopter to agree to and engage in the completion of these reports. Any agreement has no status or effect under English law.

The Adoption (Recognition of Overseas Adoptions) Order 2013

4.22 The Adoption (Recognition of Overseas Adoptions) Order 2013 revoked and replaced the Adoption (Designation of Overseas Adoptions) Order 1973 with effect from 3 January 2014. Adoption orders designated as overseas adoptions by virtue of the 1973 Order continue to be recognised.

4.23 The Recognition List sets out the countries and territories whose domestic adoption orders are designated as 'overseas adoptions' for the purposes of section 87 of the Act and are therefore recognised as 'adoptions' under section 66 of the Act. Such adoptions are recognised in England and Wales and the child is treated in law as being born to the adopter(s). There is no need for the child to be readopted in a court in England and Wales and the adoption can be registered in the Adopted Children Register.

4.24 Recognition of the adoption order does not mean that the child can be brought into the UK or that the child has acquired British Citizenship. The adopters will need to consider if they must comply with section 83 of the Act, and apply separately for citizenship. Information on how to apply for citizenship is on www.gov.uk.

Entry Clearance

4.25 All children adopted from overseas must receive entry clearance prior to being brought into the UK. Information on how to apply for entry clearance is on www.gov.uk

Restricted Countries

4.26 The Secretary of State may suspend adoptions with a particular country or territory where it would be contrary to public policy to permit children to be brought into the UK

from that country or territory. An Order will restrict the bringing of children into the UK from a particular country or territory for the purposes of adoption or within 12 months after an adoption in that country or territory. A list of restricted countries is on www.gov.uk.

4.27 A prospective adopter may apply to the Secretary of State for an exception to the restriction (if they meet the exceptions criteria) when they wish to adopt or bring a child into the UK for the purposes of adoption from a country on the restricted list. The criteria and information on how to make an exceptions request are set out in the Adoptions with a Foreign Element (Special Restrictions on Adoptions from Abroad) Regulations 2008.

England as the child's State of Origin

Hague Convention Adoptions where England is the State of Origin

4.28 Very few looked after children are placed for adoption overseas; a small number of looked after children are placed with relatives or connected persons overseas. There may be circumstances in which the agency considers the child should be considered for intercountry adoption – see the Chapter 2 of Part 3 of the FERs.

4.29 When an agency has determined that a child should be placed for adoption outside England and Wales in accordance with the Hague Convention, the agency must notify the Intercountry Adoption Team at the Department for Education who maintains a list of such children and makes that list available to other Hague Central Authorities. The information to be supplied to the Department is:

- the name, sex and age of the child;
- the reasons why they consider that the child may be suitable for such an adoption;
- whether a prospective adopter has been identified, and if so, provide any relevant information; and
- any other information that the Department requires.

4.30 When placing a child abroad for adoption, or where there is authority to place a child for adoption (either by a placement order or parental consent) the agency should consider sections 42, 84 and 85 of the Act, the FERs, the Hague Convention and accompanying Guidance.

4.31 Hague Convention adoptions will involve adoption proceedings either in the receiving State (a Convention adoption) or in England and Wales (a Convention adoption order). An adoption should proceed under the terms of the Convention in all cases where the Convention is in force in both the UK and the receiving State. Agencies must contact the Intercountry Adoption Team at the Department as soon as they are considering intercountry adoption for a child.

4.32 Where the local authority is considering a placement with relatives or other persons outside England and Wales, they should also take account of the guidance at Annex E, on the use of placements under paragraph 19 of Schedule 2 to the 1989 Act.

Non-Hague Convention Adoptions where the UK is the State of Origin

4.33 Section 85 of the Act applies where a child is being taken out of the UK for the purposes of adoption. The Department for Education has no role in these cases.

Section 84 and 85 of the Adoption and Children Act 2002

4.34 A child who is a Commonwealth citizen or is habitually resident in the UK can only be removed from the UK to a place outside the British Islands for the purpose of adoption, if the prospective adopter has parental responsibility by virtue of an order made under section 84 of the Act (or equivalent Scottish and Northern Irish legislation). FER 48 sets out the requirements for section 84 orders in relation to proposed Hague Convention adoptions.

Fees - Department for Education

4.35 The Department for Education charges a means tested fee of £1,775 for processing intercountry adoption applications. It is the responsibility of the prospective adopter to pay the fee or to apply to the Intercountry Adoption Team at the Department for Education for an exemption or fee reduction. No application will be processed without the correct fee or confirmation of exemption until payment is received. See www.gov.uk.

Chapter 5: Contact

Chapter 5 explains what the adoption agency must do in relation to contact between the child and others at different stages of the adoption process – when the child is to be placed for adoption, adopted and post adoption. Once the agency is authorised to place the child for adoption there should be no general presumption for or against contact, and there is no duty to endeavour to promote contact. Arrangements for contact must be right for the child and those arrangements must be kept under review.

Contact at placement stage

5.1 Where the agency decides that a child should be placed for adoption, AAR 46 applies. This requires the agency to consider what the contact arrangements – the arrangements that allow any person contact with the child – will be when the agency is authorised to place the child for adoption. Until the agency is authorised to place the child for adoption, the 1989 Act will apply to contact. It is necessary for the agency to have formed a view about future contact so that this can be discussed with the child, birth family, guardians, prospective adopters and any other person affected, and considered by the court on any application for a placement order.

5.2 Where consent is given under section 19 of the Act or if a placement order is made, the adoption agency is authorised to place the child for adoption. With authority to place the child for adoption, the contact provisions in sections 26 and 27 of the Act apply. Where the adoption agency is authorised to place the child for adoption any existing 1989 Act contact order ceases to have effect; birth parents and others may apply to the court for a contact order under section 26 of the Act.

5.3 Before making a placement order, section 27(4) of the Act requires the court to consider the arrangements the agency has made or proposes to make for contact and to invite the parties to the proceedings to comment on those arrangements.

5.4 Contact arrangements should be focused on, and shaped around, the child's needs. The child's welfare is the paramount consideration at all times and each child's needs for contact should be individually considered. For many children, relationships with their birth parents, brothers and sisters or other members of their family, previous carers and others are important. For some children some form of contact may provide a positive aid to a successful placement with a new family, but all concerned need to understand that the purpose of any such contact, if it is to take place, is fundamentally different from the contact that would normally be arranged between children in care and their families.

5.5 Unauthorised contact will continue to be a challenge for children, their birth and adoptive parents and social workers alike. A new, and very real, challenge comes when this contact is via the internet, for example, social networks, Smart Phones and hand held gaming devices which have wireless connectivity. Social networking is fast

becoming the preferred method of communication for children and adults alike. It is important that social workers help children, birth and adoptive parents to understand the implications of disclosing personal information on social networking sites, and the harm unauthorised or unmediated contact can have. Agencies should provide help and support in such cases.

5.6 Arrangements that tend to have the best chance of success are those that are mutually agreed between the birth family, relatives, others and the adopters, and have the details and expectations set out and confirmed in writing. The importance of clear boundaries and expectations for all parties in contact arrangements is highlighted in the *Supporting direct contact after adoption*⁷ research.

5.7 Where siblings cannot be placed together with the same family, it is important to ensure that contact arrangements between them are given very careful attention and plans for maintaining contact are robust. Contact arrangements may need to be varied as the children's relationships and need for contact change over time. Contact arrangements with a child's relatives may take the form of indirect contact, with letters and cards and some background information about the child's progress being sent via a social worker. The practicalities of such arrangements require careful planning.

5.8 In some cases there may be some form of direct contact. Where the child has siblings who are placed separately, arrangements may be made for visits and family meetings between adoptive families. Sometimes, too, visits from or meetings with grandparents, or former foster carers, may be beneficial to the child. With appropriate preparation and support, direct contact with a birth parent or guardian may help to reassure a child who is anxious about their parent's well-being.

5.9 It may be helpful to offer prospective adopters and birth parents the opportunity for facilitated contact and it should be possible for anybody affected by issues relating to contact to obtain advice both before and after contact to determine if any adjustments to contact arrangements should be made.

5.10 Prospective adopters and birth parents should be supported to understand that contact arrangements are not rigid and that variations to contact arrangements can be made at different times according to the child's needs. Prospective adopters may need advice about the potential impact of any changes and the life-long implications for the child of any decisions.

5.11 AAR 46.3 stipulates that in coming to a decision on the contact arrangements, the agency is required to

- take into account the wishes and feelings of the parent or guardian of the child. Where the father of the child does not have parental responsibility for the child and his identity and whereabouts are known to the agency – and the agency

⁷ Neil, E., Young, J., Cossar, J., Jones, C. and Lorgelly, P. (2010) *Supporting direct contact after adoption*, Adoption Research Initiative study

considers it appropriate – it is also required to take into account his wishes and feelings;

- take into account any advice given by the adoption panel about the proposed contact arrangements in accordance with AAR 18(3); and
- have regard to the considerations set out in section 1(2) and (4) of the Act. Section 1(2) provides that the paramount consideration of the court or adoption agency must be the child's welfare, throughout their life. Section 1(4) provides that the court or adoption agency must have regard to a number of matters, which include the relationship the child has with relatives, and with any other person, and the likelihood and value of any such relationship continuing. At all times it must be the child's welfare and best interests that decide any arrangements for contact. There should be no presumption for or against contact.

5.12 AAR 46.4 requires the agency to notify the following people of the contact arrangements:

- the child, if the agency considers the child is of sufficient age and understanding;
- the parent or guardian, if their whereabouts are known to the agency, including the father of the child where he does not have parental responsibility for the child, his identity and whereabouts are known to the agency and the agency considers it appropriate;
- any person who had provision for contact under the 1989 Act that ceased to have effect by virtue of section 26(1) of the Act and any other person the agency considers relevant.

5.13 Where the agency decides to place a child for adoption with a particular prospective adopter, AAR 46(5) requires it to review the contact arrangements in the light of the prospective adopter's views and any advice given by the adoption panel in accordance with AAR 32(3).

5.14 If the agency proposes to change the contact arrangements that affect anyone mentioned in AAR 46(4), it must seek that person's views and take them into account in deciding the contact arrangements while the child is placed for adoption.

5.15 AAR 46(7) reiterates the agency's duty to set out the contact arrangements in the adoption placement plan and to keep them under review.

Variation from the terms of a contact order

5.16 AAR 47 contains provisions to deal with cases where a variation from the terms of a contact order under section 26 of the Act may be appropriate or necessary. Under

section 27 of the Act such a variation may be by unilateral decision of the agency, for a maximum of seven days, or by agreement with all those affected.

5.17 Where the agency decides under section 27(2) of the Act to refuse to allow the contact that would be required by an order made under section 26 of the Act, it is required by AAR 47 to inform the persons specified in AAR 47(3) as soon as the decision is made. The agency is also required to notify them in writing of the decision, the date of the decision, the reasons for the decision and the duration of the period. Unless the case is urgent, the appropriate course is for the agency, if it cannot reach agreement as set out below, to apply to the court under section 27(1) for a variation or revocation of the order.

5.18 AAR 47(2) sets out the steps that must be taken when the agency and a person entitled to contact under a section 26 order reach an agreement to vary the arrangements for contact. Any agreement is subject to the following conditions:

- the child's agreement, subject to their age and understanding;
- where the child is placed for adoption, consultation before the agreement is reached, with the prospective adopter and
- written confirmation by the agency to:
 - the child, if of sufficient age and understanding
 - the person who had provision for contact under section 26 and
 - the prospective adopter, if the child is placed for adoption.

Draft guidance – these paragraphs are new

Contact orders at the adoption order stage

5.19 Before making an adoption order, the court will consider whether there should be arrangements for allowing any person contact with the child. At this time, the court may, on its own initiative or following an application from an eligible person (the adopters, the child, or any person who has obtained the court's leave to make an application), make an order under section 51A of the Act providing for contact or an order which would prohibit contact between the child and any of those persons listed in section 51(3) of the Act. When making an adoption order, the court may on its own initiative make an order for prohibiting contact. Both orders for contact and orders prohibiting contact are likely to be relatively rare at the adoption order stage, and where some form of continuing contact is proposed, whether direct or indirect, it is more likely that this will be a matter for agreement between the person concerned and the adopters. The court may however make a note on the court file about the agreement reached.

Contact orders post-adoption

5.20 Applications for orders under section 51A – either for contact, or prohibiting contact – may, where section 51A applies, also be made at any time after the adoption order has been made. The adopters or the child may apply for such an order without the leave of the court, while any other person, including the child’s birth parents and other birth relatives, e.g. grandparents or siblings, would need the court’s leave to apply for such an order.

5.21 Applications under section 51A(2)(b) prohibiting contact are unlikely to be necessary in the majority of cases and are only likely to be appropriate to stop unwanted, unsolicited and potentially harmful contact with the child, or to prevent such contact happening.

5.22 The circumstances in which a birth parent, relative or other person are most likely to seek the court’s leave to apply for a section 51A order after adoption are likely to be those where an agreement for some form of continuing contact had been made, but was not adhered to. Where a section 51A contact order has been made, whether at the time of the adoption order or subsequently, it is open to those named in the order to apply to the court for the order to be varied.

5.23 The agency may have an important role to play in supporting the child and the adults concerned in such a situation. Assistance, including mediation services, in relation to contact between an adoptive child and birth relatives or other connected people is one type of adoption support services that local authorities must make available in their area (regulation 3 of the Adoption Support Services Regulations 2005 (ASR)) and for which adoptive families can request an assessment.

Chapter 6: Adoption Support Services

Chapter 6 explains what local authorities must do in relation to adoption support services. The provision of a range of adoption support services is a crucial element of the statutory framework. This is based on the recognition that adoptive children and their families are likely to have a range of additional needs.

6.1 Section 3(1) of the Act requires each local authority to maintain a service designed to meet the needs of all those affected. The Adoption Support Regulations 2005 (ASR) set out detailed provisions for assessments and decisions about provision of adoption support.

6.2 It is important that the assessment process and follow-up does not delay provision where a person has an urgent need for a service. ASR 21 therefore provides that where any requirement in relation to an assessment, preparing a plan or giving notice would delay provision in a case of urgency that requirement does not apply. The local authority will need to review provision as soon as possible after support has been provided, in accordance with the procedures set out above.

What are adoption support services?

6.3 Adoption support services are defined as:

- Counselling, advice and information;
- Therapeutic services;
- Financial support;
- Services to enable discussion of matters relating to adoption;
- Services to ensure the continuation of adoptive relationship;
- Assistance in relation to arrangements to contact.

In addition to these services set out in the ASR, many adoptive families may need support from other services such as health or education.

People to whom adoption support services must be extended

6.4 Table 1 sets out the persons to whom the local authority must extend adoption support services – not every category of person who might seek support is entitled to it. In particular, ASR 3(2) excludes services in the case of ‘partner’ adoptions i.e. where the child adopted or to be adopted is the birth child of the partner of the adoptive parent. This means that there is no obligation on the local authority to provide services other than counselling, advice and information in such cases. It does not of course mean that children in such families may not be ‘children in need’ and entitled to services under the 1989 Act.

6.5 Local authorities have discretion to extend services to persons other than those to whom services must be extended (section 3(3)(b) of the Act). This means that, for example, services to prevent disruption could be provided to a non-agency adoptive child, and financial support could be provided if the local authority considered this appropriate.

Table 1 - People to whom adoption support services must be extended

Person being assessed	Services for which they are entitled to be assessed						
	Services to enable discussion of matters relating to adoption	Assistance in relation to arrangements for contact	Therapeutic services	Services to ensure the continuation of adoptive relationship	Services to assist in cases of disruption	Counselling, advice and information	Financial support
Agency adoptive child	•	•	•	•	•	•	
Adoptive parent of an agency adoptive child	•	•		•	•	•	•
Child of adoptive parent				•	•	•	
Birth parents or guardians of an agency adoptive child	•	•				•	
A relative (or someone with whom the local authority consider the child to have a beneficial relationship) of agency adoptive child		•				•	
Intercountry adoptive child			•	•	•	•	
Intercountry adoptive parent				•	•	•	
Birth sibling of an adoptive child		•				•	
Non-agency adoptive children, their parents and guardians						•	
Prospective adopters						•	
Adopted adults, their parent, birth parent and former guardians						•	
A relative (or someone with whom the local authority consider the child to have a beneficial relationship) of a non-agency adoptive child						•	

Adoption support services adviser

6.6 All local authorities must appoint an Adoption support services Adviser (ASSA). The role of the ASSA is to:

- give advice and information to people affected by adoption – a single point of contact to provide information, signpost appropriate services and to advise on how those services may be accessed;
- give advice, information and assistance to other staff in the local authority on adoption support services, assessments of need for support, the availability of services locally, good practice, and effective planning for service delivery, and supporting and facilitating intra- and inter-agency joint working where needed;
- consult with, and give advice, information and assistance to other local authorities, for example, liaising between authorities where a family is moving between areas to ensure a smooth transition in the provision of support, or where two LAs are jointly seeking to provide a particular adoption support services .

6.7 ASSAs will be key facilitators of joint working both across authority boundaries and between departments within their own authority, particularly the education and housing departments. The ASSA should obtain agreements with those departments on issues such as admission priority to schools and housing allocation, so that there are no disputes within the local authority which would adversely affect children placed for adoption. The ASSA may need to press for senior officers within the authority's own children and families' department to make representations to other departments or agencies for necessary action to deliver the required support.

6.8 Although the ASR applies to local authorities, most VAAs will appoint a person equivalent which ASSAs will need to liaise with, in order to coordinate the delivery of a comprehensive adoption support service in the area, and for families that have been approved by VAAs.

Draft guidance – these paragraphs are new

Duty to provide information on adoption support

6.9 Providing information should ensure that those interested in adopting and adopters are better informed about adoption support services, their rights and other services that are available to them. Greater awareness of adoption support services has the potential to increase the recruitment of prospective adopters, make adopters more open to adopting harder to place children and reduce the chances of adoption breakdown.

6.10 Local authorities are responsible for providing prescribed information relating to available adoption support and their entitlements. They must provide the information to any person who has contacted the local authority to request information about adopting a child, or has informed the local authority that they wish to adopt a child. Local authorities are also required to provide information to any person in their area who they are aware is the parent of an adopted child, or to any such person on request. An appropriate member of staff should take responsibility for fulfilling the duty; this might be an appropriate role for the ASSA.

6.11 Local authorities are free to decide how to fulfil the duty, but it is expected that the majority will choose to do so through a locally tailored version of the 'Adoption Passport', which can be found on the First4Adoption website. This sets out the high level support services adopters can expect from local authorities as well as national entitlements, such as pay and leave from work. Local authorities can use the information from the Passport and supplement this with specific local information, such as information about support services in the local area and the ASSA's contact details.

6.12 While making information about adoption support services available on local authorities' websites is good practice, it is not in itself sufficient to fulfil the duty to provide information. To fulfil the duty, local authorities will need actively to provide information to individuals within scope of the duty. This might mean sending a pack of the relevant information to individual prospective adopters or adopters, or sending a letter directing them to the parts of a website that holds the information that is relevant to them.

What information needs to be provided?

6.13 The following information must be provided to everyone covered by section 4B(1) of the Act:

- information about the full range of adoption support services available in the authority's area. This includes, but is not limited to, therapeutic services, assistance in relation to contact arrangements, and financial support (see ASR3);
- information about the right to request an assessment of their adoption support needs (at any time);
- from [note: date to be confirmed], information about personal budgets for adoption support services;
- the address and phone number of the ASSA;
- the address and phone number of the web based information service supported and funded by the Department for Education to provide information about adoption;

- information about the availability of assessments for adoption support services for persons outside the local authority area (including the ‘three year rule’) so that parents understand which local authority is responsible for assessing their support needs;
- information about how to make a complaint, both under the local authority complaints procedure and to the Local Government Ombudsman;
- information about any other relevant services provided by the local authority;
- any other information that the local authority considers relevant;

6.14 The following information must also be provided to potential and prospective adopters (section 4B(1)(a) and (b) of the Act):

- details of where to find information about adoption pay and leave. Details can be found at www.gov.uk;
- information about the right to receive a copy of the child’s permanence report, including a summary of the medical adviser’s report on the health of the child before the child is placed with them for adoption.

6.15 Where appropriate, information about priority school admissions must also be provided. Details can be found at www.gov.uk.

6.16 Local authorities must also provide information about:

- the entitlement to a life story book. This should include who provides the life story book, what it includes and what it can be used for;
- information about priority council housing and Discretionary Housing Payments;
- from September 2014 information about the entitlement to early education from the age of two.

Cases where information does not need to be provided

6.17 Where the local authority has provided all the necessary information in the last 12 months and none of the information has changed substantively or a person has informed the local authority that it does not wish to receive the information, the local authority does not need to provide the information again, unless it considers it appropriate to do so. For example, where a person has lost the information that was originally sent the local authority should send the required information again if requested. If the local authority refuses a person’s request for information, it should give reasons for the refusal and signpost the person to the website that holds the information. The local authority may refuse to send the information again, for example, where the same person requests the information a number of times in a short period.

6.18 When a person requests information about a specific service, the local authority must ask whether they would like any of the other information as well. This ensures that the person is aware of the other information available. If the person declines, the local authority need not provide the additional information. It should make it clear that there is more information about support available should the person change their mind.

6.19 If a person tells the local authority they do not want to receive any information at all, the local authority does not need to provide it, unless they are satisfied that there are valid reasons for providing it. This might be in a case where a child is unaware that they are adopted at that stage or where a family does not feel they need any additional support. The local authority should again make it clear that there is information about support available should the person change their mind.

6.20 When a local authority becomes aware of an adopter, by the adopter contacting them about something else, they should ask whether they would like information about adoption support. For example, where a parent rings the local authority about an SEN assessment and it becomes clear that the child is adopted, the local authority should inform the adopter about the information available and ask if they would like to receive it. The local authority must provide the information unless the adopter does not want it or there are valid reasons for not providing it.

Assessment for adoption support services

6.21 To ensure that appropriate support is provided to those affected by adoption, local authorities must carry out an assessment for adoption support services to those persons set out in Table 1 upon request.

6.22 An assessment of the adoption support needs of the adoptive child, adopters and any child of the adopter must be undertaken when a match is being considered under AAR 31 and at any other time on request. Local authorities have discretion to undertake an assessment for other persons or in other circumstances if they think it appropriate.

6.23 ASR 13 provides that a limited assessment may be undertaken with reference to a particular service: where a request for an assessment relates to a particular adoption support service, or if it appears that the person's needs for adoption support services can be adequately assessed by reference to one particular service.

6.24 If a local authority has decided to provide counselling, advice and information, it will not always be necessary for an assessment to be undertaken before that service is provided. For example, providing leaflets on adoption issues or information on the availability of services locally need not require an assessment as a pre-condition of receipt. However, if, when considering the person's needs, the local authority is contemplating providing support services other than counselling, advice and information,

an assessment should be carried out in order that an informed decision can be made about whether that person should be provided with those services.

6.25 When assessing persons other than the immediate adoptive family, local authorities will need to use whichever assessment tool is the most appropriate to the particular case, taking proper account of the adoption context. Table 2 sets out the procedure.

6.26 Section 4(8) of the Act gives local authorities the power to assess adoption support service needs at the same time as undertaking another assessment, so that local authorities can undertake a single assessment process avoiding the adoptive family having to undergo a number of different assessments.

6.27 If identified needs relate to services provided by bodies other than social services, and it appears that there may be service implications for health or education services, the local authority must consult the education department or relevant NHS organisations during the assessment. The relevant bodies must be notified and consulted as early as possible. Where the adoptive family live in, or are moving to another local authority area, the assessing local authority must consult the other local authority.

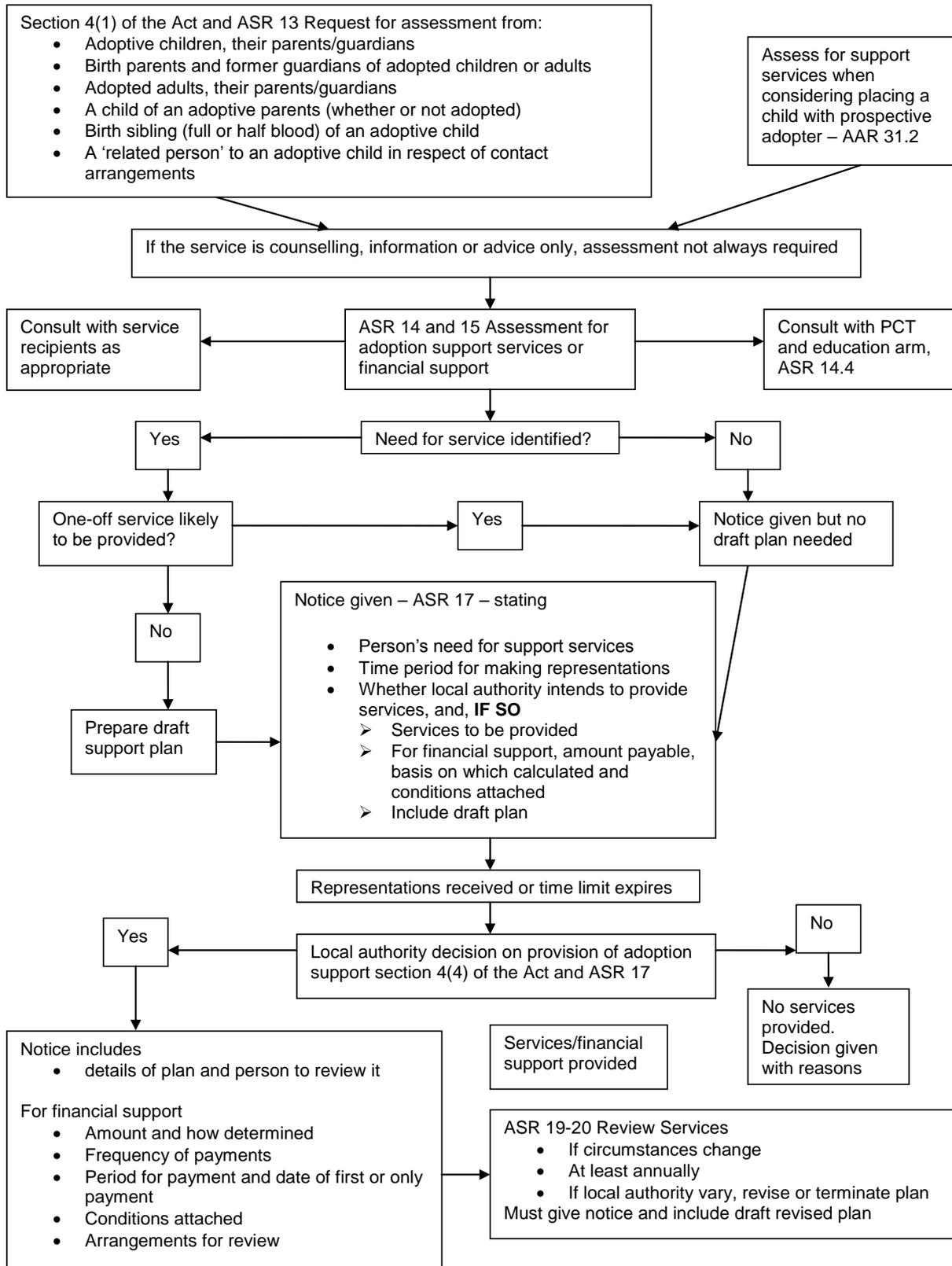
6.28 Where the local authority consider it appropriate they should interview the person whose needs are being assessed (ASR 14(3)). In the case of an adoptive child, the adopter should be interviewed unless this is inappropriate in the circumstances.

6.29 A written report of the assessment must be prepared, and this will inform the decision on what, if any, services are to be provided, and the plan for provision. A copy of the report should be given to the person being assessed to ensure that the process is transparent and clear. It is not required that full details of the assessment be provided, but this is likely to be the most effective and open way of fulfilling the requirement to provide a statement as to the person's needs for adoption support services (ASR 16(3)).

Assessment for financial support

6.30 Particular provision is made in respect of assessments for financial support, and the circumstances in which a person's means must be assessed and taken into account in any decision on the payment of financial support. Except in the circumstances set out in ASR 15(4) and (5), the local authority must take into account any other grant, benefit, allowance or resource available to the person because of the adoption, and significant income from any investments. The value of the adopter's home must not be taken into account.

Table 2 – Process for assessing support needs



6.31 It is important that adopters apply for statutory adoption pay and leave, and all benefits and tax credits to which they are eligible. Financial support under the ASR must complement and not duplicate financial support available through the benefits and tax credits system. The local authority should consider making a payment of financial support equivalent to the Maternity Allowance to adoptive parents who are ineligible to receive Statutory Adoption Pay and Leave or the Maternity Allowance, for example due to self-employment.

6.32 In determining the amount of any ongoing financial support the local authority should have regard to the amount of fostering allowance that would have been payable if the child were instead to be fostered. Most local authorities will have a payment structure for foster care consisting of a 'core' allowance and enhancements appropriate to the needs of the individual child. This core fostering allowance, together with any enhancement that would be payable for the particular child will make up the maximum payment (excluding any remuneration for former foster carers under ASR 9) that the local authority should consider paying as ongoing financial support. The purpose of applying the means test is to ascertain what proportion of this maximum should be payable in the particular case.

6.33 The local authority may disregard means (ASR 15.5) where they are considering providing financial support in respect of:

- the initial costs of accommodating an agency adoptive child – a 'settling-in grant' that local authorities often pay when a child is first placed with the family, although local authorities might for example, want to means test in the case of any contribution to an adaptation to the home;
- recurring costs in respect of travel for the purpose of visits between the child and a related person so that, for example, where the local authority want to underline the value of and facilitate contact for an adoptive child with a birth relative, they can achieve this by providing non-means tested payments to support this;
- any special arrangements or special care referred to in ASR 8(2)(b) and (c) in relation to an agency adoptive child so the local authority can guarantee a financial package for a particular child who may be difficult to place in order to facilitate their adoption;
- where they are considering including an element of remuneration in financial support payments to ex-foster carers so that the local authority can maintain the amount paid to a foster carer who has gone on to adopt for the duration of the transitional period (up to two years unless the local authority considers the case to be exceptional).

6.34 The circumstances in which the local authority must disregard means are when they are considering providing financial support in respect of:

- legal costs, including court fees, where an adoption order is applied for in respect of an agency adoptive child;
- expenses associated with introductions between an agency adoptive child and their adoptive parent prior to placement.

6.35 The conditions set out in ASR 8(2), alongside those provisions of ASR 15 under which the means test is mandatory, require that there must be some particular condition relating to the child's health or development, or circumstances making it hard to place the child for adoption. Where the child needs special care under ASR 8(2)(b), it is intended that financial support should be available where the child's condition is serious and long-term. This might arise, for example:

- where the child needs a special diet, or
- where clothes, shoes or bedding need to be replaced more frequently than would be the case for a child unaffected by the particular condition, or
- the child's special emotional needs may mean that extra help is needed to enable the parent to give the child one-to one attention.

Notice of outcome of assessment

6.36 Once the assessment has been completed the local authority must give the person concerned notice of their proposed decision. ASR 17(3) sets out the information that the notice must contain, and ASR 17(4) requires that, if the local authority propose to provide services, a copy of the draft plan should accompany the notice. Where the assessment relates to financial support, the notice must explain the basis on which this is determined, and, if it is proposed to pay financial support, the amount that is proposed.

6.37 Allowing a period of 28 days for representations from the time the proposed decision is sent to the applicants is suggested as good practice. Where assessments are undertaken at the 'matching' stage, the local authority's proposals regarding the provision of adoption support services will be part of the adoption placement report. The timescale will need to fit with that for the placement report which would allow 10 days for the adoptive parent to consider and make any representations.

6.38 After considering any representations, the local authority must decide whether to provide any services to the person who has been assessed, taking into account the individual circumstances of the case and the resources available locally. The local authority cannot make a decision until the person has made representations or notified the local authority that they are satisfied with the proposed decision and, where applicable, the draft plan, or where the period of time for making representations has expired.

6.39 In the case of a decision in a 'matching' assessment, the local authority decision regarding adoption support should be taken at the same time as the decision about the

proposed placement, following consideration of the placement by the adoption panel, and will need to take account of any advice given by the panel.

Notification of decision

6.40 Once the local authority has made its decision following an assessment, it must give notice to the person concerned, including the reasons for the decision. If the decision is to provide services, the notice must include a copy of the plan. In the case of a 'matching' assessment, the decision regarding the provision of adoption support services will be notified alongside the agency's decision that the child is to be placed with the prospective adopter. Where the local authority's assessment has identified needs for services that it does not propose to provide, it should be clear about the reason for that proposed decision.

6.41 Where the local authority decides that financial support is to be provided, the notice must include all the information set out in ASR 18(3). To ensure that adoptive families are able to demonstrate, if necessary, in relation to tax returns or benefit claims that financial support under the ASR should be disregarded, the following statement should be included in the written notification:

6.42 `This payment(s) is made in accordance with regulations made pursuant to section 4 of the Adoption and Children Act 2002. Under the provisions of the Finance Act, the payment is to be exempt from tax. In addition, the payment will be disregarded if you currently receive, or apply to receive Child Tax Credit or Working Tax Credit. You should keep this letter safe in case you need to provide it to support any tax return or application for a tax credit.`

6.43 Where service providers other than social services have been involved in the assessment of support needs, the local authority should try, wherever possible, to ensure that decisions made by those service providers follow the same timetable as decisions made under this regulation. These should then be covered in a single notification and plan sent out by the local authority that encapsulates decisions for the whole service package wherever possible. It will be useful to develop strategic and operational agreements to facilitate the involvement of other agencies. Where there is difficulty obtaining the support from other agencies within the timescale necessary for the child's needs, the local authority will need to be prepared to take an active role in advocating on behalf of the adoptive child and family. The family's support worker should consult with the ASSA on the most appropriate way of achieving the desired outcome.

Support services plan

6.44 The local authority must prepare a plan if they propose to provide support services. The draft plan and notice of the outcome of their assessment must be given to the person whose needs have been assessed. Where it appears to the local authority

that the person may have need for services from health or education services, they must consult them before preparing the plan. There is no requirement for a plan to be drawn up for services limited to the provision of advice and/or information, or a one-off service (section 4(5) of the Act and ASR 16).

6.45 The plan should set out:

- the services to be provided;
- the objectives and criteria for evaluating success;
- time-scales for provision;
- procedures for review;
- the name of the person nominated to monitor the provision of services in accordance with the plan.

If the assessment was undertaken at the matching stage, the plan will be part of the placement plan.

Provision of services

6.46 The local authority can arrange for adoption support services to be provided by a third party on its behalf. The Act provides that VAAs who are registered to do so can provide these services on a local authority's behalf and ASR 5 extends this provision to ASAs, other local authorities (including local authorities' education department), and Clinical Commissioning Groups - or local health boards in Wales. This may be appropriate where there is a low demand for a particular service, where the most appropriate service is provided by a third party, or to avoid duplication where an existing service can be developed and maintained as appropriate. It will also be helpful where the person needing the support lives in the area of another local authority than the one obliged to ensure the provision of the service.

6.47 ASR 3(4) requires that, if respite care consists of the provision of accommodation, this must be accommodation provided by or on behalf of a local authority under section 22 of the 1989 Act (accommodation of looked after children) or by a voluntary organisation under section 59 of that Act.

6.48 Services may include the local authority giving a person assistance in cash, for example, giving an adoptive parent cash to pay a babysitter so they can have a break for an evening (ASR 3(3)). When cash is provided in this way it should not be means tested as it is being provided as part of a service rather than as financial support.

6.49 The overall intention in the provision of financial support is to ensure that the adoption of a child or the continuation of adoption arrangements should not be prevented because of lack of financial support. An assessment for financial support will include an assessment of the financial circumstances of the adopter (a means test) under ASR 15,

but ASR 15(4) and (5) set out the circumstances in which the financial circumstances of the adopter may or must be disregarded.

6.50 A child who is placed for adoption remains a looked after child and, if they are of statutory school age, will have a Personal Educational Plan (PEP). Statutory guidance *The role and responsibilities of the designated teacher for looked after children* makes clear that the child should continue to be treated in the same way as any other looked after child for the purpose of school admission priority arrangements and in relation to the designated teacher's role. Once the adoption order is made, the child is no longer looked after. With effect from the school year 2013/2014 looked after children who leave care under an adoption order retain the priority they had as a looked after child in school admission arrangements.

Payment of financial support

6.51 ASR 10 allows for financial support to be paid periodically to meet a need which is likely to give rise to recurring expenditure, or, in other cases, in a lump sum or, if the local authority and adoptive parent agree, by instalments.

6.52 ASR 11 sets out the circumstances in which financial support ceases to be payable, and ASR 12 sets out the conditions to which the adopter must agree before financial support is payable. This includes an undertaking to inform the local authority of any change in their financial circumstances that might affect the amount of support payable. The local authority may impose other conditions that they consider appropriate. Where the adopter fails to comply with a condition the local authority may suspend or cease payment and seek to recover all or part of the money they have paid. Where there has been a failure to provide an updated financial report, the local authority may not suspend, terminate or seek to recover financial support until they have given the adopter a written reminder of the need to supply this and allowed 28 days for the response.

Reviews of support services - non-financial support

6.53 Regular reviews enable the local authority and the service user to review the effectiveness of any services provided and to consider whether it is appropriate to continue that service or change the provision in some way.

6.54 ASR 19 sets out the circumstances in which the local authority is required to carry out a review of the provision of support services, other than financial support paid periodically. The person charged with monitoring the provision of support should be aware of any indication that the support is no longer the most appropriate to the person's needs, and they, or the person in receipt of services, should request an earlier review if this appears to be needed.

6.55 Where services are being provided during the placement period, the review of support services will follow the process of review for the placement. AAR 36 provides that

the child's case must be reviewed within the first four weeks of placement then not more than three months of the first review, and thereafter not more than six monthly intervals.

6.56 ASR 19 prescribes that where services are being reviewed, the procedure for assessment set out in ASR 14 and 15 must be followed.

6.57 If the review results in the local authority proposing to vary or terminate the provision of support services, they must give the person concerned notice and allow them time to make representations in a similar way to the original assessment and notice of outcome. As with the original notification in ASR 17, the notice will need to be accompanied by a revised draft plan (if services are to be provided), and the final decision can only be made after considering any representations from the person affected within the timescale given in the notice.

6.58 The format and content of the review will vary depending on the circumstances of the case. Where the change of circumstances is relatively minor, the review might be limited to an exchange of correspondence. Where the change of circumstances is relevant only to one service, the review may be carried out with reference only to that service. However, where the change of circumstances is substantial, e.g. a major change in the behaviour of the child, it will be appropriate to conduct a new assessment of needs.

Review of financial support paid periodically

6.59 ASR 20 sets out the requirements for the frequency of reviews of periodic financial support, and the procedure to be followed. A 'relevant' change of circumstances which will prompt a review is defined in ASR 20(3) as any of the changes that an adoptive parent is required under ASR 12(1) to notify. These include the death of the child, a change of address and a change in the adoptive parent's financial circumstances or the financial needs or resources of the child, as well as any of the circumstances which would mean that financial support would cease to be payable, as set out in ASR 11.

6.60 The procedure for assessment (ASR 14 and 15) applies equally to a review of financial support as to assessments for financial support. If the local authority proposes, as a result of the review, to reduce or terminate financial support or revise the plan, before making that decision the local authority must give the person an opportunity to make representations. For that purpose, they must give the adopter notice of the proposed decision and the time allowed for making representations. The local authority may suspend financial support pending that decision if they think it appropriate. The notice must contain the same information as the notification of the outcome of the first assessment following the requirements of ASR 17.

6.61 The local authority must, having regard to the review, and after considering any representations received within the period specified in the notice, then decide:

- whether to vary or terminate payment of the financial support;

- whether to recover all or part of any financial support that has been paid; and,
- where appropriate, revise the plan.

The local authority must then give the adoptive parent notice of their decision including the reasons for it and, if applicable, the revised plan.

6.62 It will often be appropriate for an annual review of financial support to be conducted by correspondence between the local authority and the adopter. Financial support cannot be terminated because of the adopter's failure to submit an annual statement of means unless the local authority has reminded them of this requirement and given them 28 days to comply. A request for the annual statement should therefore be sent out at least 28 days before the anniversary of the original decision or previous review.

Remuneration for former foster carers

6.63 Financial support cannot normally include the payment of remuneration to the adoptive parent. ASR 9 provides, however, that where the adopter previously fostered the child they are adopting, and they received remuneration in the financial support paid to them as the child's foster parent, the local authority may continue to pay remuneration for a transitional period of two years from the date of the adoption order. This can continue for longer than two years if the local authority considers the case to be exceptional.

6.64 The purpose of the transitional provision is to enable local authorities to maintain payments to foster parents who go on to adopt, at the same rate they received when they were fostering the child. This is intended to give the family time to adjust to their new circumstances.

6.65 Where a foster carer applies to adopt a child that they have been looking after and the local authority opposes the application, the local authority is not required to meet the legal costs of the foster carer. This is because the authority has not placed the child for adoption with the foster carer, and so the child does not fall within the definition of an 'agency adoptive child'.

Cross-boundary placements and services for persons outside the area

First three years after an order is made for an agency adoptive child

6.66 Those in need of and eligible for support services should receive them irrespective of where they live. ASR 7(3) permits a local authority to provide services to people outside their area and ASR 7(1) and 7(2) set out the circumstances in which a placing

local authority is responsible for the provision of services to people living outside their area.

6.67 This situation may arise at the time of placement, i.e. the child is placed with an adoptive parent living outside the local authority's area or subsequently if the family moves out of the area. In either case the placing authority is responsible for the assessment for and provision of support services identified as needed for a period of three years following the making of the adoption order. The placing authority will need to think carefully about the best way of delivering support. In some cases, this could mean arranging for services to be provided by the local authority in which the family now live with that local authority having the option of recovering costs in accordance with ASR 23.

6.68 In the case of ongoing financial support payable under ASR 8, the three-year limitation does not apply, and the placing local authority is responsible for the continued payment of financial support agreed before the adoption order is made, for as long as the family qualifies for payments. This distinction has been made because financial support can be paid in isolation from other services that may have to be locally provided. Any decision on adoption support, financial or otherwise, must be based on the needs and resources of the child and family, and not be misinterpreted as justification for a decision to pay or provide support for a period limited to three years from the adoption order.

6.69 In the case of contact arrangements agreed before the adoption order, the placing authority should continue to be responsible for managing and supporting the arrangements irrespective of where the adoptive family lives, as well as for any changes to those arrangements over time.

6.70 Liaison between local authorities will be especially important where two or more children have been placed with the same adopter but by different placing authorities. In these circumstances, more than one authority may have a duty to assess and provide support services (both to the adopter and to the children) and should cooperate with each other to ensure that services are provided in a consistent and co-ordinated way.

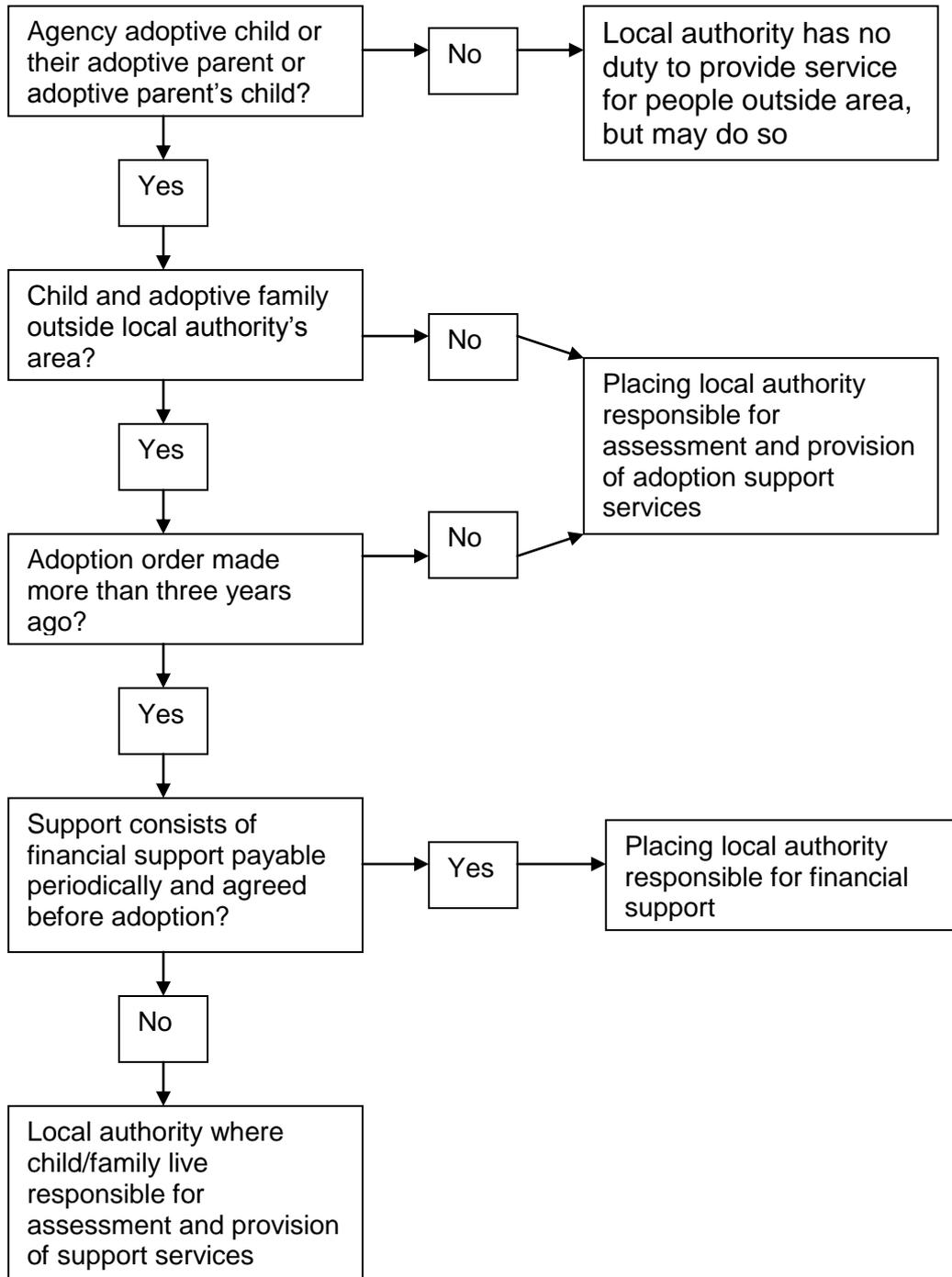
6.71 Where the adoptive child is not an agency adoptive child the duty to undertake assessments and provide support is placed on the local authority where the person seeking the assessment lives. If the person or family moves to the area of another authority, the duty will pass to the new authority. Liaison between authorities will again be essential to ensure a smooth transition for the child. Assessment of support needs for birth parents is the responsibility of the authority where the birth parent lives.

Any time after the first three years from the date of an order

6.72 Where the three-year period following the making of the adoption order has expired, the local authority where an agency adoptive family lives will have the responsibility for assessing and providing adoption support services. It is essential that there is good communication and advance planning between the placing authority and

the local authority where the family lives to ensure that there is no break in the provision of services. To assist with this, the placing authority may wish to make use of the power under ASR 7(3) to provide services for a transitional period.

Table 3 - Adoption Support Duties to people outside the local authority's area



Recovery of expenses

6.73 The local authority that assesses need and decides that services should be provided is responsible for funding any resulting social services provision. In arrangements where a placing authority is responsible for assessment but the adoptive family lives out of the area, the placing authority will need to think carefully about the best way of delivering support. This could mean arranging for a service to be provided by the local authority in whose area the family now live with that local authority having the option of recovering costs in accordance with ASR 23.

6.74 Under section 4(10) and 4(11) of the Act, a local authority responsible for assessing and providing support services may request another local authority's help where this is appropriate, and the second local authority is required to comply with the request as long as this is consistent with the exercise of their functions. ASR 23 provides that where a local authority ('the paying authority') has requested the help of another local authority ('the recovering authority') under section 4(10) of the Act, and the recovering authority complies with the request under section 4(11), the recovering authority may recover the expenses associated with providing any adoption support services from the paying authority. This however will not be the case where the recovering authority itself has responsibility for the assessment of the person in relation to whom help has been requested, nor does it apply where the service provided by the recovering authority consists only of advice or information.

Placement outside of England and Wales

6.75 Where the child is to be placed, or moves, outside England and Wales, even within the UK, the duties of local authorities to provide adoption support are not the same as those within England and Wales. Each case will need to be considered according to its own circumstances, but placing local authorities may need to make use of the powers under ASR 7(3) to continue to provide support services or to contract and pay for the provision of services for more than the three years after the adoption order. In appropriate cases, they may make financial support available, whether the child is outside England and Wales or outside the British Islands.

Notices

6.76 Notices must be in writing. The notice to the child can be sent to their adopter or to another appropriate adult where the local authority considers the child is too young to be served or that it is otherwise not appropriate.

Chapter 7: Placement and Reviews

Chapter 7 explains what the adoption agency must do before and after it has placed a child for adoption. This is the penultimate step before the adoption order is made. So that the prospective adopter can make an informed decision whether to agree to the child becoming part of their family, the agency must be open and clear about the child's identified needs and any adoption support services that are to be put in place. The chapter also explains the importance of keeping the placement under review and what action should be taken when parental consent is withdrawn.

Placement by agency

7.1 Once a decision has been made in accordance with AAR 33 that a child should be placed with a particular prospective adopter, the agency will need to make a plan for the placement. The placement cannot be made unless the agency has 'authority to place' (consent under section 19 of the Act or a placement order) or the child is under 6 weeks old and the birth parents have agreed in writing that the child may be placed, using the agreement form in Annex D. In most cases, it will be impracticable to make plans for the placement until it is clear that it will be lawful to place the child. However in the case of a baby, for example, or where it is necessary to end the child's existing placement in the near future, it will be helpful to comply with the requirements of AAR 35(1) and (2), and to make at least a provisional plan for the placement, in anticipation of the expected consent or placement order.

7.2 If, before the child is placed, an application is made for the revocation of a placement order, the local authority cannot place the child without the leave of the court. An application for revocation can only be made if the court has granted leave under section 24(2) of the Act, and an application for leave does not in itself prohibit the local authority from placing the child. It is not appropriate for a local authority to proceed with the placement when it is aware of the application for leave, and an attempt to do so in order to frustrate the birth parents' application could be challenged in court by an application for judicial review. If such a delay is likely to be prejudicial to the child's welfare, for example if introductions have already started, the local authority should then apply to the court as quickly as possible for permission to place the child, under section 24(5) of the Act.

7.3 The agency is required to meet the prospective adopter to consider the proposed placement. A provisional draft of the adoption placement plan, as set out in Schedule 5 of the AAR, should form the basis for the meeting. Contact plans should be discussed at this stage.

7.4 The prospective adopter will already have received the information about the child and a copy of the adoption placement report as set out in AAR 31. They should also be supplied with any relevant additional information, such as the reaction of the child and birth parents on receiving information about the proposed placement, and any advice

given by the adoption panel under AAR 32(3). The agency should arrange for the child's social worker, the prospective adopter's social worker, the child's current carer and any relevant child specialists to attend the meeting with the prospective adopter. It may be helpful to involve the foster carer's social worker, if appropriate.

7.5 As soon as possible after the planning meeting, the agency must send the prospective adopter the adoption placement plan. This will set out the information required in Schedule 5 of the AAR, and will be the basis on which the prospective adopter will make their formal decision whether to accept the placement.

7.6 Once the prospective adopter has notified the agency that they wish to proceed with the placement, the agency may make the placement (subject to paragraph 8.1, and AAR 35(3) and (4)). The agency should keep the child's current carer informed of the placement arrangements and inform the child in an appropriate manner. Where the child is already living with the prospective adopter the agency must notify them in writing of the date on which the child's placement with them becomes a placement for adoption. If financial support is to be paid under the adoption support plan this will be paid as from the formal 'placement' date and any fostering allowance will cease from that point. Before making the placement the agency must give the notifications required by AAR 35(6).

7.7 AAR 35(7) requires the agency to notify the prospective adopter in writing of any change to the adoption placement plan, but any such changes should always be discussed with the prospective adopter before they are implemented.

Modification of the Children Act 1989

7.8 AAR 45 applies only when the agency is authorised to place a child for adoption or has placed a child less than 6 weeks old for adoption. AAR 45 modifies the 1989 Act so that in adoption cases certain provisions of sections 22, 61 and Schedule 2 of that Act do not apply or are modified. Section 22 (general duty of local authority in relation to looked after children applies to local authorities) and section 61 (duties of voluntary organisations) applies to VAAs.

7.9 Where the agency is a local authority, AAR 45.2 modifies section 22 of the 1989 Act so that:

- section 22(4)(b) does not apply. The effect of this is to remove the general obligation on the authority to ascertain the wishes and feelings of the child's birth parents before making any decision with respect to the child;
- section 22(4)(c) applies as if for that sub-paragraph there were inserted "(c) any prospective adopter with whom the local authority has placed the child for adoption." The effect of this is to require that where the authority has placed a child with a prospective adopter it is to ascertain their wishes and feelings before making any decision with respect to the child.

7.10 The local authority will still be required to comply with section 22(4)(a) and section 22(4)(d) of the 1989 Act in ascertaining, and in section 22(5) in giving due consideration to, the wishes and feelings of the child, and of any other person it considers to be relevant.

7.11 AAR 45(2) also provides that paragraphs 15 (promotion and maintenance of contact between the child and family) and 21 (contributions towards the maintenance of children looked after by local authorities) of Schedule 2 shall not apply where the local authority is authorised to place a child for adoption or has placed for adoption a baby under six weeks old. The duties with regard to contact are governed by section 26 of the Act and the AAR.

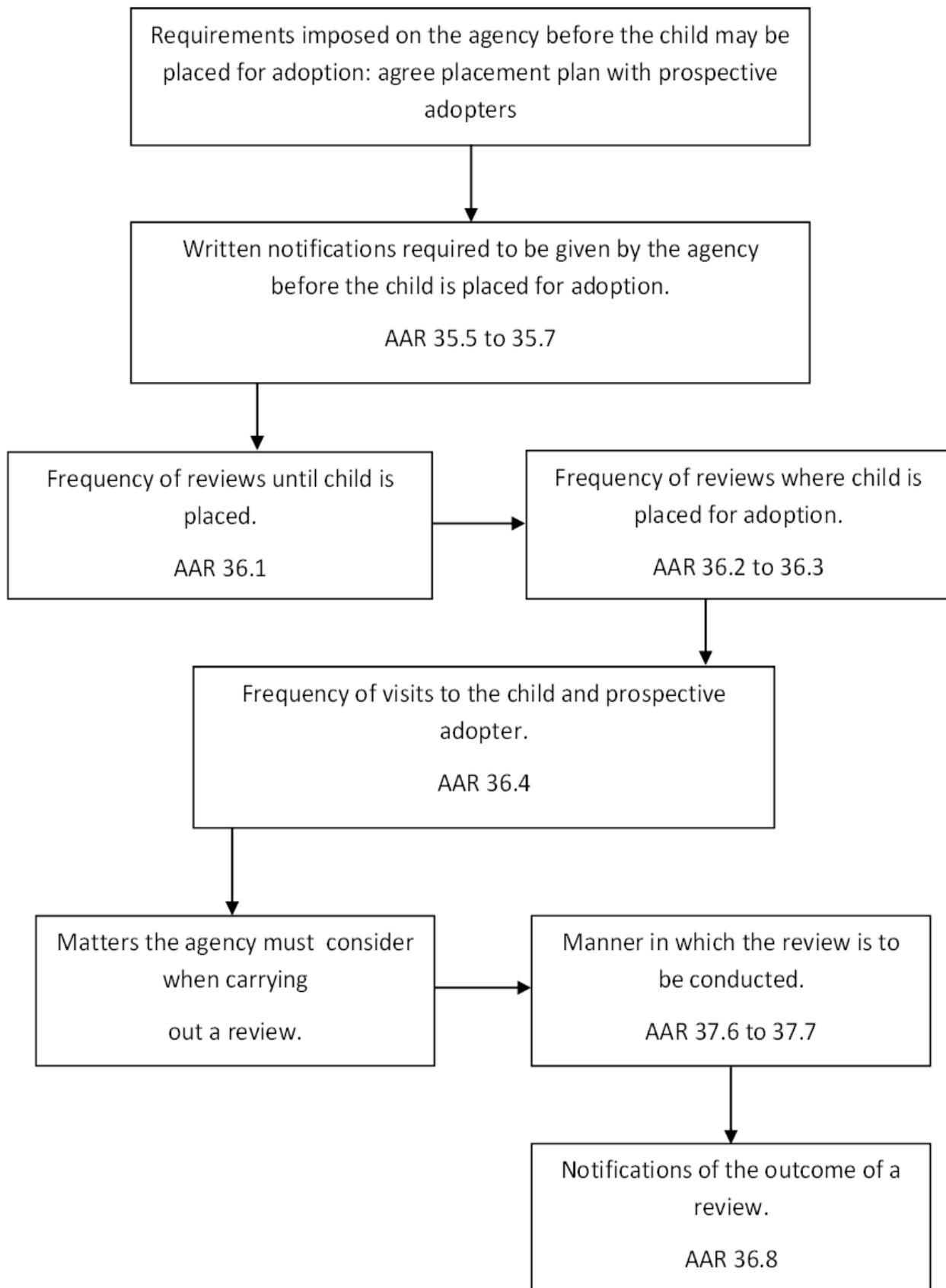
7.12 Where the agency is a VAA, AAR 45.4 modifies section 61 of the 1989 Act so that:

- section 61(2)(a) is to have effect in relation to the child whether or not they are accommodated by or on behalf of the VAA;
- section 61(2)(b) shall not apply. The effect of this is to remove the general obligation on the VAA to ascertain the wishes and feelings of the child's birth parents before making any decision with respect to the child;
- section 61(2)(c) shall apply as if for that sub-paragraph there were inserted "(c) any prospective adopter with whom the registered adoption society has placed the child for adoption." The effect of this is to require that where the VAA has placed a child with a prospective adopter it is to ascertain their wishes and feelings before making any decision with respect to the child.

Parental responsibility

7.13 When the agency is authorised to place the child for adoption, the Act makes provision for parental responsibility to be shared between the agency, the birth parents and, once the child is placed for adoption, the prospective adopter. The agency has the power to determine the extent to which the exercise of parental responsibility by the birth parents and/or the prospective adopter should be restricted.

Table 1: Placement and review process



7.14 When the agency makes a decision on the exercise of parental responsibility by the birth parents, it should write to them (if their whereabouts are known). The letter should make it clear the extent to which, if at all, the agency considers it appropriate for them to exercise their parental responsibility, the fact that this will be subject to review, and that they would be notified in writing of any change. The letter should also explain the reasons for the decision. The agency should ensure that it has recorded any views expressed by the birth parents or guardian about the exercise of parental responsibility, particularly in respect of questions of the child's religious upbringing or consent to serious or invasive forms of medical treatment.

7.15 When the agency is considering placing a child for adoption with a particular prospective adopter, the agency should consider the extent to which the exercise of the prospective adopter's parental responsibility for the child should be restricted by the agency while the child is placed with them. It may well be appropriate for there to be a gradual 'shift of power' so that the prospective adopter comes to have a greater degree of autonomy as the placement progresses, and their confidence and parenting skills develop.

7.16 In coming to a decision on the exercise of parental responsibility for the child, the agency should take into account:

- the views of the child, if they are of sufficient age and understanding;
- the views of the prospective adopter;
- the views of anybody else the agency considers relevant, which, in any case where the birth parents are still permitted to exercise parental responsibility, will always include the birth parents; and
- the advice of the adoption panel where it has made a recommendation as to the placement under AAR 32.

7.17 The proposed arrangements for exercise of parental responsibility will be set out in the adoption placement plan, giving the prospective adopter the opportunity to express their views about them prior to their agreement to the placement. The arrangements will be subject to review at each review under AAR 36, and any change to the arrangements must be recorded on the amended adoption placement plan. Any changes must also be notified to the child (if of sufficient age), the prospective adopter, and any other person the agency considers relevant, for example the school or the local authority's education department.

Changing the child's name

7.18 A child may not be known by a new surname until the making of an adoption order, unless the court gives leave or each birth parent or guardian has given written consent – see section 28(3)(a) of the Act.

Visits

7.19 The first few weeks of a placement can be very challenging, and some placements disrupt. The agency must visit the family within the first week after placement and thereafter at least once a week until the first review (four weeks after placement). The placing authority determines the frequency of subsequent visits at the first and each subsequent review, and noted on the adoption placement plan.

7.20 The purpose of the visits is to enable the agency to satisfy itself as to the child's welfare, and to provide the prospective adopter with advice and support. They will also inform the agency's contributions to the review of the child's case, and, in due course, the report to the court when the adoption application is made. The child's social worker and prospective adopter's social worker should agree who is to conduct each visit, and communicate promptly with each other, including sharing their written reports. Reports must be placed on the child's case record.

7.21 The child's social worker has the primary responsibility for ensuring the child's welfare and should on each visit see and speak to the child alone. The exceptions to this are:

- where the child refuses (and is of sufficient age and understanding to refuse);
- where the social worker considers it inappropriate to do so (again having regard to the child's age and understanding); and
- where the social worker is unable to do so, for example because the child is out.

7.22 If a child has particular communication difficulties or requires specialist communication support, the social worker will need to use specialist resources in order to ensure that the child has the opportunity to express their wishes and feelings, including to request a visit from the social worker. The report should make clear whether the child has been seen alone and, if not, the reason for this.

7.23 The prospective adopter's social worker will have particular responsibility for supporting the prospective adopter, and may sometimes see them without the child being present. They may also be in contact with the prospective adopter by telephone or email. Information gathered in such a way must be properly recorded, and, shared promptly with the child's social worker. The prospective adopter should be advised that information will be shared in this way.

Out of area placements

7.24 When a child is placed for adoption by a local authority, the child continues to be looked after by that local authority (see section 18(3) of the Act). It remains responsible for that child, wherever the child is living, until the adoption order is made. Once an

adoption order is made, the child ceases to be looked after and the placing authority has no further responsibility towards them, except in respect of adoption support.

7.25 Where the placing agency and the placing agency's social worker cannot visit, the agency must make arrangements with another agency to ensure that a child and family social worker visits the placement.

Placement breakdown

Before the adoption order is made

7.26 The placing authority is responsible for receiving the child from the prospective adopter (either where the prospective adopter has given notice of their wish to return the child or where the placing authority considers that the child should not remain with the prospective adopter and has given them notice (see section 35(1) of the Act)). The placing local authority also has the power to remove the child from the prospective adopter (see sections 30(1) and 34(1) of the Act).

Post adoption order

7.27 Once an adoption order has been made, the adoptive parent becomes the child's parent and acquires parental responsibility; the child is no longer looked after. From this point onwards the child becomes ordinarily resident in the authority where they now live with their adoptive parent. If the adoption were to break down **after** the adoption order was made, the case could not be transferred back to the placing authority under section 20(2) of the 1989 Act. In addition, the local authority where the child lives with their adoptive parent would not be able to recoup the cost of accommodating the child under section 29(7) of the 1989 Act. However, the co-operation duties under section 27 of the 1989 Act would still apply.

Reviews

7.28 Where a child is looked after by a local authority, even though the agency is authorised to place the child for adoption, the review requirements will continue to be governed by the Care Planning, Placement and Case Review (England) Regulations 2010 until the child is placed for adoption. AAR 36 will apply whenever the agency is authorised to place the child for adoption and the child is yet to be placed; the child has been placed; or the placement has disrupted. This means that while the child is authorised to be placed for adoption but not placed, reviews will need to comply with both relevant sets of regulations.

Frequency of reviews

7.29 Where the child has yet to be placed for adoption, the first review under the AAR must take place no more than three months after the agency obtained authorisation to place, and thereafter not more than six months after the previous review. This is the 'six

month review' referred to in AAR 36(7), where particular consideration must be given to establishing why the child has not yet been placed and whether the adoption plan is still appropriate. If a review is needed sooner than three months after authorisation to place in order to comply with the 2010 Regulations, this will also be the first review under the AAR.

7.30 When the child has been placed for adoption, the first review must be held no more than four weeks after placement, the second no more than three months after this, and subsequent reviews held at six-monthly intervals until an adoption order is made, or the child is no longer placed with the prospective adopter. These provisions set out the maximum intervals between reviews. The agency may conduct additional reviews where it considers it appropriate, and should always be prepared to do so at the request of the prospective adopter or the child. A review under AAR 36(10) must be held between 28 and 42 days if the placement disrupts and the child is returned to or removed by the agency.

Conduct of reviews

7.31 The agency should provide written information about how it intends to review a child's case to the prospective adopter, to the child where the agency considers the child is of sufficient age and understanding, and to any other person the agency considers relevant, such as the child's birth parents or guardian and anyone else who has contact with the child. The Independent Reviewing Officer (IRO) appointed by the agency must ensure that the review is conducted in accordance with AAR 36 and, as far as is reasonably practicable, attend and chair any meeting to review the child's case. See also AAR 37.

7.32 The matters to be considered at each review are set out in AAR 36(6). The statutory guidance on reviews of looked after children contained in the *Children Act 1989 Guidance and Regulations: Volume 2: Care Planning, Placement and Case Review* should also be followed in respect of reviews conducted under the AAR in so far as it is appropriate.

7.33 If the agency is authorised to place the child for adoption but has not done so, it must continue to make strenuous efforts to find a suitable family. If a placement order is in force, AAR 36(7) stipulates that at the six month review in such a case (i.e. nine months after the making of a placement order) the review must establish why the child has not yet been placed, and consider whether the adoption plan is still appropriate. It will not be appropriate for a placement order to remain in force indefinitely with little or no chance of the child being placed for adoption. The agency or the child may apply for the placement order to be revoked without the need to establish a change of circumstances since the order was made (see section 24 of the Act).

7.34 Where a review is held under AAR 36(10) following a placement disruption, it will be important for any information gathered at a disruption meeting to be available or an additional review should be scheduled at a time when the minutes of the disruption meeting are available. While the child remains looked after, notification of any new placement is governed by regulation 13 of the 2010 Regulations.

7.35 The information gathered for a review, minutes of the review meeting and a record of any decision made in the course of or as a result of the review must be placed on the child's case record. The agency must ensure that it notifies the child (if of sufficient age and understanding) and the prospective adopter of the outcome of the review, as well as any other person the agency considers relevant. This should normally include anyone whose views were obtained and anyone directly affected by the decision. The adoption placement plan should be amended where necessary. If the agency is unable to or otherwise fails to implement any arrangements made as the result of a review, it must inform the IRO (see AAR37(8)).

Independent reviewing officers

7.36 Where an agency is authorised to place a child for adoption the child will continue to be looked after within the meaning of section 22 of the 1989 Act, or accommodated by a voluntary agency within the meaning of section 59 of the Act. The agency is therefore required to appoint an IRO to have responsibility for reviewing the child's case.

Withdrawal of consent

7.37 The Act allows the child's birth parents or guardian to withdraw their consent to the child's adoptive placement at any time up to the point where the prospective adopter applies for an adoption order. Where consent given under section 19 or 20 of the Act is withdrawn in accordance with section 52(8) of the Act, AAR 38 applies. Section 19(1) provides that the agency is authorised to place a child for adoption where the agency is satisfied that each parent or guardian has consented to the child being placed for adoption, either with identified adopters or with adopters chosen by the agency. Section 20(2) provides that, where a parent or guardian has given section 19 consent, they may also give advance consent to the child's adoption by identified adopters or by adopters chosen by the agency. Section 52(8) provides that consent may be withdrawn either on form A106 under the Family Procedure Rules 2010 or by written notice given to the agency.

7.38 Where consent is withdrawn before the child has been placed for adoption, the agency will not be able to make the placement unless, if it is a local authority, it obtains a placement order. Where the child has already been placed and the birth parents request the child's return, the agency will be required to comply with that request unless, in the case of a local authority, it applies for a placement order.

7.39 Under AAR 38(2), where consent to placement is withdrawn and the agency is a local authority, it must immediately review its decision to place the child for adoption. If it considers that the child should still be placed for adoption and, having taken legal advice, it considers that the conditions set out in section 31(2) of the 1989 Act (conditions for making a care order) are likely to be satisfied, it must apply for a placement order. If it does make this decision, it is required to notify the child's birth parents or guardian, (including a father without parental responsibility if possible and appropriate) and, if the child is placed for adoption, the prospective adopter.

7.40 Even if the child has not yet been placed for adoption, but a decision has been made to place the child with particular adopters, it will be appropriate to notify them of a decision to apply for a placement order. The agency will need to provide support for them and help them to form a view as to whether they would still wish to have the child placed with them if the placement order application is successful. As far as possible they should be given an estimate of the time that may elapse before the outcome of the application is known.

7.41 Where the agency is a VAA, it will not itself be able to apply for a placement order. It is required by AAR 38(3) to consider whether it is appropriate to inform the local authority for the area where the child lives, to enable that authority to consider whether it should take action to protect the child, such as applying for an emergency protection order.

Life story book

7.42 The life story book and "memory box" should be co-ordinated by one person, preferably the child's social worker, and given to the child and prospective adopter in stages. The first stage is at the second statutory review of the child's placement with the prospective adopter. The completed life story book should be presented within ten working days of the adoption ceremony, i.e. the ceremony to celebrate the making of the adoption order.

Later life letter

7.43 A social worker who knows the child, preferably the child's social worker, should prepare the later life letter for the child. The letter should explain the child's history from birth and be sufficiently detailed so that in the future the adolescent child, or young adult, will have factual details about their birth family and their life before adoption, and so be able to understand why they could not live with their birth family, and why they were adopted. The letter should be given to the prospective adopter within ten working days of the adoption ceremony.

7.44 The child's birth family could be asked by the agency to write either their own letters to the child or contributions to the agency's letter, should the agency consider either of these steps appropriate.

Chapter 8: The Role of the Adoption Agency

Chapter 8 describes the structures needed by adoption agencies in terms of making decisions whether a child should be placed for adoption, the approval of prospective adopters, and the placement of a child with particular prospective adopters and the disclosure of protected information. The agency must eradicate unnecessary delay in its internal processes and make robust, well evidenced, and timely decisions

The chapter covers the establishment of an adoption panel, the appointment of an adviser to the panel and a medical adviser to the agency, who may write adoption reports, the responsibilities of the agency's designated decision-maker and how they should approach a case. It also explains what the adoption agency must do in its dealings with the independent review mechanism (IRM).

Agency policies and procedures

8.1 The adoption agency must prepare and implement a written policy and procedural instructions which govern the agency's and the adoption panel's functions. It is important that these accurately reflect the agency's statement of purpose. In preparing these instructions, the agency must consult individuals on the central list (see paragraph 8.21) and, in respect of arrangements for access to, and disclosure of, health information, the agency's medical adviser as required by AAR 8.4. The agency may choose the individuals on the central list it wishes to consult. The agency must keep under review its policies and procedures and revise them, where appropriate.

8.2 The policy and procedures documents should include arrangements for informing the prospective adopters, the birth parents and, where appropriate, the child, of the panel's recommendations; details of how a panel will monitor and report on its work to the agency and others; and arrangements and timescales for passing the panel's recommendation and minutes to the ADM.

8.3 A copy of the agency's statement of purpose must be offered to parents, prospective adopters and the child, where the agency considers the child is of sufficient age and understanding. All children for whom a local authority has identified adoption as the plan must be provided with a copy of the children's guide to adoption. Those local authorities and VAAs, which provide adoption support services to children, must also provide the children's guidance to adoption support.

Compliance

8.4 The agency should monitor its performance and provide reports to its trustees or board members of a VAA or the executive side of the local authority every six months. These reports should cover all children who are in the care of their local authority and include:

- the number, type and age of the children waiting for an adoptive placement and length of time they have been waiting;
- the local authority's performance against the adoption scorecards;
- progress in the recruitment of suitable adoptive families;
- the number of children placed for adoption and adopted since the last report; and the number of children whose placement has disrupted or where there has been a change of plan and the child is no longer to be placed for adoption;
- whether the child's need for a permanent home has been addressed and a permanence plan made by the four month review;
- whether the adoption panel is receiving all the necessary information from the agency within six weeks of the completion of the child's permanence report;
- whether the adoption panel's recommendation on whether the child should be placed for adoption is being made within two months of a review where adoption has been identified as the permanence plan.

Adoption reports

8.5 Reports, such as the child's permanence report and the prospective adopter's report, are essential to the fundamental decisions made at key points during the adoption process. Reports are to be written by individuals who have the necessary qualifications and direct experience of adoption work as set out in regulation 3 of the Restrictions on the Preparation of Adoption Reports Regulations 2005 or are supervised by a person who has. It is an offence for anyone to write such reports, or commission them from another person unless the author meets the requirements set out in those Regulations. Annex F sets out the offence and penalty.

8.6 While the ARRs do not define 'direct experience of adoption', this should be experience as:

- a social worker responsible for a child where the agency has decided that the child should be placed for adoption and the social worker has been personally involved in considering whether the child should be placed for adoption, the matching, placement and review stages of the adoption process; and/or
- a social worker responsible for the recruitment, preparation, assessment and support of adoptive families.

8.7 Reports must be succinct and accurate. There should be robust social work analysis with strong evidence that distinguishes between fact, opinion and third party information. The accuracy of the information must be checked before it is submitted to the adoption panel and the ADM. The agency adviser will maintain an overview of the quality of the reports, see paragraph 1.18.

8.8 The person who prepares the report must sign and date it and indicate how they meet the requirements of the ARR. Where the person has been working under the supervision of a suitably qualified social worker, that social worker should sign the report as well, indicating their capacity and how they meet the requirements of the ARR. Where another worker has also contributed to the report, they do not need to sign it, but the person responsible for the report should indicate what role the other person has played and why they were involved in contributing to the report.

Medical adviser

8.9 The agency is required to appoint at least one registered medical practitioner to be the agency's medical adviser. The medical adviser must be consulted about the arrangements for accessing and disclosing health information, as required or permitted by the AAR.

8.10 The medical adviser should be consulted where the agency:

- arranges for the child to be examined and obtains a report or reports on the child's health (AAR 15 and AAR Part 2 of Schedule 1);
- arranges for health information to be obtained about the child's parents and siblings (AAR 16 and AAR Part 4 of Schedule 1);
- prepares the child's permanence report which is to include a comprehensive summary written by the medical adviser on the child's health (AAR 17);
- obtains a report about the health of the prospective adopter (AAR 26 and Part 2 of Schedule 4);
- prepares the prospective adopter's report for the adoption panel, which is to include a comprehensive summary written by the medical adviser on the prospective adopter's health (AAR 30);
- prepares the adoption placement report for an adoption panel (AAR 31);
- prepares a report to the court where there has been an application for a placement order, as the agency is required to provide a summary written by the medical adviser on the health of the child;
- reviews the child's case, including reviewing the arrangements for assessing and meeting the child's health care needs (AAR 36);
- prepares a report to the court where there has been an application for an adoption order or an order under section 84 of the Act, as the agency is required to provide summaries written by the medical adviser on the health of the child and the prospective adopter.

8.11 The medical adviser must advise the adoption panel clerk whether the panel should receive a copy of the child's health report, other medical and psychiatric reports,

and health information about the child's birth parents. Where a child's case is referred directly to the ADM, the medical adviser should be ready to answer any medical questions arising from their written summary or other papers asked by the ADM.

8.12 The agency should arrange the appointment of its medical adviser with a local clinical commissioning group's designated doctor for looked after children. Each group should appoint such a designated doctor to assist it to fulfil its responsibilities as a commissioner of services to improve the health of looked after children. The designated doctor should be a senior paediatrician with substantial clinical experience of the health needs of looked after children. In some circumstances, the designated doctor may also be able to fulfil the role of the medical adviser. Alternatively, the designated doctor should be able to recommend another doctor to become the agency's medical adviser. A VAA may seek advice from a group's designated doctor on arrangements for the appointment of a medical adviser.

Adoption panels

8.13 Adoption panels are multi-disciplinary bodies independent of the agency. They play an important quality assurance role for the agency, providing objectivity and having the ability to challenge practice that is not in the interests of children or fall short of the Regulations or NMS. Panels should provide regular feedback to the agency (see standard 17.2 of the NMS).

8.14 Panels make recommendations, not decisions, to the ADM. Their recommendations are whether:

- a child should be placed for adoption. AAR 17.2 prohibits the agency from referring children's cases to the panel in certain circumstances. These are set out in Table 1 in paragraph 1.51;
- the suitability of prospective adopters or the termination of approval of a prospective adopter following a review under AAR30D. AAR 30A(3) prohibits the panel from recommending a prospective adopter is suitable to adopt when a brief prospective adopter's report has been prepared under AAR 30(4). The panel is restricted to either recommending that the prospective adopter is not suitable to adopt or request the agency to prepare a further prospective adopters report, covering all the matters set out in AAR 30(2);
- a child should be placed for adoption with a specific prospective adopter. The panel may give advice to the ADM on the issues set out in AAR 18, 30A and 32.

Joint adoption panels

8.15 Where a local authority has difficulties in arranging frequent panel meetings or deals with a relatively small number of adoption cases, it should consider arranging with

one or more other local authorities to have a joint central list and joint panels. It will be for the local authorities to decide which of them has responsibility for appointing an agency adviser, maintaining the central list and setting up adoption panels. Having joint panels will help ensure that decisions relating to children and prospective adopters are not delayed, as joint panels will meet more often and at a lower cost to the individual local authorities. There is no provision for VAAs to share panels, but different branches of the same VAA may share a panel.

Agency adviser to the adoption panel

8.16 Each agency must appoint at least one agency adviser to the adoption panel. The agency adviser is not a panel member and cannot take part in the decision making process, but contributes to panel meetings by raising issues and providing advice. The person appointed should have experience of adoption and experience as an adoption team leader or more senior management experience. Their full duties and qualifications are set out in AAR 8. The agency adviser may provide advice to the ADM when the ADM is considering a particular case (see paragraph 1.42).

8.17 The agency adviser should maintain an overview of the quality of the agency's reports, to both the panel and to the ADM, and liaise with team managers to quality assure the child's permanence report, the prospective adopter's report and the adoption placement report. Where there are concerns about a report, the agency adviser and the panel chair should consider whether it is adequate for submission to the panel. It will be for the agency adviser alone to decide whether the report is adequate for submission to the ADM.

8.18 The agency adviser should update the panel on the general progress of cases it has considered. This is particularly important where the panel's recommendation or advice was not accepted.

Frequency of panel meetings

8.19 Adoption panels must not be the "bottleneck" in the decision making process. They must meet frequently and be able to meet at short notice before the next scheduled meeting to deal with urgent cases. See standard 17.3 of the NMS.

8.20 Panel clerks and children's social workers should liaise closely for early identification of children for whom adoption is the plan and whose cases the adoption panel will consider. Similarly, the panel clerk should liaise with the adoption team in respect of prospective adopters and the matching of children and prospective adopters to ensure that there is no delay in panel consideration of these cases.

The central list

8.21 Each agency must maintain a central list of persons whom it considers suitable to be a member of an adoption panel; there is no limit to the number of persons included on the list. Having a pool of people with different skills, experience and qualifications allows the most appropriate members to consider individual cases on a timely basis. The list must include only individuals with the qualifications and experience as set out in AAR 3 and 4 and the qualities as set out in Annex B.

Constituting an adoption panel

8.22 An adoption agency must constitute an adoption panel as and when needed, appointing members from the central list. Subject to each meeting being quorum, it is for the agency to decide how many panel members to appoint to the panel. Each agency may constitute more than one adoption panel at any one time.

8.23 The panel's business can be conducted if at least five members (six for joint panels) are present, including the chair or vice chair and a social worker with at least three years' relevant post-qualifying experience. Where the vice-chair is to chair the meeting and is not independent, at least one independent member must be present for the panel to be quorum.

8.24 The panel must keep minutes of its meetings and a written record of its recommendations and reasons. The panel chair is responsible for ensuring the accuracy of the panel's recommendations, reasons and, following agreement with panel members, the minutes. The chair must also make sure that a person who is not a member of the panel fulfils the task of writing these documents.

8.25 The minutes must accurately reflect the discussion and cover the key issues, rather than be a verbatim record of the meeting. The panel chair must ensure that the panel minutes record the serious reservations panel members may have and these are attached to the panel's recommendation. If the panel cannot reach a consensus on its recommendation after the chair and other members of the panel have voted, the panel chair has a second vote, i.e. the casting vote. The panel's minutes should clearly set out the reasons why the panel chair had to use the casting vote. The minutes must be prepared promptly, agreed by the panel members and then sent to the ADM to allow the decision to be made within seven working days of receipt of the panel's recommendation and final set of panel minutes.

Suitability to adopt and proposed placement

8.26 In appropriate cases, and to avoid unnecessary delay, the recommendation as to the child's placement can be made at the same panel meeting at which a recommendation has been made in respect of the child and/or the prospective adopter.

However, each recommendation must be considered separately. This means that the panel must consider whether the prospective adopter is suitable to adopt any child and if so, go on to consider whether to recommend that the particular child should be placed for adoption with that prospective adopter. Making recommendations in this way may be appropriate where a child is living with foster carers who wish to adopt them. Similarly, it might be appropriate in a case where a baby is being relinquished for adoption so that the baby can be placed quickly from among approved prospective adopters. In these circumstances, the recommendation that the child should be placed for adoption can be made at the same time as the recommendation that they should be placed for adoption with a particular prospective adopter.

Inviting prospective adopters to the panel meeting

8.27 Prospective adopters must be invited to attend a meeting of the panel each time the panel meets to discuss their case and before it makes its recommendation. The agency should provide the prospective adopter with information about the panel meeting, including how it will be conducted. If they decline the invitation this in itself should never be considered as a reason for recommending that they are unsuitable to adopt.

Additional information

8.28 The panel can request the agency to obtain further information and the agency must comply with this request. The panel must also obtain legal advice in relation to the case. Advice to the panel may be given orally and in writing. As well as legal advice, the panel may wish to call for advice from those with relevant knowledge, such as specialists in education or child and adolescent mental health. To reduce delay the agency should liaise with the panel to ascertain what information it is likely to need in advance of the panel meeting.

Notification of the panel's recommendation

8.29 Prospective adopters, children and birth parents should be told the panel's recommendation and its reasons immediately after the meeting. However, it must be made clear that the ADM makes the final decision.

Agency decision-maker (ADM)

8.30 The agency must appoint an ADM to make decisions on its behalf. The ADM must be a senior person within the adoption agency, who does not have direct management responsibility for the adoption panel but who meets the qualifications, knowledge and experience set out NMS 23.17. VAAs may appoint a trustee or director to be its ADM. The agency may appoint more than one ADM but the ADM may not delegate their authority to another person.

8.31 The decisions the ADM has the authority to make on behalf of the agency are whether:

- a child should be placed for adoption;
- a prospective adopter is suitable to adopt, or whether their approval to adopt should be terminated following a review under AAR30B and 30D;
- a child should be placed for adoption with a specific prospective adopter (AAR 33);
- to disclose protected information about adults under section 61 of the Act and regulation 15 of the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 (AIR) when determining an application.

ADM's decision

8.32 The ADM must make decisions on whether a child should be placed for adoption, the suitability of prospective adopters and the proposed placement. The decisions should be made within seven working days of receipt of the reports referred to in AAR 17(2D) or, as applicable, of receipt of the recommendation and final set of minutes of the adoption panel under AAR 18, 30A and 32 or the independent review panel. The ADM should have procedures that do not introduce delay and which allow urgent cases to be dealt with at short notice.

8.33 With the exception of whether to disclose protected information, the ADM will consider all recommendations made by the adoption panel. However, certain children's cases will be referred directly to the ADM rather than via the adoption panel. These are set out in the table in paragraph 2.53.

8.34 Before making a considered and professional decision, the ADM will need to consider:

- the exercise of powers under section 1 of the Act;
- all the information surrounding the case. This includes the reports submitted to the adoption panel (AAR 17.2C, AAR 25.9 and AAR 41.4) or to direct to the decision-maker (AAR 19.1A);
- that the author(s) of the reports comply with the ARRs;
- the stability and permanence of the relationship of any couple under consideration (regulation 4 of the Suitability of Adopters Regulations 2005);
- the recommendation and reasons of the adoption panel and, if applicable, the independent review panel;
- the final minutes of the adoption panel (including any minutes from adjourned panel meetings) and the independent review panel.

8.35 The agency must comply with the ADM's request for more information, or medical or legal advice. Where AAR 17(2) applies the agency may not refer the child's case to the adoption panel and the ADM cannot make an informal reference to the adoption panel for advice because of the need to comply with the provisions of the Data Protection Act 1998 concerning sensitive personal data. The ADM may discuss the case with the agency adviser, medical issues with the medical adviser and seek legal advice.

8.36 Where the ADM wishes to discuss any other case, for example because they are minded not to accept the recommendation of the adoption panel or independent review panel, they should speak only to the agency adviser or medical adviser as applicable. The outcome of any discussion, as well as the decision itself and its reasons must be recorded on the child's and/or prospective adopters' case record, as applicable.

8.37 The ADM makes a determination (a qualifying determination) and not a decision when he or she proposes:

- at Stage Two of the approval process not to approve the prospective adopter as suitable to adopt a child from the UK or from outside the British Islands after the adoption panel has considered a brief or full prospective adopter's report; or
- in relation to an application under section 61 of the Act (disclosure of protected information):
 - (a) not to proceed with an application from any person for disclosure of protected information;
 - (b) to disclose information against the express views of the person the information is about; or
 - (c) not to disclose information about a person to the applicant where that person has expressed the view that the information should be disclosed.

A qualifying determination gives the prospective adopter the right either to make representations to the agency or to apply to the Secretary of State for an independent review of that determination. In section 61 disclosure of protected information determinations, the relevant person has the right to apply to the Secretary of State for an independent review but does not have the right to make representations to the agency.

Notification of the ADM's decision or determination

8.38 The child's parents or guardian and prospective adopter should be informed orally of the ADM's decision within two working days and written confirmation should be sent to them within five working days. Where the ADM expresses a view on any advice given by the panel or independent review panel, this may be taken into account by the agency and recorded in the child's and prospective adopter's case records.

8.39 If the ADM decision is to place the child for adoption with specific prospective adopters, the agency must write to the child's parents, including a father without parental responsibility, where his whereabouts are known and the agency considers it appropriate. Other birth family members who have been consulted about the child should also be informed as appropriate. The agency should ensure that the child's Independent Reviewing Officer is informed.

8.40 If the placement is to proceed, the agency must inform the child and explain the decision in a way that is appropriate to the child's age and understanding. It will also be important to inform the child's current carers. Where the child was aware of the proposed placement before the decision was made and the decision is not to place them for adoption with a particular prospective adopter, it will also be necessary for the agency to explain the decision to the child in an appropriate way.

8.41 Once a decision has been made that the placement is to proceed, the agency must place on the child's case record the relevant documents set out in AAR 33(5).

8.42 If the decision is not to make the placement, the prospective adopter does not have recourse to the Independent Review Mechanism. They are however entitled to a full explanation of the agency's reasons for its decision.

8.43 When the ADM makes a qualifying determination, the agency must notify the prospective adopter/relevant person in writing, clearly stating the reasons for reaching the determination. The notification must also advise the prospective adopter/relevant person of their right to apply to the Secretary of State for an independent review of the determination within 40 working days of the date on which the determination was sent. Prospective adopters have the right to choose whether to make representation to the agency or apply to the Secretary of State for an independent review. The standard letter in Annex C should be used when notifying prospective adopters that they are considered unsuitable to adopt.

8.44 The agency must note the prospective adopter's/applicant's case record and take no action until after the 40 working day period for making representations (suitability to adopt only) or applying to the IRM has expired or until the independent review panel has made its recommendation.

Representations (suitability to adopt)

8.45 Where the agency receives representations from the prospective adopter within 40 working days, the ADM may consider the representations and may invite the prospective adopter to meet to discuss their case. The ADM may refer the case to the adoption panel for further consideration. Where the case is referred to the panel, the panel must consider the case again and make a fresh recommendation as to the suitability of the prospective adopter to adopt a child.

Action for ADM in all cases

8.46 On receipt of the adoption or review panel's recommendation and minutes of the meeting (as applicable), the ADM must take into account the recommendation before coming to a decision. The decision must be notified to the prospective adopter/relevant person in writing clearly stating the reasons for reaching the decision. Where the IRM has been involved, a copy of the decision must be sent to the IRM contract manager.

8.47 The ADM must make a decision when the 40 day time limit has expired and no representations or application to the Secretary of State for a review has been made. The agency must notify the prospective adopter/relevant person in writing of the decision together with the reasons for that decision.

The independent review mechanism

8.48 The IRM is a review process that prospective adopters/relevant persons may use when an adoption agency has made a qualifying determination. The two types of qualifying determinations are set out in paragraph 1.40. The agency must comply promptly with any request by the review panel for more information or assistance, and without charge.

Notification of application

8.49 The IRM administrator will send a written acknowledgement to the applicant and will seek their consent to the disclosure of all papers including medical information. The applicant will send their consent to the agency that must send the documents set out in AAR 30C/AIR 15 to the IRM administrator, within 10 working days of receiving the notification. Minutes of any adoption panel meeting must not be sent to the IRM administrator. This is so that the review panel can consider the case without being influenced by the thinking of the original adoption panel, although of course they will know the reason for the ADM's qualifying determination.

8.50 The IRM administrator will send a copy of the papers to the applicant and will send copies of any additional information provided by the applicant before the review panel meeting to the agency's liaison officer. The exception to this is confidential third party information, such as references, which cannot be shared with the applicant, unless the referees have given their consent.

Suitability to adopt a child

8.51 The review panel will consider and take into account the agency's determination, its reasons and, if different to the agency's determination, the adoption panel's recommendation; information that was before the adoption panel and any relevant information that arrived after that hearing; and the prospective adopter's grounds for review and any extra information submitted by the prospective adopter.

8.52 The review panel may make a recommendation on whether or not the applicant is suitable to adopt a child. Where a brief prospective adopter's report has been made, the review panel may recommend that the agency prepares a full prospective adopter's report in accordance with AAR 30(2) or that the applicant is not suitable to adopt a child.

8.53 The review panel does not have the legal power to consider the recommendation of an adoption panel regarding whether the child should be placed for adoption with that particular prospective adopter (AAR 32(1)). Where the suitability of the prospective adopter to adopt a specific child was considered by an adoption panel and a qualifying determination made, the review panel will be able to consider and make a recommendation only on the prospective adopter's suitability to adopt a child and not the specific child in mind.

Disclosure of protected information

8.54 When reviewing a qualifying determination, the review panel will consider and take into account all of the information passed to the agency in accordance with AIR 15(3).

Attending the review panel meeting

8.55 The review panel administrator will invite the agency to send up to two representatives to the review panel meeting. Whenever possible the original assessing social worker should attend the meeting. This is because the review panel's questioning is likely to focus on information obtained during the assessment. A second representative could be the team manager although some agencies may choose to send a senior manager. It is not appropriate for the ADM to attend as it will be their responsibility to make the final decision following the review panel's recommendation. In these situations, it is important that the independence of the review panel be not affected by any discussion of the decision making of the original adoption panel or agency.

Review panel's recommendation

8.56 The review panel will make a written recommendation about the prospective adopter's suitability to adopt a child or, in respect of disclosure of information cases, whether or not the agency should proceed with its original determination. The IRM administrator will send a copy of the review panel's recommendation, its reasons and minutes to both the applicant and agency.

Chapter 9: Adoption Records: Safeguarding and Access

Chapter 9 explains what the adoption agency must do in storing, safeguarding and providing access to its adoption case records during the period up to the making of an adoption order. Case records hold extremely personal information about the child's life that the child, as an adult, may wish to see. The information may also need to be accessed by persons or bodies in certain circumstances. It is vital that case records are stored securely and that appropriate access is given.

9.1 Sections 56-65 of the Adoption and Children Act 2002 and Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 cover the agency's duties in respect of its adoption records after the making of an adoption order (see chapter 10). The provisions with regard to safe storage and obligatory disclosure are matched in both the AAR and the AIR and the guidance in respect of those provisions is contained in this chapter.

9.2 In this chapter the term 'adoption case records' unless otherwise indicated includes records subject to the AAR, the Adoption Agencies Regulations 1983 (the 1983 Regulations) and section 56 information under the AIR.

Storing records

9.3 Adoption agencies are required to set up case records both for children who are being considered for adoption and for prospective adopters. Specific provisions relating to the statutory scheme for access to information after the adoption order is made are contained in chapter 10 except as indicated above.

9.4 Adoption records, like other records, are subject to the provisions of the Data Protection Act 1998, except where there is a specific exemption. The exemption applying to adoption records relates to the right of a person whose records are held (the 'data subject') to demand access to the records under section 7 of that Act. The provisions of AAR 41 will prevail over section 7 of the 1998 Act by virtue of the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000/419 (as amended by SI 2005/3504).

9.5 The agency is required by AAR 39 and AIR 5 to ensure that adoption case records, and all their contents, are kept in secure conditions at all times. The agency is required by AAR 39 and AIR 5 to ensure that it takes all appropriate measures to prevent the theft, unauthorised disclosure, loss or destruction of, or damage to, case records or their contents. This applies equally to information which may not be stored at the agency's main premises, or which is removed from the office while the social worker is working on the case at another location.

9.6 All agency staff with responsibility for handling section 56 information should be clear about their duty to safeguard this information at all times.

9.7 There is nothing in the Regulations to prevent the agency from transferring paper records and documents to microfiche or other electronic or digital media but it must be confident that the information can be retrieved during the next 100 years. The agency should take particular care when transferring original documentation to microfiche or other formats to ensure there is no electronic link between the care and adoption records. Documents which are likely to be significant to the adopted person, such as reports, cards or letters handwritten or signed by their birth parents or other birth relatives, should always be preserved in their original format so that the adopted person can see and handle them.

9.8 AAR 39 covers the storage of the whole case record, including any information that may be stored electronically or digitally, or by other means; cards or letters; the child's life story information; and photographs or audio-visual film. Where it is not practicable to keep some of these objects with the main electronic or paper case record, this fact, and the whereabouts of the other information or objects should be noted on the main case record. The duty to secure these objects securely applies as it does to paper or electronic records.

9.9 Where a case record is not in active use, it should, if it is a paper record or stored on disk, CD-rom or microfiche, be stored in a lockable security cabinet or secure room with access allowed only to authorised staff and any person as provided for by AAR 42 and 43, or AIR 8 and 9. Where it is stored electronically or digitally, the agency must ensure that appropriate systems are in place to safeguard it. Confidential information stored on computers should be password protected, and the system should ensure that only those properly authorised can have access to it. The agency should not transmit information from the adoption case record outside the agency by e-mail or facsimile unless its confidentiality can be assured.

Preserving records

9.10 AAR 40 provides that the agency must keep the child's case record and the prospective adopter's case record for as long as it considers appropriate. This applies only to adoption case records where the case has not concluded with an adoption order.

9.11 Where an adoption order is not made and the agency decides to close the child's adoption case record, it should transfer the information from this record to the looked after case record, provided it does not duplicate information already on the looked after case record. Regulation 50 of the Care Planning, Placement and Case Review (England) Regulations 2010 stipulates that records on looked after children should be retained for at least 75 years from the birth of the child or for fifteen years after the child's death (under the age of 18), whichever is the shorter period. If the child has never been looked

after, the agency should destroy the records when no further action is necessary. An example of when this may be appropriate is if the possibility of adoption of a baby was discussed before the child's birth, but the baby remained with the birth parents.

9.12 In considering how long to retain prospective adopters' case records the agency needs to be mindful that one of the principles of the 1998 Act is that personal data should only be kept for as long as is necessary. Prospective adopters can be asked if they want their case records retained - in case they may wish to reapply to the agency or another adoption agency to adopt again - and to give their consent to the storage of the case record for whatever period is agreed, after which the record will be securely destroyed.

9.13 AIR 6 requires the agency to keep all section 56 information for a minimum of 100 years from the date of the adoption order. This duty applies to information stored in any format.

9.14 Where the agency decides to destroy paper or electronic case records or the indexes to those case records, if any, it must treat this as confidential waste and dispose of it accordingly.

Access and disclosure

9.15 AAR 42 applies to access to and disclosure of adoption records up to the point where an adoption order is made. AAR 42.1 sets out where the agency is required to provide access to information; these provisions are similar to those in AIR 9 with regard to disclosure after the making of the adoption order. AAR 42.2 sets out the circumstances where an agency has discretion to provide access, such as when the child's agency needs information from the prospective adopter's agency during the matching and placement process or upon request by a fostering service provider under regulation 16(1A)(f) of the Fostering Services (England) Regulations 2011.

Obligatory access to or disclosure from records

9.16 AAR 42 and AIR 9 set out when the agency must give access or disclose information from case records to authorised people. The duties relate to adoption case records both before and after the making of an adoption order. The same duties in essence also apply to case records kept under regulation 14 of the 1983 Regulations where the adoption order was made before 30 December 2005.

9.17 In the following circumstances, the agency is required to provide access to information from the case record to the person or body indicated. Where the adoption order has been made, on or after 30 December 2005, the requirement is contained in the AIR. Where no adoption order has yet been made, the AAR apply. The AIR refer to the information as 'section 56 information'; the AAR refer to 'case records.'

- To those holding an inquiry under sections 3 and 4 of the Children Act 2004 (inquiries held by the Children’s Commissioner) or under the Inquiries Act 2005.

Where the agency has concerns about allowing the inquiry access to the information, for example if the inquiry is being held in public, it may seek the prior written agreement of the inquiry that any information disclosed will be properly safeguarded and its confidentiality maintained.

- To the Secretary of State.

The Secretary of State may seek access to, or the disclosure of, adoption case records or section 56 information from an adoption agency in certain circumstances. This may be in relation to a decision as to whether to establish an inquiry under sections 3 and 4 of the Children Act 2004 or under the Inquiries Act 2005. This regulation also provides the Secretary of State with the general authority to seek information from adoption agencies, including the information provided in statistical returns to central Government.

- To the registration authority.

Part II of the Care Standards Act 2000 provides for applications by a VAA for registration with the registration authority, and for refusals and cancellations of registrations. The agency may be required by the registration authority to disclose information from its case records where the authority is considering whether to cancel a VAA’s registration, or an appeal against such a decision.

Part III of the Care Standards Act 2000 provides the registration authority with the powers to regulate and inspect local authority adoption and fostering services. This gives the registration authority powers to require a local authority adoption agency to disclose any information relating to an inspection of its adoption service.

- To the Commission for Local Administration in England, for the purposes of any investigation conducted in accordance with Part 3 of that Act, subject to the provisions of section 29(7) and 32(3) of the Local Government Act 1974 (the 1974 Act) (investigations and disclosure).

This regulation applies where the Local Government Ombudsman is investigating a complaint involving a local authority adoption agency and needs access to information from the agency’s case records in order to do so. The Ombudsman has no power to investigate the activities of a VAA. But where a VAA has provided, for example, a prospective adopter’s case record to a local authority in an inter-agency placement, this will be placed on the record set up by the local authority under AAR 31.8 and thus subject to disclosure to the Local Government Ombudsman.

A local authority may refuse to disclose certain information to the Ombudsman where the authority would not be required to disclose it to the High Court (see section 29(7) of the 1974 Act). A local authority may also seek to serve a statutory notice on the Ombudsman under section 32(3) of the 1974 Act. Such a notice would preclude the Ombudsman from disclosing to anyone else any information that has been disclosed to him during the course of an investigation.

- To any person appointed by the adoption agency for the purposes of the consideration by the agency of any representations (including complaints).

Sections 26(3) and 26(3B) of the Children Act 1989 (the 1989 Act) require local authorities to establish a procedure for considering representations, including complaints, and for involving an independent person in that consideration. The Voluntary Adoption Agencies and Adoption Agencies (Miscellaneous Amendments) Regulations 2003 require VAAs to establish a complaints procedure. Regulation 11 of those regulations requires the agency to establish a written complaints procedure and regulation 12 provides for complaints to be fully investigated. Where an independent person has been appointed by the agency to consider any complaint or representations in relation to adoption services, they are likely to require access to the agency's case records in order properly to investigate the complaint.

In relation to adoption services, service users are children who may be adopted, birth parents and guardians, prospective adopters, adopted people and adoptive parents or any other person who the agency considers has sufficient interest in a child who is or may be adopted to warrant his representations being considered by them. See section 3(1) of the Act.

- To a panel constituted under section 12 of the Act to consider a qualifying determination.

Section 12 of the Act provides for an independent review mechanism to be established to review a range of qualifying determinations made by the agency. Qualifying determinations may be made in respect of:

- the suitability of a prospective adopter to adopt under AAR 30B; and
- disclosure of 'protected information' under section 61 of the Act where AIR 15 sets out the duties of an agency where application is made to the IRM.

Where the case record of a prospective adopter set up under AAR 23 is held under AAR 39, AAR 42 requires the agency to provide access to its case records and disclose information as may be required by and to the extent of the AAR. Since AAR 30C requires the prospective adopter's case records and

other relevant documents to be provided to the IRM, this constitutes a requirement to disclose information to the IRM.

Where the adoption agency makes a qualifying determination in relation to an application for the disclosure of protected information under section 61 of the Act, the process to be followed by the agency is set out in AIR 15. AIR 9.f also places a general duty on the adoption agency to supply any section 56 information requested by the Secretary of State.

- To a court having power to make an order under the Act or the 1989 Act.

Sections 43 and 44(5) of the Act require the adoption agency to submit a report to the court on the suitability of the applicants and any relevant welfare issue under section 1 of the Act. Once an adoption order has been made, and the case record is subject to the provisions of the AIR, the agency may still be required to supply information to the court where, for example, an adoption agency decision is the subject of a judicial review or in connection with proceedings instigated by the registration authority. The agency is required to provide access to, or disclosure of, any section 56 information requested by the court.

- To an officer of CAF/CASS or a Welsh family proceedings officer in the discharge of their duties under the Act.

This will apply to records held under the AAR prior to the making of an adoption order. The duties of the CAF/CASS officer are set out in section 102 of the Act. Section 103 provides that they may exercise a right of access to adoption agency records to fulfil their duties under the Act. This includes safeguarding the child's rights in an application for a placement order, or if they are appointed to do so in an application for an adoption order, submitting reports to the court relating to the child's welfare if so ordered, and witnessing consent to the making of an adoption order. The CAF/CASS officer has no right to see the adoption case records when witnessing consent to placement under section 19 of the Act; the information necessary for the CAF/CASS officer to fulfil their duty will be supplied by the agency under AAR 20.

- To the Public Services Ombudsman for Wales for an inquiry held by him under section 2 of the Public Services Ombudsman (Wales) Act 2005.

Similar considerations will apply here as in a request from the English Local Government Ombudsman.

- To a fostering service provider within fifteen working days of a request under regulation 26.1A.f of the Fostering Services (England) Regulations 2011.

9.18 AAR 42 also makes it clear that the agency must disclose information from its case records to the extent specified in other parts of the AAR. This would include, for example:

- notifying the child's parents of the agency's decision that the child should be placed for adoption under AAR 19;
- notifying the prospective adopter of the agency's decision to approve them or not as suitable to adopt under AAR 30B;
- where a prospective adopter requests a review by an independent review panel, sending information to that panel under AAR 30C;
- providing the prospective adopter with a copy of the child's permanence report and the adoption placement report under AAR 31;
- where the agency decides to place a child for adoption with a particular prospective adopter, notifying them and the child's parents of the decision under AAR 33; and
- providing the prospective adopter with the adoption placement plan under AAR 35.

Discretionary access or disclosure to records

9.19 AAR 42.2 gives the agency the discretion to allow access to its case records and disclose the information from them as it thinks fit for the purposes of carrying out its functions as an adoption agency. For example, this may include disclosing information when the child's agency needs information from the prospective adopter's agency during the matching and placement process or disclosing information to the prospective adopter prior to the adoption order, such as the child's life story information.

Records of disclosure

9.20 Under AAR 42.3, where the agency discloses information from its records, whether because of a requirement in AAR 42.1 or in the exercise of its discretion under AAR 42.2, it must keep a written record of access and disclosure. Under AIR 11, a similar duty applies, but is spelt out in more detail. The record must include:

- a description of the information disclosed;
- the date on which the disclosure was made;
- the person to whom the information was disclosed; and
- the reason for the disclosure.

It is important that the agency keeps a detailed and accurate record of any information disclosed to any person by virtue of AIR 8 or 9. This is particularly important where the agency has exercised its discretion to disclose information by virtue of AIR 8.1 or where it

has entrusted protected information to an adoption support agency or an adoption agency under AIR 8.2. It is important that the agency is able to verify at any given time details of the information it has previously disclosed under these regulations.

Transfer of records

9.21 AAR 43 permits the agency to transfer a copy of a case record, or part of that record, to another adoption agency when it considers this to be in the interests of the child or prospective adopter to whom the record relates. The agency is required to keep a written record of any such transfer.

9.22 If a VAA intends to cease to act or exist as a VAA it must transfer its case records to another adoption agency (subject to the prior approval of the registration authority) or transfer them to the local authority for the area in which its principal office is situated, and notify the registration authority in writing of the transfer.

9.23 Where the VAA amalgamates with another VAA to form a new VAA, it must transfer its records to the new VAA and notify the registration authority in writing of the transfer.

Chapter 10: Intermediary Services and Access to Information

Chapter 10 explains what the adoption agency or adoption support agency must do in respect of providing an intermediary service to adopted adults and birth relatives (adopted before 30 December 2005) and for giving access to information from case records to those adopted after 30 December 2005.

Counselling

10.1 The intermediary agency/adoption agency must provide written information about the availability of counselling to any person who makes an application or to any person who is the subject of an application and is considering whether to give their consent to the disclosure of identifying (or protected) information (see ISR 10(1) and AIR 16). The agency may provide the counselling itself, or arrange with one of the bodies listed in ISR 10 and AIR 17 to provide the counselling or specialist support on its behalf. Agencies may charge fees in certain circumstances (AIR 22).

10.2 In the case of proposed agreements for the sharing of protected information under AIR 11, the agency is also required by AIR 16 to provide written information about the availability of counselling to any person who enters into, or is considering entering into, such an agreement with the agency. Where the agency is considering setting up an agreement for the sharing of protected information, it is essential that any person who is considering being party to the agreement fully understands its effect, the information that may be shared under the agreement and the implications of their decision.

10.3 There is no legal requirement for a person to accept counselling or to receive any other form of support and advice before the agency discloses information to them under sections 60-62 of the Act or provides an intermediary service. The agency should explain to both the applicant and the subject of the application the benefits of counselling, any fees that may apply and give assurance that the agency will secure counselling on request (see ISR 10.3 and AIR 17). A refusal by the applicant to receive initial counselling and support, particularly in complex cases, could be one of the factors that informs the exercise of the agency's discretion as to whether or not to proceed with their application.

10.4 Where the applicant or the subject has complex support needs which an agency considers it cannot meet, they may be referred to their local authority for an assessment of their need for adoption support services under the Adoption Support Services Regulations 2005

10.5 Where the agency makes an arrangement with an ASA or VAA under ISR 10(4)(a) or AIR 17(2)(a), it must be satisfied that the agency's conditions of registration

allow it to provide counselling services and possess the necessary skills and experience. If necessary, the agency may verify the ASA or VAA's conditions of registration with Ofsted.

Disclosure of information for the purposes of counselling

10.6 The agency may disclose information, including protected information, to any person or body with whom it has made an arrangement to provide counselling on its behalf.

Adoptions pre 30 December 2005

10.7 This part of the guidance explains the legal framework governing the provision of information, and of intermediary services to facilitate contact between adopted adults and their adult birth relatives, in respect of any adoption prior to 30 December 2005. In relation to access to information, the Adoption Agencies Regulations 1983 still apply. In relation to intermediary services the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 provide a framework within which intermediary agencies may, on application of an adult adopted person, or an adult relative of such a person, act as intermediaries and, with the consent of the subject of the application, facilitate contact between them.

Introduction

10.8 In relation to a person adopted before the commencement of the Act on 30 December 2005, the provisions in section 51 of the Adoption Act 1976 regarding access to records were retained with some modifications. A framework for facilitating contact between adopted adults and their adult birth relatives was introduced under section 98 of the Act and the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 giving these people a right to request an intermediary service from intermediary agencies.

10.9 The framework under section 98 and the ISR provides adopted adults and their adult birth relatives with a right to apply to an intermediary agency for an intermediary service. Most birth relatives, including birth parents, will have little or no information that enables them to seek to trace a person from whom they have been separated by adoption and establish if they wish to have contact. This framework enables an intermediary agency to seek information from a range of sources that it may use to establish the current identity of an adopted adult, to trace them, and subject to obtaining their informed consent, disclose identifying information about them to the birth relative and facilitate contact. The intermediary agency will have an important role to play in providing specialist support and advice to all parties throughout this process.

10.10 An intermediary service is provided to assist adopted adults and their birth relatives obtain the information they need to trace a relative and establish contact with them, i.e. in relation to an adopted person, any person who (but for their adoption) would

be related to them by full and half-blood, or by marriage or civil partnership (section 98(7) of the Act). An adopted person aged 18 or over, who was adopted prior to 30 December 2005, has the right to request an intermediary service to trace and facilitate contact with a birth relative. An adult birth relative of an adopted person has the corresponding right where they wish to trace and establish contact with an adopted adult.

10.11 Unlike birth relatives, adopted people have a long established right to obtain information about their adoption and family history. Schedule 2 of the Act preserves the legal right of an adopted person on reaching age 18 to apply to the Registrar General for the information needed to obtain a certified copy of their birth certificate. Schedule 2 replaces the previous access to birth records provision at section 51 of the Adoption Act 1976. Adopted people may also apply to the appropriate adoption agency (AAA) for access to their adoption records. This is likely to include identifying information about their birth parents and, possibly, others who were involved in their adoption. See paragraph 16 for the definition of `appropriate adoption agency` and `identifying information`.

10.12 An adoption agency has the discretion under the Adoption Agencies Regulations 1983 to disclose the information it considers appropriate to an adopted person. This enables adoption agencies to provide adopted adults with the information they need about their family history and origins. This recognises that some adopted adults have no wish for contact with former relatives but do wish to receive information about their family history and early life.

10.13 Most adopted people apply for information from the adoption agency first before deciding if they wish to go further and actively pursue contact with a birth relative. Some adopted people undertake their own research to establish the identity and whereabouts of the person with whom they wish to have contact. They may then apply to an intermediary agency, in order to request that it make the initial approach to that person. In other cases, the intermediary agency may undertake the research and tracing on behalf of the adopted person, obtaining the information it needs from the adoption agency, the Registrar General, the courts or other public records. The extent of the work undertaken by the intermediary agency will therefore depend upon the range of information that the adopted person already holds.

Confidentiality and access to information

10.14 Regulations 14 and 15 of the 1983 Regulations provide for the retention, secure storage and confidentiality of adoption case records in all cases where the adoption order was made before 30 December 2005. The case records, in whatever format the information is preserved, must be kept in secure conditions at all times, e.g. a lockable cabinet or secure room to prevent the theft, unauthorised disclosure, loss or destruction of, or damage to the adoption records. This applies to adoption case records not kept at the agency's main premises, either on a temporary or permanent basis. The regulations also set out the circumstances in which adoption agencies must disclose information from

the records, or have discretion to do so. Records must be retained for a minimum of 75 years from the date of the adoption order.

10.15 The adoption agency should keep its security arrangements under review. Any breach of the security of records are acted on promptly and security arrangements changed, if necessary, to prevent recurrence. All agency staff with responsibility for handling adoption case records should be clear as to their duty to safeguard the records at all times.

10.16 ISR 4.2 distinguishes between the provision of an intermediary service and an adoption agency's function of disclosing information to adopted adults about their adoption, their family history and early life. Initially, most adopted people seek information about their adoption and reflect on this before deciding if they wish to go further and initiate a search for a birth relative. Where an adopted person is only seeking information about their adoption, they should apply to the adoption agency that holds the relevant case records about their adoption. The adoption agency has the discretion under regulation 15 of the 1983 Regulations to disclose the information it considers appropriate to the adopted person. The adoption agency's function of providing access to the records it holds does not in itself constitute an intermediary service for the purposes of section 98 of the Act and the regulations.

10.17 Adoption records, like other records, are subject to the provisions of the Data Protection Act 1998, except in one respect. They are exempted from the subject access provisions of section 7 of that Act by virtue of the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 (as amended by article 2 of the Adoption and Children Act 2002 (Consequential Amendments) Order 2005). This means that the person who is the subject of the record does not have the right to insist on seeing all the records that the data controller holds about them. Nevertheless, in most cases it will be appropriate for the agency to exercise its discretion under regulation 15 of the 1983 Regulations to disclose to the adopted person information that it holds about him or her.

10.18 Where it is a question of the possible disclosure of 'third party' information, such as identifying information about members of the birth family or former foster carers, the agency must act in accordance with the principles of the 1998 Act. Although the starting point for disclosure of third party information is that it should only be disclosed with the consent of the person to whom it relates, information about a third party must be disclosed if "it is reasonable in all the circumstances" to do this without their consent; see section 7(4) of the Data Protection Act. A similar approach is likely to be helpful in deciding how to apply the Data Protection Principles to disclosure of adoption information. It will be necessary to consider the impact that disclosure will have on the third party and weigh this against the impact that non-disclosure will have on the person seeking information. The agency in exercising its discretion will need to take account of the context and all the circumstances; see the case of *Gunn-Russo v Nugent Care*

Society [2001] EWHC Admin 566. It is important that the reasoning behind any decision as to disclosure be fully recorded.

10.19 Under Schedule 2 of the Act, an adopted person on reaching age 18 may apply to the Registrar General for the information needed to obtain a certificate copy of their birth certificate. The adopted person may use this information as the basis for undertaking their own search for a birth relative using the public records available to them. They may then apply for an intermediary service to make the initial approach to the birth relative with whom they are seeking contact on their behalf.

10.20 Part 1 of the practice guidance on Access to Information and Intermediary Services provides further information about the provision of information and counselling to adopted adults under the 1983 Regulations and Schedule 2 of the Act. It should be noted that adoption support agencies may also have a role to play in the delivery of this service.

Intermediary services

10.21 An intermediary service is assisting adopted adults, who were adopted before 30 December 2005, to obtain information in relation to their adoption; and facilitating contact between such persons and their relatives (see ISR 4.1). It is important to note that the provision of information to adopted people may also occur under the 1983 Regulations when the adoption agency holding the records exercises its discretion to provide information 'for the purposes of its functions as an adoption agency'. In these circumstances the provision of information does not fall within the definition of an intermediary service under the ISR (see ISR 4.2).

10.22 An intermediary agency is an adoption support agency (ASA) or an adoption agency that provides an intermediary service in accordance with the regulations. See ISR 4.3.

10.23 'Appropriate adoption agency' is defined by section 65(1) of the Act, in relation to an adopted person or to information relating to the adoption, as the agency that placed that person for adoption, or if different, the agency which keeps that person's adoption records. In a non-agency adoption, the AAA is the local authority to which notice of intention to adopt was given. In some older adoptions, particularly before 1976, there may be no AAA. This might be, for example, where the adoption was arranged privately and no local authority was given notice of intention. In some cases it may prove impossible to establish which agency, if any, was the AAA.

10.24 'Identifying information' is defined in ISR 7.4, for the purposes of regulations 7, 9 and 12 as information which, whether taken on its own or together with information possessed by the applicant, enables the subject, i.e. the subject of the application, to be identified or traced.

Who may provide services?

10.25 ISR 3.1 stipulates that an intermediary service under section 98 of the Act may be provided by an ASA or an adoption agency. An ASA will need to be registered under Part 2 of the Care Standards Act 2000 to provide these services, and indicate this in its statement of purpose. An adoption agency may choose to provide an intermediary service, although there is no statutory requirement for it to do so. When it does so, it must provide the service in accordance with the requirements of the ISR. A VAA that provides intermediary services is exempt from having to register as an ASA but they need to notify Ofsted and request the variation of their conditions of registration. A local authority should also notify Ofsted that they provide an intermediary service.

10.26 The regulations confer functions on ASAs, adoption agencies, the courts and the Registrar General and set out the detail of how intermediary services will operate and the circumstances in which the bodies listed above will be able – or required – to disclose information to each other to facilitate the tracing of individuals involved in a person's adoption.

Accepting applications

10.27 Applications may be accepted from persons adopted before 30 December 2005 for assistance in contacting a birth relative, or from a relative of a person, adopted before 30 December 2005, for assistance in contacting the adopted person. Where the adoption took place after 30 December 2005, the framework at sections 56-65 of the Act and the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 will apply.

10.28 An intermediary agency must give priority to those applications it receives in respect of adoptions that took place prior to 12 November 1975. This is intended to help intermediary agencies, the Registrar General and the courts manage demand for these services, and to provide priority access to services for those who have the greatest need. These are likely to be those birth relatives who relinquished a child for adoption many years ago, and are now elderly, and adopted people who were adopted many years ago and whose birth parents are now elderly. In relation to adoptions after 12 November 1975, where the intermediary agency has limited capacity it may only accept applications where it is satisfied that the circumstances are sufficiently exceptional, such as where the applicant is terminally ill. Where the intermediary agency does have spare capacity, it may routinely accept applications in respect of post-1975 adoptions.

10.29 Both the applicant and the subject of the application must have attained the age of 18. Before proceeding with an application, the intermediary agency should seek to establish, as far as reasonably practicable, that both the applicant and the subject of the application are aged 18 or over. Where the intermediary agency accepts an application, for example from an adopted person seeking contact with a birth sibling, and the agency subsequently discovers that the subject of the application is under the age of 18, it must

not proceed further with the application. This does not limit the powers of a local authority, which has responsibilities under the adoption support provisions to provide support and counselling to an adopted adult in this position.

No obligation to proceed if not appropriate

10.30 The intermediary agency has a general discretion not to proceed, or continue proceeding, with an application unless it considers it appropriate to do so. In reaching this decision, ISR 6.2 requires the intermediary agency to have regard to certain specified issues.

10.31 It is important to note that this regulation applies not only to the intermediary agency's initial decision on whether to proceed, but also to the possibility of a later decision on the appropriateness of continuing. In some cases, there may be strong reasons, either apparent immediately to the intermediary agency in its contact with the applicant, or expressed by the AAA when it gives its views, which argue against taking up the application. In the majority of cases, however, the information gathered and other factors affecting a decision will become apparent over time. The agency's own procedures need to ensure that they allow the opportunity to reflect on the information as it becomes available, so that the agency can appropriately exercise its discretion as to whether to continue with the application.

10.32 In deciding whether to proceed or continue proceeding with an application, ISR 6.2.a requires the intermediary agency to have regard to the welfare of the applicant, the subject of the application, and any other person who may be identified or otherwise affected by the application. It must also have regard to all the other circumstances of the case. Each case will be different and some will involve additional factors or particularly complex issues.

10.33 Where the AAA is providing the intermediary service, it will first need to consider the information available to it on the case records it holds. If necessary, it may also seek additional information held by the Registrar General on the Adoption Contact Register to help inform the exercise of its discretion as to whether to proceed, or continue proceeding, with the application. For example, where the subject of an application has registered a wish for no contact with the applicant on the Adoption Contact Register, the intermediary agency may decide, based on that entry, not to proceed further with the application. Nevertheless, the agency should advise the applicant that the subject might change their mind in the future and that if the applicant registered on the Adoption Contact Register, they would be notified if this were to occur. There may also be information on the relevant adoption case record to indicate that proceeding with the application could place the applicant (or the subject) at risk of harm.

10.34 Many adopted people have already sought some information about their adoption before deciding that they wish to pursue contact with a relative. Some adopted people will have undertaken their own research and established the current identity and

whereabouts of the person with whom they are seeking to establish contact. In such cases, they may apply to an intermediary agency to make the initial approach to that person. It is important, therefore, that on receipt of an application the intermediary agency establishes, as far as possible, what information the applicant already holds, what steps they have taken to trace the person(s) with whom they are seeking contact and their expectations in relation to possible contact. This will be an important part of the preparatory work with any applicant, and still assist the agency in deciding whether to initiate the further enquiries needed to proceed with the application.

10.35 Where the intermediary agency is not the AAA, ISR 12 requires it to establish if an adoption agency was involved in the adoption and, if so, to identify the AAA. It is then required to ascertain the adoption agency's views on the application and any proposed contact between the applicant and the subject of the application. It is possible that another agency involved in the placement (in the case of an interagency placement), or the provision of adoption support (where the adoptive family lives outside the area of the placing agency) may have information that has not been shared with the AAA. The AAA may wish to ascertain from such an agency whether they hold information that would be relevant to the enquiry of the intermediary agency.

10.36 The adoption agency may express the view, based on the information it holds, that proceeding with the application could be harmful to the welfare of the applicant or the subject of the application. The intermediary agency must have regard to those views. The adoption agency will be best placed to provide advice to the intermediary agency based on the information it holds. If the subject of the application is an adopted person who has registered a veto, the agency will be bound by the terms of the veto. The intermediary agency may also seek information held by the Registrar General on the Adoption Contact Register to help inform its decision as to whether to proceed with the application.

10.37 ISR 12 sets out the enquiries that the intermediary agency must make of the AAA. In the majority of cases the intermediary agency will be best placed to deal with the case, and to form a view on the appropriateness of proceeding, if it receives from the AAA not only its views on the application, but the reasons for those views, with information supporting the reasoning. This will also be essential to enable the intermediary agency to provide counselling for the applicant.

10.38 In circumstances where:

- the intermediary agency is unable to establish the identity of the AAA;
- the AAA is identified but its records have been lost or destroyed; or
- the intermediary agency establishes that no adoption agency was involved in the adoption;
- the intermediary agency will have scant information to inform its decision as to whether to proceed. Thus, it may be useful to seek information that the

Registrar General may hold on the Adoption Contact Register to inform any decision as to whether to proceed with the application.

10.39 In addition to the welfare of the applicant and the subject of the application, the intermediary agency is also required by ISR 6.2.a.iii to have regard to the welfare of “any other person who may be identified or otherwise affected by the application”. The agency will therefore need to have regard to the welfare of the adoptive parents as well as any siblings within the adoptive family. Although the intermediary agency is not routinely required to seek the view of the adoptive parents, it will need to exercise its discretion as to whether it is appropriate to do so having regard to the particular circumstances of the case.

10.40 The views of the adoptive parents will not on their own be decisive but one of a range of factors to which the agency must have regard in deciding whether to proceed, or continue proceeding, with the application. However, where a younger sibling within the adoptive family is under the age of 18, the intermediary agency is required by ISR 6.3 to have particular regard to his or her welfare.

10.41 The intermediary agency must have regard to any information it obtains from the Registrar General on the Adoption Contact Register under ISR 13 in deciding whether to proceed, or continue proceeding, with an application. Where the subject of the application had registered a wish for “no contact” on the Adoption Contact Register, this does not preclude the intermediary agency from proceeding, or continuing to proceed, with the application. The intermediary may still proceed with the application if it considers it appropriate to do so. Each case will be different and must be judged on its merits. That is why the intermediary agency is also required by ISR 6.2 to consider “all the circumstances of the case”. Any approach made by the intermediary agency in these circumstances should make it clear that the agency is aware of the subject’s registered wish for no contact.

10.42 The intermediary agency must have particular regard to the welfare of a child who may be identified or who may be affected by the application. This will apply where, for example, the subject of an application is a 19 year old adopted person with a sibling under the age of 18. Although it will ultimately be for the adopted adult to decide if they wish to have contact with the applicant, the intermediary agency must also consider the welfare of the younger sibling in deciding whether to continue with the application. The agency may wish to seek the views of the subject’s adoptive parents on this issue in coming to its decision. Where the agency decides to consult them it should make clear that this is an opportunity for them to make their views known but that they have no right to veto the application. Where the intermediary agency forms the view that proceeding with the application would not be in the interests of the younger sibling’s welfare, it may decide not to proceed with the application or to proceed with the application in the future.

10.43 The intermediary agency must not proceed, or continue proceeding, with an application where it ascertains that the subject of the application is under the age of 18.

Consent of subject to disclosure of identifying information

10.44 The framework for the provision of intermediary services is based on the premise that contact and the sharing of information will only be facilitated where both parties agree. ISR 7 therefore prohibits an intermediary agency from disclosing identifying information to the applicant about the subject of the application without having first obtained the subject's consent. This important safeguard recognises that some adopted persons and birth relatives have no wish to be traced or to have their details passed on.

10.45 The requirement to obtain consent is intended to provide a safeguard against the inappropriate disclosure of sensitive information about the subject, which the intermediary agency has obtained on the applicant's behalf, and which would not otherwise be available to the applicant. This will generally be the identifying information obtained from the adoption agency's case records or other information that is not in the public domain. Therefore, this regulation will not apply to any identifying information that the applicant already holds, for example, where an adopted adult has undertaken their own research and has been able to establish the identity and/or whereabouts of the subject. ISR 7 does also not apply to identifying information which could reasonably be obtained by the applicant from existing public records, for example birth, marriage, civil partnership or death certificates held by the Registrar General or information from the electoral register.

10.46 ISR 7.2 applies where intermediary agency discovers that the subject of the application has died or where it determines that the subject is incapable of giving informed consent. Informed consent means that the subject fully understands the nature, circumstances and background of the agency's request and the implications of their decision to give or withhold consent.

10.47 Where the intermediary agency ascertains that the subject of the application has died, this regulation provides the discretion to disclose identifying information about the subject, having first had regard to the matters specified at ISR 6.2. The intermediary agency must therefore have regard to the welfare of any other person who may be identified by disclosing the identifying information about the subject or any other person who may be affected by the application.

10.48 Each case will be different but the intermediary agency should consider, as a minimum, whether it is appropriate to seek the views of the deceased person's next of kin before deciding whether to disclose the identifying information. Much will depend on the circumstances, particularly the length of time since the person's death and the circumstances (if known) of the death. The agency may also consider it appropriate to seek the views of persons in addition to the next of kin, such as other family members of the subject, depending on the circumstances of the case. The agency must have regard to the welfare and views of the next of kin and possibly others when deciding whether to disclose the identifying information. It may then disclose the information to the applicant if it considers it appropriate to do so.

10.49 In circumstances where the intermediary agency determines that the subject is incapable of giving informed consent because of a learning difficulty or other mental impairment, it is again required to have regard to the matters specified in ISR 6.2. The agency may again need to seek the views of others before deciding whether it is appropriate to disclose identifying information about the subject to the applicant.

10.50 The intermediary agency will need to establish if someone has been appointed to act on behalf of the subject, for example, the Court of Protection, and would have to consult that person or body. Depending on the circumstances of each individual case, the agency may also wish to seek the views of others such as the subject's spouse or registered civil partner (if applicable) or other family members. Subject to any views obtained by the intermediary agency and having regard to the welfare of others identified or affected by the application, the agency may then disclose identifying information to the applicant if it considers it appropriate to do so.

10.51 The intermediary agency must take steps to ensure that any person whose consent is required has sufficient information to be able to make an informed decision as to whether to give their consent. This regulation requires the intermediary agency to provide the subject with information about the application and the background of the case. The intermediary agency may also provide the subject with information about the applicant, their circumstances and the reasons for their application. This may include information that identifies the applicant, as the subject will wish to know who is making contact, their reasons for doing so and their expectations, see ISR 16.

10.52 The process of obtaining consent will need to be handled carefully and compassionately and the intermediary agency should advise the subject about such counselling services or other specialist support and advice as may be available. Finally, the intermediary agency must be satisfied that the subject fully understands the nature and circumstances of the request for consent and the implications of any consent decision they might make.

10.53 Adopted people and birth relatives are likely to be in a different position, in that an adopted person has a right to obtain a certified copy of their birth certificate and is likely already to possess a range of information about the subject of the application, including their identity. They may also already have had access to some information from adoption agency records. It is principally for this reason that "identifying information" in this regulation is defined as information, which, whether taken on its own or together with other information possessed by the applicant, enables the subject to be identified or traced. Where the applicant is a birth relative it will usually be the former, i.e. the information which reveals the current identity of the adopted person.

10.54 Where the applicant is an adopted adult, they may have undertaken their own research that enabled them to establish the current identity and/or the whereabouts of the person with whom they are seeking contact. They may subsequently apply to an intermediary agency to make the initial approach to that person. The requirement to

obtain the subject's consent will not therefore apply to any identifying information already held by the applicant. However, where the intermediary agency obtains any identifying information about the subject over and above that which is already held by the applicant, and which is not otherwise publicly available to the applicant, it is required to obtain the consent of the subject to the disclosure of that information. Where consent is not given, the intermediary agency will need to make it clear to the subject that the applicant already holds sufficient information to enable them to make a direct approach and may choose to do so even if the subject has indicated a wish for no contact with them.

Veto by an adopted person

10.55 Where an adopted adult has no wish for contact with birth relatives, the main repository for formally registering such a wish will continue to be the Adoption Contact Register maintained by the Registrar General. Section 80 of the Act enhanced the role of the Adoption Contact Register so that an adopted adult or a birth relative may formally register a wish for no contact or for contact. An adopted person may also specify those birth relatives with whom they do or do not wish to have contact. ISR 6.2 requires an intermediary agency to have regard to any information which it has obtained from the Adoption Contact Register in informing its discretion as to whether to proceed, or continue proceeding, with an application.

10.56 There will be some cases where an adopted adult has no wish for contact or to be approached by an intermediary agency on behalf of a birth relative. There will also be cases where the adopted person only wishes to be approached on behalf of a specified birth relative or in specified circumstances. In such cases, ISR 8.1 enables the adopted person to register a formal veto with the AAA.

10.57 An adopted adult may formally register an absolute or a qualified veto. An absolute veto would prevent an intermediary agency from making an approach in any circumstances. However, a qualified veto would enable the intermediary agency to make an approach on behalf of a birth relative specified by the adopted person or in circumstances specified by the adopted person, for example, where there was information about a hereditary medical condition.

10.58 This provision is intended to ensure that where an adopted person has no wish to be approached by an intermediary agency, that wish for privacy is respected.

10.59 Where an adopted person wishes to register a formal veto with the adoption agency under ISR 8, the adoption agency must first take steps to verify that the person seeking to register the veto is the adopted person. Any veto must be an `informed veto`. Therefore, before any veto may be registered the agency must also be satisfied that the adopted person fully understands the implications of so doing, particularly where they wish to register an absolute veto. The agency should explore fully with them their reasons for wishing to register a veto and should explain clearly the effect of doing so. The agency must also make clear to the adopted person their right to amend or withdraw

the veto at any time and the steps to be taken should they wish to do so. The agency should consider the adopted person's need for counselling in respect of any decision to register, amend or retract any veto, whether absolute or qualified.

10.60 A formal veto is not a life-long veto but will remain in place until such a time as it is amended or retracted by the adopted person. An absolute veto under ISR 8.1.b.i will prevent an intermediary agency from making an approach on behalf of a birth relative under these regulations. So, for example, where the birth relative wished to establish contact with the adopted adult because of a possible hereditary medical condition, the intermediary agency would be precluded from proceeding with an application under these regulations by virtue of ISR 8.3. In such cases, the AAA could pass on the medical information supplied by the birth relative to the adopted person where it considers it appropriate to do so. The agency must be fully satisfied that the circumstances are sufficiently exceptional to warrant contacting the adopted person to pass on this information. In exceptional cases, a person may also make an application to the court under section 79(4) of the Act for the disclosure of the identifying information held by the Registrar General on the Adopted Children Register.

10.61 There may be a small number of cases where a birth relative has been able to establish independently the identity and/or the whereabouts of an adopted adult without any assistance from an intermediary agency. They may then apply to an intermediary agency to make an initial approach to the adopted person on their behalf. Where the intermediary agency ascertains that the adopted person has registered a veto it will not be able to make this approach on behalf of the birth relative, unless the circumstances of the application match those specified by the adopted person in any qualified veto.

10.62 However, given that the birth relative already holds the information that would enable them to make a direct approach, the adoption agency that holds the veto may contact the adopted person to notify them of this fact. The agency should advise them that the veto would need to be amended or withdrawn to enable the intermediary agency to take forward the application and provide the necessary expert counselling and support. It should be made clear to the adopted person that if they do not wish to amend or withdraw the veto, then the birth relative may choose to make a direct approach.

10.63 An adopted person can register a qualified veto which enables them to specify the person(s) on behalf of whom an approach from an intermediary agency would be welcome. For example, an adopted person may not wish to be approached on behalf of a birth parent but would welcome an approach on behalf of a birth sibling.

10.64 This regulation also enables the adopted person to specify the circumstances in which an approach from an intermediary agency would be welcome. They could specify, for example, that an approach would only be welcomed where the intermediary agency was acting on behalf of a birth relative who had important medical information they wished to impart or in circumstances involving a bequest from a deceased birth relative.

10.65 The AAA must keep a written record of any veto on the adopted person's case record. It is important that where an enquiry is made by an intermediary agency the AAA is able to respond speedily and inform the intermediary agency of the existence of the veto. Agencies may find it helpful to maintain a central register of any vetoes recorded, perhaps with the index to their adoption records. Where an intermediary agency contacts the adoption agency under ISR 12 to ascertain its views on an application, it is also required by this regulation to notify the intermediary agency of the terms of any veto which may have been recorded on the adopted person's case record.

10.66 An intermediary agency may not proceed with an application from a birth relative where it is aware that an absolute veto has been registered. Where a qualified veto has been registered with the AAA, the intermediary agency may only proceed where the application falls within the circumstances specified by the adopted person.

Provision of background information where consent refused etc

10.67 ISR 9 will apply where the intermediary agency has been unable to obtain, for whatever reason, the consent of the subject to the disclosure of identifying information to the applicant. It will also apply where the adopted person has registered a veto with the AAA under ISR 8.

10.68 The intermediary agency has the discretion to disclose background information to the applicant if it considers it appropriate to do so. This could be a wide range of information, provided it does not fall within the definition of identifying information at ISR 7.4. It allows the intermediary agency to pass on details of the subject's domestic or family circumstances, their general health and well-being or other information that may be of value to the applicant.

Counselling

10.69 There is no legal requirement for a person to receive counselling, whether or not they have already received counselling when applying to the Registrar General for access to birth records or to the adoption agency for the disclosure of information about their adoption. However, the valuable role that counselling can play is well established.

Procedure on receipt of application

10.70 The agency must take reasonable steps to verify the identity of the applicant and any person acting on the applicant's behalf. For this purpose, it may be necessary to ask for a passport, driving licence or other evidence. The passport or driving licence, or a birth certificate, will also provide proof of age, which is required by ISR 12.b.

10.71 Where a person is claiming to act on behalf of the applicant it will be necessary (ISR 11.c) for the agency to satisfy itself that they are authorised to do so. Where the applicant suffers from mental incapacity this may not be a straightforward matter.

10.72 Where the applicant is a birth relative of an adopted person, ISR 11.d requires the agency to confirm the relationship. For example, a birth mother may prove her relationship to the adopted person by providing a copy of her birth certificate, her child's original birth certificate, and if she was married after the child's birth, her marriage certificate. Before proceeding with an application the intermediary agency may request any additional documentation it considers appropriate in order to be satisfied on this point.

Contacting the appropriate adoption agency

10.73 ISR 12 will only apply in those cases where the intermediary agency is not the AAA. Where the intermediary agency has accepted an application, it must take all reasonable steps to establish whether an adoption agency was involved in the adoption and, if so, to identify the AAA. The applicant may know the adoption agency that arranged the adoption, in which case the intermediary agency needs not make any further enquiries other than to establish if the agency still exists or where the relevant adoption records are held.

10.74 ISR 12.2 sets out the steps that the intermediary agency may take in seeking to identify the AAA, through the Registrar General, the court, or the local authority for the area in which the adoption took place. The Registrar General may be able to identify, from the records he holds, if an adoption agency was involved in the adoption and the name of that agency. It needs to be borne in mind that, for past adoptions, the courts had no obligation to notify the Registrar General of the name of the adoption agency and the court itself may be the best source of information. Where the Registrar General does hold information about the AAA, he is obliged by ISR 14.1 to disclose this information to the intermediary agency. Where he does not hold this information he is required by ISR 14.2 to provide the intermediary agency with written confirmation of that fact together with details of the court that made the adoption order. ISR 12.2.b then permits the intermediary agency to make an application direct to the court for the information it needs, and the court is required by virtue of ISR 15 to supply the information, for which it may charge a fee of up to £20. Where the court is unable to comply with the request because it does not hold the information sought, it must notify the intermediary agency in writing, specifying the searches that have been made of the court records. Where it has reason to consider that another court may hold the relevant information it must also provide the intermediary agency with details of that court.

10.75 An application to the court for information to identify the AAA, is to be distinguished from an application by an adopted person, or a birth relative to a court asking for other information from the court files under the exercise of judicial discretion. (See Rule 53(4) of the Adoption Rules 1984 and Rule 32(1), (3) and (6) of the Magistrates' Courts (Adoption) Rules 1984). The provision of information under ISR 15.1 is an administrative act that can be undertaken by the court staff.

10.76 The intermediary agency may make enquiries of the local authority in the area in which the adoption took place. The local authority may have placed the child for adoption or it may have provided a report to the court. It may also hold the adoption records in respect of former VAAs that used to operate within its boundaries or it may be able to signpost the intermediary agency to the authority that now holds the relevant record.

10.77 If it has been possible to identify the AAA, the intermediary agency must make enquiries of that agency. It is first essential to establish, in the case of an application by a birth relative, whether the adopted person has registered a veto with the AAA under ISR 8. If a veto has been registered, the intermediary agency is prohibited from proceeding with the application, unless the circumstances fall within the terms of a qualified veto. The agency may nevertheless be able to provide the applicant with some background information under ISR 9.

10.78 On an application by a birth relative, where no veto exists, the intermediary agency is required to ascertain from the AAA whether the subject of the application has ever registered their views with the agency as to contact or about being approached by the agency with regard to facilitating contact. The adopted person may have previously contacted the agency to register their views about possible contact or about being approached by an agency on behalf of a birth relative. They may have previously indicated a wish for contact or no contact or expressed a wish only to be approached by the agency in certain circumstances, such as where important health information has come to light. Where a wish for no contact was registered by an adopted person prior to implementation of the Act, this will not constitute a formal veto under ISR 8. Where the adopted person has registered their views with the adoption agency, the intermediary agency is therefore required by ISR 6 to have regard to those views in deciding whether to continue with the application.

10.79 Where the application is by or on behalf of an adopted person, the birth relative who is the subject will not have been able to register a veto. Nevertheless, they may have contacted the adoption agency to indicate their views on any possible approach with regard to contact. If they have done so, then the intermediary agency must have regard to those views in deciding whether to proceed.

10.80 The intermediary agency must ascertain the AAA's views as to the appropriateness of the application and any proposed contact between the applicant and the subject. In forming its view on the application, the AAA must have regard to the matters set out in ISR 6, including the welfare of the applicant and the subject. There may be information on the case record to indicate that the application is inappropriate or even vexatious. The intermediary agency is required by ISR 6.2.b to have regard to the views of the adoption agency in deciding whether to proceed, or continue proceeding, with the application.

10.81 Having considered the adoption agency's views on the application, together with the other matters set out at ISR 6, if the intermediary agency decides to proceed with the

application it may then seek the disclosure of certain information from the adoption agency. ISR 12.3.c permits the intermediary agency to seek the information it requires for the purposes of:

- counselling and preparation of the applicant;
- tracing the subject of the application;
- enabling the subject to make an informed decision as to whether they consent to the disclosure of identifying information to the applicant or possible contact;
- counselling the subject, in the relation to the consent decision.

10.82 The AAA is required by ISR 12.4 to take reasonable steps to provide the intermediary agency with the information it has requested for the purposes listed above. Where the information requested is clearly not relevant to the purposes set out in ISR 12.3.c the AAA is under no obligation to provide it. It is important that the agency respond quickly to the request for information; there is a risk that an applicant, particularly an adopted person who already knows the identity of birth family members, frustrated by the delay in providing the information, may decide to bypass the intermediary agency and attempt direct contact themselves. The AAA should make clear to the intermediary agency any conditions or restrictions that the agency may have imposed in respect of the continued safekeeping or onward disclosure of that information.

Obtaining information from the Registrar General

10.83 ISR 13 permits an intermediary agency to seek further information from the Registrar General in certain circumstances. These are where the intermediary agency:

- is unable to obtain sufficient information from the AAA to enable it to trace the subject of the application;
- is unable to identify the AAA or ascertains that there is no AAA; or
- finds that the AAA does not hold the relevant information.

10.84 The intermediary agency may request in writing from the Registrar General information from the Adoption Contact Register. An entry in the Adoption Contact Register may contain the information that the agency needs, such as an address, to enable it to trace the subject. If the entry in the Adoption Contact Register indicates that the subject has registered a wish for no contact with the applicant, the agency will need to consider whether it is appropriate to continue with the application despite the registered wish, but it is not prohibited from doing so.

10.85 The agency may also request, if necessary, the information that the Registrar General holds linking an entry in the Register of Births with an entry in the Adopted Children Register. Where the intermediary agency has been unable to establish the post-adoption identity of the adopted person, for example because the records have been lost

or are incomplete, or because the adoption was a private arrangement with no agency involvement, this information will enable it to do so.

10.86 An AAA whose own records are lost or incomplete may also seek information from the Registrar General under this regulation.

10.87 The Registrar General must take reasonable steps to comply with a written request for information under ISR 12 or 13. If he holds the information requested he is obliged to disclose it, and he may charge a fee of £10 for doing so.

Authorised disclosures

10.88 ISR 16 stipulates the circumstances in which an intermediary agency may disclose information, including identifying information, to other persons or bodies.

10.89 The intermediary agency may disclose information to the Registrar General or the court where it is seeking information from them under ISR 12 or 13. The agency will need to provide the Registrar General or the court with sufficient information about each individual case to enable them to properly discharge their functions under ISR 14 and 15. This will include information which identifies individuals including the applicant and the subject of the application.

10.90 The intermediary agency may disclose information to the AAA for the purpose of ascertaining the agency's views on the application or seeking information under ISR 12.3.c. The agency will need to disclose the information it holds about the application, including details of the applicant and the subject to enable the AAA to identify the case records to which the application refers and provide the intermediary agency with the information it requires.

10.91 The intermediary agency may disclose information, including identifying information, to the subject of the application as required by ISR 7.3 to provide sufficient information to enable the subject to make an informed decision as to whether to give consent. This information will include details of the applicant and any other information that will assist the subject in fully understanding the nature, circumstances and background of the application.

10.92 The intermediary agency may disclose information to any person or body with whom it has made an arrangement to provide counselling on its behalf. For counselling and support to be meaningful and beneficial, the body providing the counselling will probably require access to some or all of the information that the intermediary agency holds about the application. This will include any information that the intermediary agency may have obtained from the AAA under ISR 12. It is important that the AAA which has supplied the information is aware of the intention of the intermediary agency to share it with another body in order for it to provide the counselling.

10.93 The intermediary agency may attach conditions or restrictions on the information it passes to the body or person providing the counselling. For example, where counselling

is being provided to the applicant, the body or person providing that counselling must take care not to disclose any identifying information about the subject where their consent to the disclosure has not been obtained. However, where such consent has been obtained and the intermediary agency considers that it is appropriate for the information to be disclosed to the applicant, the person providing the counselling may be authorised to disclose that information on behalf of the intermediary agency.

Offence

10.94 The inappropriate disclosure of identifying information could be distressing and may even place individuals, including children, at risk of harm. ISR 17 therefore makes it a criminal offence for an intermediary adoption agency to disclose any information in contravention of ISR 7.

Fees

10.95 An intermediary agency has the discretion to charge a reasonable fee to cover any costs incurred in processing an application, including counselling. It may include any costs incurred by the agency in seeking to identify the AAA, and ascertaining the agency's views under ISR 12, tracing the subject of the application and seeking their consent under ISR 7. The fee may be charged to the applicant or the subject of an application who is considering whether to give their consent to the disclosure of identifying information under ISR 7.

10.96 Where the subject has requested that counselling and support be provided, it is envisaged that any fees associated with providing the counselling would normally be met by the applicant, as it would not be appropriate to charge the subject in connection with a service which they did not initiate. There may be circumstances where the subject would be prepared to meet those costs such as where the applicant was unable to do so themselves.

10.97 The general expectation is that the intermediary agency would normally provide the counselling itself, although it may choose to make an arrangement with any of the bodies listed at ISR 10.4 to provide counselling services on its behalf. Where the intermediary agency secures the provision of counselling by another agency on its behalf, ISR 18.2.a permits it to charge a fee to cover any reasonable costs it incurs in securing that provision.

10.98 Where the intermediary agency secures the provision of overseas counselling for a person, ISR 18.2.b permits it to charge a fee to that person to cover any reasonable costs it incurs in securing that provision.

10.99 An adoption agency may charge an intermediary agency a fee in connection with a request under ISR 12. This will be a fee which it decides is reasonable for providing its views on the appropriateness of an application, or for disclosing information for the purposes set out at ISR 12.3.c.

10.100 The intermediary agency is obliged to pay fees charged under these provisions, but may seek to recover these costs from the applicant as part of the charge it may make for processing an application.

Adoptions post 30 December 2005

The legal framework

10.101 Sections 56–65 of the Adoption and Children Act 2002 and the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 (AIR) set out the legal framework for managing and disclosing information in relation to adoptions which have taken place since 30 December 2005. The overarching aim of the framework is to ensure greater consistency in the information that adoption agencies keep, the length of time for which it is kept and the way in which that information is disclosed.

Adopted persons – legal rights

10.102 Under the Act, people adopted on or after 30 December 2005 retain the right, on reaching age 18, to apply for the information needed to obtain a certified copy of their birth certificate. Applications must be made to the appropriate adoption agency (AAA) rather than to the Registrar General because the AAA is considered best placed to disclose sensitive information, to consult interested parties and to arrange for the provision of counselling and support. The AAA will generally be the agency that placed the child for adoption or, if different, the agency that holds the relevant adoption case records or the local authority to which notice of intention to adopt was given. See sections 60(2)(a) and 65(1) of the Act.

10.103 Section 60(2)(b) of the Act provides an adopted person, on reaching age 18, with a right to receive from the AAA the information disclosed under section 54 of the Act to the prospective adopters during the adoption process. This will be the information contained in the child's permanence report provided by virtue of AAR 31.

10.104 On receipt of such an application, the agency will need to consider carefully how best to disclose it. The agency should consider whether it would be best for the information to be disclosed in parts over time accompanied by appropriate counselling and support. This may help lessen the impact for the adopted person of receiving potentially distressing information about their early life while still enabling them to fulfil their right to receive the information.

10.105 Section 60(4) of the Act provides that an adopted adult has the right to receive from the court which made the adoption order, documents relating to their adoption in so far as they do not contain any protected information. These documents are prescribed in Rule 14(18) of the Family Procedure Rules 2010. An adopted person seeking this information from the court is unlikely to have access to counselling unless this is offered by an adoption agency or an adoption support agency.

Adoption agency responsible for keeping information

10.106 Generally, the adopted person's case record will continue to be kept by the adoption agency that placed the child for adoption. Where that agency has ceased to operate or exist, the agency to which the case records are transferred must keep the information.

Information to be kept about a person's adoption

10.107 Where an adoption order has been made by the court, AIR 4 specifies the information that the adoption agency must continue to keep on the child's adoption case record. In transitional cases where the child's case record was established under the Adoption Agencies Regulations 1983 but where the adoption order was made after 30 December 2005, the agency is required to keep the information prescribed by AIR 4. This is referred to as "section 56 information" which encompasses both identifying information and background information about the persons involved in the adoption.

10.108 Identifying information is "information which, whether taken on its own or together with other information disclosed by an adoption agency, identifies the person or enables the person to be identified" (see section 57(4) of the Act). Identifying information kept by the agency will be wide-ranging and includes:

- information about the adopted person, their birth parents and other birth relatives, the adoptive parents and others, such as former carers, professionals involved in assessments and social workers, and may comprise of names, residential addresses, educational or employment addresses, legal and medical information and photographs or audio-visual material;
- information given to the agency by a birth parent or birth relative (or other significant people in the adopted person's life). It also covers information obtained from the Registrar General about an adopted person's birth record and about an entry relating to the adopted person on the Adoption Contact Register;
- any identifying information, and information obtained from the Registrar General described in paragraph 4 is defined by section 57(3) of the Act as "protected information".

10.109 Background information will be information that does not identify any person or enables them to be identified, for example the child's birth details and medical history and details of any hobbies and interests.

10.110 The agency must also keep:

- any information, mementos and photographs that has been deposited by a birth parent or relative or other significant person in the adopted

person's life, with instructions that it is passed to the adopted person at an appropriate time in their life;

- any information supplied by the adoptive parents or other persons. This regulation also covers information in respect of other issues that may arise after the adoption order has been made, for example, where the adoptive parents have contacted the agency to request an assessment for adoption support services, including financial support;
- any information that the adopted person has requested should be kept. This might include the adopted person's views as to the disclosure of information about themselves or a formal expression of their wish for contact, or no contact, with their birth parents or other birth relatives. This regulation also covers any general correspondence that the adopted person may have with the agency after the adoption order has been made;
- any information given to the adoption agency by the Registrar General that would enable an adopted person to obtain a certified copy of their birth certificate. This information would be sought by the agency if it receives a request from the adopted adult but does not hold the information. See section 79(5) of the Act;
- any information given to the adoption agency by the Registrar General about an entry relating to the adopted person on the Adoption Contact Register;
- any information required to be recorded in accordance with AIR 10, 14 or 18;
- the record of any agreement for the disclosure or non-disclosure of protected information about an individual under AIR 11.

10.111 The agency has the discretion not to keep information supplied under AIR 4 (3)(a) to (c) if not reasonably practicable or it considers that it would be prejudicial to the adopted person's welfare to keep it, for example, inappropriate or vexatious items supplied by a birth parent.

Storage and manner of keeping of section 56 information

10.112 Any section 56 information, in whatever format, must be kept in secure conditions at all times to prevent the theft, unauthorised disclosure, loss or destruction of, or damage to it.

10.113 There is nothing to prevent the agency from transferring paper records and documents to microfiche or other electronic or digital media but it must be confident that the information can be retrieved during the next 100 years. Documents that are likely to

be significant to the adopted person should always be preserved in their original format so that the adopted person can see and handle them.

10.114 Where section 56 information is so transferred, the agency must ensure the confidentiality and integrity of this material. The agency should not transmit section 56 information outside the agency by email or facsimile unless its confidentiality can be assured.

10.115 The adoption agency should keep its security arrangements under review, and any breaches of the security of records should be acted on promptly to prevent any recurrence. All agency staff with responsibility for handling section 56 information should be clear as to their duty to safeguard this information at all times.

Preservation of section 56 information

10.116 All section 56 information (in any format) must be kept for a minimum of 100 years from the date of the adoption order. Any section 56 information destroyed after the 100 year period must be treated as confidential waste and disposed of accordingly. See chapter 9 for guidance on storing the case of adoption records of children who were not adopted, or the records of prospective adopters who were not approved.

Transfer of section 56 information

10.117 Where a VAA ceases to operate or exist it must transfer any section 56 information it holds to another adoption agency, or to the local authority in whose area the VAA's principal office is situated, or to the new VAA in the case of a VAA which amalgamates with another VAA to form a new VAA. The VAA must first obtain Ofsted's approval before transferring the information.

10.118 The adoption agency receiving the section 56 information must give Ofsted written notification of the transfer and will automatically become subject to the duties in the AIR in respect of that information.

10.119 Where a VAA transfers its records to another adoption agency it must, if its activities were mainly based within a single local authority area, notify that local authority of the transfer. It is important that former clients on a VAA that has ceased to operate are able to local easily that agency's case records in the event that they wish to make an application for the disclosure of information.

Disclosure for purposes of agency's functions or for research

10.120 AIR 8(1) provides an adoption agency with the discretion to disclose any background information from the section 56 information it holds as it thinks fit for the purposes of its functions, for example to give birth parents or other relatives information about the child.

10.121 The agency could also use this discretion to provide additional information about the child to the adoptive parents. This could be information supplied by the birth parents or other birth relatives whom the agency considers will be beneficial to the adoptive parents in the care and upbringing of the child. This may be particularly relevant where the child has no contact with the birth parents or any ongoing links with the birth family.

10.122 Where the agency exercises its discretion to disclose background information to any person, it must take care to ensure that information does not identify a person when linked with other information previously disclosed by the agency.

10.123 Before an agency makes a determination, whether the protected information under section 61 or 62 of the Act should be disclosed, it should seek the views of any person the information is about.

10.124 Depending on the circumstances of each case, the agency may wish to make an arrangement with an ASA or another agency to undertake this work on its behalf and can disclose section 56 information to them (AIR 8(2)). The responsibility for making a determination as to whether the information being sought will remain with the agency that received the initial application.

10.125 Before making such an arrangement with an ASA or adoption agency, the adoption agency must first be satisfied that the conditions of the ASA's or VAA's registration do not prevent it from providing such services; and that the ASA or adoption agency has the requisite skills and experience to manage each individual case, especially those involving difficult or complex issues.

10.126 The adoption agency should also seek the prior agreement of the ASA or adoption agency providing services on its behalf that any section 56 information it discloses will only be used for the purposes for which it was disclosed.

10.127 An adoption agency may disclose to a researcher authorised in writing by the Secretary of State, section 56 information and protected information. A Department for Education civil servant, acting on behalf of the Secretary of State, will provide the written authority for a researcher to seek the disclosure of section 56 information.

10.128 Before the Secretary of State's authority is given, research proposals will be examined carefully to assess whether the potential value of the research justifies disclosure by the agency (or agencies). The adoption agency must also be satisfied that the researcher will properly safeguard any section 56 information it discloses and its confidentiality maintained. Authorised researchers should be required by the agency to sign an undertaking to use any section 56 information only for the purposes of the research project and that no information will be published in the research findings that may enable any person involved in an adoption to be identified.

Disclosure required for purposes of inquiries, inspection, etc

10.129 An adoption agency is required by AIR 9 to provide access to the section 56 information it holds or to disclose this information as may be required to the persons or bodies listed. Where a request for access to, or the disclosure of, section 56 information falls within the scope of this regulation, the agency has no discretion to withhold the information or deny access to it. The circumstances in which disclosure is required are set out in detail in chapter 9, as they are similar to those prescribed in AAR 42.

Requirements relating to disclosure

10.130 The adoption agency must keep a written record of any disclosure made under AIR 8 or 9 on the adoption case record. This record must include a description of the information disclosed, the date on which the disclosure was made, the person to whom the information was disclosed; and the reason for the disclosure.

10.131 It is important that the agency keep a detailed and accurate record of any information disclosed to any person by virtue of AIR 8 or 9. It is important that the agency is able to verify at any given time details of the information it has previously disclosed under the AIR.

Agreements for the disclosure of protected information

10.132 An increasing number of adopted children will have experienced a number of placements during their time in care and there could be a range of people who played in important or stable role in the child's life prior to their adoption. A formal agreement would enable any of those persons to register their views as to the disclosure of protected information about themselves at some future time. In the event that the adopted person applied to the agency for the disclosure of protected information about that person, the agency would not be required to take the steps at section 61(3) of the Act to seek that person's views, as their prior agreement to the disclosure of the information had already been given. Such an agreement is not intended to override or limit the sharing of information as part of the life story work for the adopted child.

10.133 Formal agreements for the sharing of protected information between the agency, the adopters and the birth parents are likely to be rare. However, where an agreement is being contemplated the agency must be satisfied that all parties are fully aware of the implications of entering into such an agreement and its effect. The agency must provide information about the availability of counselling and any fees that may apply, to any person who is considering entering into an agreement. Before making the agreement, the agency must also be satisfied that it is beneficial to the child's welfare and best interests.

10.134 AIR 11 does not impose a specific duty on the agency to review the agreement. However, where a person's views change or where the agency becomes aware of a change of circumstances it should consider the continuing validity of the agreement. As the adopted child grows older, the agency should also consult the child and consider if the agreement continues to meet their needs.

Duties of agency on receipt of application, and record of views

10.135 It is ultimately for the agency to determine whether to disclose protected information to a person who requests it. In making that decision the agency is required under the Act to take steps to seek the views of the subject of the information (or the parent or guardian if that person is a child) and weigh these up against the welfare of the adopted person and all the other circumstances of the case. Where the information is about a child, the agency must have particular regard to the child's welfare – for an adopted child this must be the paramount consideration.

10.136 Adoption records, like other records, are subject to the provisions of the Data Protection Act 1998 (apart from the subject access provisions). So where it is a question of the possible disclosure of 'third party' information, such as identifying information about members of the birth family or former foster carers, the agency must not only act in accordance with sections 61 and 62 of the Act, but also in accordance with the principles of the Data Protection Act.

10.137 What is important is that both the Act and the 1998 Act require the agency to carry out a balancing exercise between the rights of the person requesting disclosure and those of the person to whom the requested information relates to in considering the overall fairness of disclosure. The agency in exercising its discretion will need to take account of the context and all the circumstances of the case. It is important that the reasoning behind any decision as to disclosure is fully recorded.

Disclosing protected information about adults

10.138 When a person (whether an adopted person or a birth relative or other person with an interest) applies to the AAA for the disclosure of protected information none of which involves a child, the agency has to decide whether to proceed with the application. Before doing so, the agency must take reasonable steps to verify the identity of the applicant (or of any person acting on the applicant's behalf). The agency may request any additional documentation it considers necessary such as a passport, driver's licence or a certified copy of a birth certificate or adoption certificate.

10.139 A person who is unable to submit an application, for example, because of physical or mental incapacity, may authorise a person to make an application on their behalf (AIR 13(b)).

10.140 The agency is not required to proceed with an application unless it considers it appropriate. In reaching this decision, the ADM must consider the matters set out at section 61(5) of the Act.

10.141 Where the agency does proceed with the application, it is required by section 61(3) of the Act to take all reasonable steps to obtain the views of the subject of that information as to the disclosure of that information.

10.142 Where a person cannot be traced and their views ascertained, the agency may apply to the Registrar General for any information he may hold about them on the Adoption Contact Register (AIR 20(1)(b)). The Adoption Contact Register may contain information, such as whether the person would not welcome contact or where contact is welcome, their most recent address. It is important to bear in mind that the individual may amend their entry on the Adoption Contact Register and the Registrar General is not required to inform the agency if this occurs. Therefore, any information previously obtained by the agency may not be up to date.

10.143 The agency may also use information from an entry on the Adoption Contact Register to help inform its discretion as to whether or not to disclose protected information about the individual to whom the entry relates. Where the agency cannot trace an individual to seek their views as to the disclosure of information, but that person has registered a wish for contact with the applicant on the Adoption Contact Register, the agency may determine to disclose the protected information to the applicant if it considers it safe and appropriate to do so. Similarly, the agency may determine not to disclose the information where the person has registered a wish for no contact with the applicant on the Adoption Contact Register.

10.144 Where the agency has been able to trace the subject, it must ensure that those views are recorded in writing making it clear, as far as possible, whether the subject has indicated their agreement or objection to the disclosure of protected information about themselves. The subject's views should be kept on the adoption case record.

10.145 In determining if it is appropriate to disclose the information, the agency must consider the welfare of the adopted person, the views of any person to whom the information relates and all the other circumstances of the case.

10.146 The ADM therefore has the discretion to determine whether it will disclose or withhold protected information on the grounds that it was in the interests of the adopted person's welfare, contrary to the views expressed by the person the information is about.

Disclosing protected information about children

10.147 Where a person applies to the AAA for the disclosure of protected information and any of that information is about a child, the agency again has the

discretion not to proceed with the application unless it considers it appropriate to do so. Where the agency determines to proceed with the application it must first take all reasonable steps to obtain the views of any parent or guardian of the child, and the child, if the agency considers it appropriate having regard to their age and understanding, as to the disclosure of the information. Where a person applies to the agency for information that identifies both an adult and an adopted child, the agency must also take reasonable steps to obtain the views of the adult as to the disclosure of that information. However, notwithstanding those views, the adopted child's welfare must continue to be the agency's paramount consideration in deciding whether to disclose the information.

10.148 The agency may then disclose the information if it considers it appropriate to do so. In deciding if it is appropriate to disclose the information where any of the information is about a child, if the child is an adopted child, their welfare must be the paramount consideration; in the case of any other child, the agency must have particular regard to their welfare.

10.149 The agency must also consider the welfare of the adopted person (where the adopted person is not a child), any views obtained, including the views of any parent or guardian of the child (and the views of the child if appropriate); and all the other circumstances of the case.

10.150 Protected information will only normally be disclosed where the agency is satisfied that it is in the interests of the child's welfare to make the disclosure.

10.151 Any decision made is not a qualifying determination as defined in AIR 15 and thus there is no right to request an independent review.

Disclosure of information for the purposes of counselling

10.152 The adoption agency may disclose section 56 information, including protected information, to any person or body with whom it has made an arrangement to provide counselling on its behalf. For the agency or ASA to provide counselling, support and advice, which is meaningful and beneficial to the recipient, it will require access to the section 56 information held by the adoption agency. It is anticipated that the agency will normally give the person or agency providing the counselling and support unrestricted access to the section 56 information it holds.

10.153 The agency may attach conditions or restrictions on the information that may be disclosed by the person or body providing the counselling. Sections 61 and 62 of the Act require the adoption agency to make the determination as to whether to disclose protected information to the applicant. However, in circumstances where the agency had already determined that the disclosure of protected information was appropriate, it may give the agency providing the counselling permission to disclose the information on its behalf in the course of counselling. The counselling agency may only disclose protected information on the adoption agency's behalf with the express permission of that agency.

10.154 The agency must keep a written record on the adoption case record of any information it discloses to a person outside the agency for the purposes of providing counselling on the agency's behalf. Where the adoption agency has authorised the body providing the counselling to disclose protected information on its behalf, this should be made clear in the written record made under this regulation.

Seeking information from the Registrar General

10.155 Where an adopted adult applies to the AAA for the information they need to obtain a certified copy of their birth certificate but the agency does not hold this information, it must apply to the Registrar General for this information on the adopted person's behalf. The Registrar General must give this information to the agency to pass on to the adopted adult – see section 79(5) of the Act.

10.156 If the agency decides that the information that an adopted adult needs to obtain a certified copy of their birth certificate should be withheld, it must apply to the High Court for an order denying the adopted person access to this information, see section 60(2)(a). The Court will only grant an order allowing the agency to withhold the information if it is satisfied that the circumstances are exceptional.

Fees charged by adoption agencies

10.157 The Act and the AIR make provision for the charging of fees by adoption agencies in connection with the disclosure of information and the provision of counselling. An adoption agency has the discretion to charge a fee to any person to cover any reasonable costs incurred in processing an application for the disclosure of information and the provision of counselling, or to waive its fees in whole or in part where, for example, the person seeking the disclosure of information has a limited ability to pay.

10.158 The exception to this is that no fee may be charged to an adopted person in respect of any information disclosed to them about a birth relative or counselling given in connection with that disclosure. See section 64(5) of the Act and AIR 22.

10.159 It is important that potential service users are made aware of any fees that may apply before the agency agrees to process their application. The agency should make it clear that any fee charged will be limited to covering the costs it incurs in processing an application. Where the agency publishes a schedule of fees it must ensure that this is regularly updated, and made available to any person who applies for the disclosure of information under sections 61 or 62 of the Act.

Annex A: Abbreviations

1989 Act - the Children Act 1989

1998 Act - the Data Protection Act 1998

1983 Regulations - the Adoption Agencies Regulations 1983

2006 Act - the Children and Adoption Act 2006

2010 Regulations - the Care Planning, Placement and Case Review (England) Regulations 2010

AAA – appropriate adoption agency

AAR - the Adoption Agencies Regulations 2005

Act - the Adoption and Children Act 2002

ADM - agency decision maker

AIR - the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005

ARR - the Restriction on the Preparation of Adoption Reports Regulations 2005

ASA - Adoption Support Agency

ASR - the Adoption Support Services Regulations 2005

ASSA - Adoption Support Services Adviser

British Islands - England, Wales, Scotland, Northern Ireland, the Channel Islands and the Isle of Man

CPR - child's permanence report

DBS - Disclosure and Barring Service

FER - the Adoptions with a Foreign Element Regulations 2005

FfA - Fostering for Adoption

Hague - the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption 1993

IRM - independent review mechanism

IRO - Independent Reviewing Officer

ISR - the Adoption Information and Intermediary Services (Pre-Commencement Adoption) Regulations 2005

Register - the Adoption and Children Act Register

Recognition List - The Adoption (Recognition of Overseas Adoptions) Order 2013

UK (United Kingdom) - means England, Wales, Scotland and Northern Ireland but does not include the Isle of Man or the Channel Islands

VAA - Voluntary Adoption Agency

Annex B: Qualities of Adoption Panel Members

Chapter 8 paragraph 8.22

The chair

At least one individual with the qualities needed to chair an adoption panel. This individual must be independent of the agency. See AAR 4.7 for the definition of independence. The most significant qualities that a panel chair should have are:

- a sound understanding of the adoption process
- the authority and competence to chair a panel
- the ability to analyse and explain complex information
- the ability to identify key issues, problems and solutions
- excellent interpersonal, oral and written communication skills.

If the chair does not possess a sound understanding of the adoption process but possesses all the other qualities, they may be appointed provided the agency considers that they will quickly develop an understanding of the adoption process and the agency ensures that the panel chair receives appropriate training before taking up their appointment.

The vice chair

The vice chair should have the skills and experience necessary to deputise for the chair. These should be similar to the qualities for the panel chair. Unlike the panel chair, there is no requirement for the vice chair to be independent of the agency though this would be preferable where feasible.

Social workers

One or more social workers with at least three years' relevant post qualifying experience. Relevant experience should be in child care social work, including direct experience in adoption work. These social workers do not need to be employed by the agency. Social workers who do not meet the requirement in AAR 3.1.a may also be included on the central list, but they would be in addition to the social worker who does meet the requirement in AAR 3.1.a. Agencies may include on the central list individuals who are employed by the agency and those who are trustees or elected members

Agency's medical adviser

Where the agency has more than one medical adviser they may all be included on the central list.

Other persons

These will include individuals who are not employed by the agency and whose appointment would help reflect the independent nature of the panel. Suitable members could include specialists in education, child and adolescent mental health, race and culture; and also those who have personal experience of adoption.

Performance

Before including an individual on the central list, the agency should inform them in writing of their performance objectives, which should include participation in induction and training, and safeguarding the confidentiality of records and information submitted to the panel. The individual members should sign an acceptance form to record their agreement to these objectives.

To ensure the chair and individuals on the central list remain suitable to remain on that list their performance is to be reviewed annually against agreed performance objectives. The agency's decision-maker should review the performance of the panel chair, and for this purpose may attend a proportion of panel meetings but only as an observer. Views about the chair's performance should be sought from other panel members, and from those who attend panel meetings, such as prospective adopters and social workers. The agency adviser to the panel and the panel chair should conduct the performance review of those individuals on the central list.

Where an agency identifies that the chair or an individual on the central list is not performing to the required standard, perhaps as part of the review process, it should ensure that this is discussed promptly with the individual with the aim of addressing any development needs through advice and training. If, however, their performance remains below the required standard and the agency considers they should not remain on the central list, they should be informed that their services are no longer required. The individual must be given one month's notice of the agency's intention to remove their name from the central list. The notice should be in writing and include the reasons for the decision.

Once appointed to an adoption panel the chair's or individual's appointment can only be terminated if they are unsuitable or unable to consider the case. This action may be taken when, for example, the individual becomes unavailable through illness or business commitments, when a previously unidentified conflict of interest arises (e.g. the individual knows the prospective adopters). Terminating the individual's appointment to the panel is not the same as removing their name from the central list. The agency can continue to appoint the individual to another panel for as long as it considers that individual suitable.

Annex C: Standard letter - Qualifying determination in respect of prospective adopters - unsuitable to adopt

Chapter 8 paragraph 8.44

I am writing to tell you that having considered your application to become an adoptive parent and the recommendation of the adoption panel, this agency does not propose to approve you as suitable to be an adoptive parent. This is because [DN insert full and detailed reasons so that the prospective adopter understands fully why they are considered unsuitable to adopt a child. Include a copy of the adoption panel's recommendation if different] (this is referred to in this letter as "the determination").

I know this will be disappointing news for you but before this determination is implemented, you may:

- a. accept the determination; or
- b. make written representations to this agency; or
- c. apply for the determination to be reviewed by an independent review panel.

Option a – Accept the determination

It would be helpful if you could advise me, within 40 working days from the date of this letter, if this is your preferred option. The determination will be confirmed and a formal decision will be sent to you.

Option b - Representations to the agency

If you choose to make representations to this agency, these must be in writing and be received at this office within 40 working days from the date of this letter. On receipt, I may consider your case again or refer it and your written representations to the adoption panel to consider and to make a fresh recommendation to me. If I do refer your case to the adoption panel you will be invited to attend the panel meeting to answer any questions the adoption panel may have. If I reconsider your case I may invite you to meet me to discuss your case. If I do refer your case to the adoption panel, I will take its recommendation into account when I make the final decision on your suitability to adopt.

Option c – Application to an independent review panel for a review

If you wish to apply to the independent review panel to review the determination, your written application and your reasons for the application must be received by the administrator to the independent review panel within 40 working days from the date of this letter. You will be invited to attend the review panel's meeting. The function of the review panel is to consider your case anew and to make a fresh recommendation to the agency which will be taken into account alongside the original adoption panel's recommendation when I make the final decision on your suitability to adopt. For

information on the independent review mechanism (IRM) please see www.independentreviewmechanism.org.uk.

If I have not heard from either you or the independent review panel's administrator after the period of 40 working days has expired I will write to you confirming my decision on your suitability to adopt a child.

Annex D: Agreement to place a baby for adoption

Chapter 1 paragraph 1.33

Agreement to place a child for adoption where the child is less than 6 weeks old

Childs name

Childs date of birth

I,

of,

as the parent or guardian of the child state that:

I agree to the adoption agency placing the child for adoption with:

(a) the following prospective adopter(s):

name (or agency reference) _____ (and)
name (or agency reference) _____ ; or

(b) any prospective adopters who may be chosen by the agency.

I understand that:

I may inform the adoption agency that I wish to withdraw my agreement and ask for my child to be returned to me. If I do so, I may not myself remove my child from the prospective adopters as this would be the responsibility of the agency, which must comply with my request within seven days, unless any of the following orders are applied for or made in respect of the child:

- an emergency protection order or a care order under the Children Act 1989;
- a placement order or an adoption order under the Adoption and Children Act 2002.

I retain parental responsibility for the child.

I may only have contact with the child by agreement with the agency or by order of the court.

After the child is six weeks old, the agency will seek my/our formal consent to the child being placed for adoption.

Name and address of the adoption agency

Name of the adoption agency social worker and contact details

If you are in any doubt about your legal rights, you should obtain legal advice before signing this form.

Signed

Date

Witnessed

Date

Publicly funded legal advice may be available from the Community Legal Service.

You can get information about this or find a solicitor through www.gov.uk.

Annex E: Placing a child in care with relatives abroad prior to a possible adoption

This Annex is to support a local authority planning to place a child who is subject to an interim care order or a final care order abroad. Placement might be with relatives or, in certain circumstances, other persons who are closely connected to the child who are being considered as prospective adopters, but where no decision has been made by the authority to place the child for adoption with those relatives. This Annex deals specifically with applications to the court for approval to place a child in care with relatives abroad under a fostering arrangement prior to a possible adoption under paragraph 19(1) of Schedule 2 to the Children Act 1989 ('a paragraph 19(1) application'). It outlines the steps and issues local authorities need to consider before making such an application.

1. Section 84(4) of the Adoption and Children Act 2002 requires the child to have his or her home with the prospective adopters for 10 weeks before the court may make a section 84 order for parental responsibility. In *Re A (A Child) [2009] EWCA Civ 41*, the Court of Appeal held that the 10 week period could be partly or fully fulfilled by the time spent with the prospective adopters in their home abroad. The Court of Appeal also held that a placement for assessment abroad which might lead to adoption was not a placement for adoption and was therefore a legitimate use of paragraph 19(1) of Schedule 2 to the Children Act 1989 (the 1989 Act).

2. A local authority should only seek to make a paragraph 19(1) application to place the child with relatives abroad where adoption by those relatives is one of a range of possible outcomes for the child. Such a placement would allow the local authority to assess whether the placement is the right one, particularly in cases where those relatives are unable to come to England or Wales for part or all of the required 10 week period under section 84(4) of the Act.

3. Paragraph 19(9) of Schedule 2 to the 1989 Act is clear that the provisions of paragraph 19 do not apply where a local authority is placing a child for adoption with prospective adopters and therefore this Annex does **not** cover procedures relevant to adoptive placements. When the local authority is placing a child for adoption abroad it must instead consider sections 42, 84 and 85 of the Act, the Adoptions with a Foreign Element Regulations 2005 and the 1993 Hague Convention on Protection of Children and Co-operation in respect of Inter-country adoption (the Hague Convention) and chapter 4 of this guidance.

Children not subject to a care order

4. In cases where a child is provided with accommodation under section 20 of the 1989 Act (voluntarily accommodated) the local authority may place that child abroad under paragraph 19(2) of Schedule 2 to the 1989 Act with the agreement of all those with parental responsibility for the child. However, paragraph 19(6) makes it clear that the

requirements of section 85 of the Act are only disapplied where a child is to live outside England and Wales with the approval of the court. This means that where there is no court approval, the local authority will need to consider whether an offence may be committed under section 85 if the child is placed abroad with relatives under paragraph 19 prior to a possible adoption without those relatives first having obtained an order for parental responsibility under section 84 of the Act.

People closely connected to the child

5. There may be circumstances in which the local authority is considering placing a child with persons abroad who are not relatives, but are closely connected to the child. The local authority should only do so where special circumstances exist, such as cases where the child is being placed for assessment with potential adopters who had previously adopted the child's birth sibling(s), or where there is an existing close attachment between the child and the potential adopters. In all cases, the local authority will need to be satisfied that the placement abroad with those persons is in the child's best interests.

Reasons for the child being placed for an assessment outside England and Wales

6. The local authority needs to consider the child's best interests in deciding whether it is appropriate for all or part of the placement for assessment to take place outside England or Wales. In particular, the local authority should plan to minimise any risks of the placement disrupting whilst the child is abroad.

7. The local authority should explore with the relatives the possibility of them moving to England or Wales for a shorter period or, if a couple, for one of them to come for some of the time. The Court has held that it was not necessary for both prospective adopters to live with the child for the full 10 week period to satisfy the requirement of "having a home" under section 84(4) of the Act, provided the local authority has sufficient time to complete a satisfactory assessment.

8. The following issues should be considered by the local authority when considering where the placement should be:

- whether it is practical for the relatives to move to England or Wales for 10 weeks or more. Any application for a Convention Adoption order⁸, section 84 order or an adoption order cannot be made until after the 10 week period has elapsed. The relatives will need to wait for their application to be dealt with before taking the child out of England or Wales. Alternatively, they may have to return to the receiving State without the child. This may not necessarily be in the child's best interests

⁸ An adoption order that is made as a Convention Adoption order in accordance with regulation 50 of the Adoptions with a Foreign Element Regulations 2005.

- the most suitable place for a helpful assessment which can provide the maximum information and material for an assessment of the relatives' ability to provide a successful permanent placement for the child
- whether proper arrangements can be made for a full assessment to be conducted in the relatives' home country
- potential disruption to the child's education if the placement were to take place abroad.

Planning for the placement abroad

9. The local authority must ensure that any placement under paragraph 19(1) of Schedule 2 to the 1989 Act prior to a possible adoption is carefully planned. The following issues should be considered as part of the plan:

- whether the child is in care i.e. subject to an interim care order or final care order
- whether there are relatives within England or Wales with whom the child can be placed
- whether a placement order will be necessary if the local authority conclude that adoption is the best option and, if so, the timing of any placement order application, (taking into account that paragraph 19(1) approval can only be obtained in respect of a child in care and that a care order ceases to have effect when a placement order is in force)
- whether there is a bond/close attachment between the child and the relative/connected person
- the impact of placing the child abroad on arrangements for contact with the birth family
- the wishes and feelings of the child
- the wishes and feelings of the birth parents
- the legal basis for the placement in the short-term and in the long-term
- approval of relatives as local authority foster parents under the Fostering Services Regulations 2011/ the Fostering Services (Wales) Regulations 2003
- at what point the relatives will need to be assessed as prospective adopters by the authorities in the receiving State if the placement with them under paragraph 19 leads to the local authority deciding that adoption by them is in the child's best interests
- identifying and forming good links between the local authority professionals and the professionals in the receiving State.

- the immigration rules and visa arrangements for the child to go abroad for assessment and subsequently to be permitted to enter and reside permanently in the receiving State
- plans to facilitate secure attachments between the child and relatives to help ensure stable placements
- how the placement will be monitored
- what support services, including accommodation and financial support, will be provided by the local authority
- at what stage the child might be placed for adoption or other type of placement for permanence. How this will impact on panel dates/court proceedings/court dates/visits and reports
- where any adoption proceedings might take place (in England or Wales or in the receiving State)
- attendance of relatives at court proceedings in England or Wales. Or whether the relatives will accompany the child if he or she has to return to England or Wales until a section 84 or adoption order is made
- if adoption proceedings are to take place abroad, whether the adoption order will be recognised in England or Wales
- if adoption proceedings are to take place in England or Wales, whether the child will need to return to the UK following the assessment placement (for example, for the purposes of obtaining a visa granting indefinite leave to remain in the receiving State).

Article 56 of the Council Regulation (EC) No 2201/2003 (Brussels IIa)

10. Local authorities will need to consider whether the provisions of Article 56 of Council Regulation (EC) No 2201/2003 (known as Brussels IIa) are relevant. Article 56 applies to all Member States of the EU (except Denmark) and, in particular, requires that where a court is considering the placement of a child with a foster family in another Member State where public authority intervention is required for domestic placements, it should first consult the relevant authority in that Member State. The relevant authority is usually the Central Authority, but this will vary from country to country.

The care plan

11. Local authorities will need to include, as part of their paragraph 19(1) application, the care plan for the child. The care plan should include information about why the fostering arrangement under paragraph 19(1) is appropriate and how it will meet the child's needs. The care plan should include the range of options the local authority is considering for the child, along with detailed reasons why the local authority's preference is to place the child with the relatives abroad. There should be a strong case for the child

being considered for possible adoption abroad rather than domestic adoption, such as an existing and close connection between the child and the relatives/connected persons. The local authority should make clear what the legal basis of that placement might be in the short-term and in the long-term, and demonstrate that it has considered the appropriateness of contact with birth parents/other relatives and how this will be managed whilst the child is placed abroad.

12. The care plan should specifically address the following issues, some of which are covered in more depth below:

- the reasons for the fostering placement being outside England or Wales
- the immigration rules of the country where the child is to be placed
- the relatives' legal right to bring a child into the receiving State as a visitor and/or for adoption
- the wishes and feelings of the child
- the wishes and feelings of the birth parents
- plans to facilitate secure attachments etc
- arrangements for monitoring and supervising the placement
- managing parental responsibility and statutory duties whilst the child is abroad
- the arrangements for the child's return to England or Wales and the alternative care arrangements for the child if the placement is unsuitable or breaks down
- whether the relatives are expected to return to England or Wales and obtain a section 84 order or to proceed to adoption by applying for a Convention adoption order in the receiving State if adoption becomes the preferred option
- what support services will be available following the making of an adoption order
- the requirement for post-placement/adoption reports.

13. The local authority should prepare a detailed timetable of the steps in the assessment and court process. It should take into account the requirements of:

- the Hague Convention; the 'ten week requirement' under section 42(2) or section 84(4) of the Act
- the 'sufficient opportunities' requirement under section 42(7) of the Act
- fostering approval under the Fostering Services Regulations 2011/Fostering Services (Wales) Regulations 2003, the FERs, the AARs/Adoption Agencies (Wales) Regulations 2005, the court timetable, and immigration requirements.

Immigration rules of the receiving State

14. The local authority should seek specialist adoption/immigration advice in the receiving State to clarify immigration and citizenship issues in relation to the child entering and settling in the receiving State. The local authority should consider whether the relatives' status permits them entry into England and Wales or whether they need to satisfy visa requirements and whether they can sponsor the child to stay as well as to be adopted in the receiving State. The local authority should also consider what needs to be done to facilitate the child's entry and whether the immigration rules would allow the child to remain for an indefinite period without the child having to return to England or Wales.

15. The local authority should plan for the period the child is permitted to stay in the receiving State under that country's immigration rules, including consideration of the period, terms and conditions under which the child is permitted to stay in the country.

16. When considering placement plans other than adoption the local authority should obtain advice on the recognition and effect in the receiving State of any proposed order obtained in England or Wales. It should also obtain advice on how it will affect the status of the child in the receiving State both in the short term and as an adult.

17. The local authority should consider any visa requirements for social workers accompanying the child and the length of time required to acquire the necessary permits for social workers to enter, remain and/or work in the receiving State. For example, a social worker may need a work permit to carry out an assessment abroad. It is important to ensure that the social worker will not breach the immigration rules of the receiving State. Future plans for contact between the child and social worker should include exploring possible immigration issues to resolve immigration problems that might inhibit contact at a later stage.

18. Local authorities should consider whether social workers are required to be registered with a professional body in the receiving State as well as whether their professional indemnity cover extends to such activity.

Monitoring the placement

19. Under section 22 of the 1989 Act, the local authority has a duty to safeguard and promote the welfare of any child who is looked after by them which includes, in particular, a duty to promote the child's educational achievement. In addition, the local authority has parental responsibility for the child (shared with the birth parents) when a care order is in place under section 31 of the 1989 Act.

20. Local authorities will need to consider the requirements of the Fostering Services Regulations 2011 and the Care Planning, Placement and Care Review Regulations (England) 2010.

21. Prior to making a paragraph 19(1) application, the local authority will need to consider how these duties and requirements will be discharged during the child's placement abroad and, in particular, should include in the care plan details of the arrangements made for supervision of the child's placement. The local authority will need as part of the paragraph 19(1) application to be able to satisfy the court that there are suitable arrangements in place for the child's reception and welfare whilst abroad.

22. The local authority will also need to ensure that they have sufficient opportunities to assess the placement whilst the child is with the relatives in the home environment abroad.

23. Local authorities should consider whether agencies in the receiving State may be able to assist in supervising and monitoring the child's placement abroad, particularly where an agency abroad has already conducted an assessment of the relatives and will therefore have knowledge and information about them.

Planning for the outcome of the placement

24. There are a number of possible outcomes following the fostering placement abroad:

- returning the child who remains subject to a care order to live in England or Wales;
- an adoption under the Hague Convention or a non-Convention adoption where the receiving State is not a Convention country (both may involve adoption proceedings in either England, Wales or the receiving State);
- a long-term fostering placement, a residence order or a special guardianship order. These orders or placements may involve the child living in England or Wales or abroad with the relatives.

25. Local authorities should include in any application under paragraph 19(1) plans to reintegrate the child into their previous or a new environment in England or Wales if the placement is unsuitable or breaks down during or after the period abroad, including the arrangements for returning the child to England or Wales. The local authority should establish whether the receiving State is a signatory to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, and if not, whether the receiving State's authorities will recognise and support the local authority's parental responsibility and right to the return of the child to England or Wales if necessary.

Where adoption becomes the preferred option

26. Where adoption by the relatives with whom the child has been placed becomes the preferred option, the local authority will need to consider the relevant legislation and procedures.

27. Where the child is to be adopted by the relatives abroad, consideration will need to be given to whether it is appropriate for the child to return to England or Wales prior to beginning the placement for adoption. If the child is to return, then the local authority should be aware of the need for those relatives to obtain a section 84 order.

28. Hague Convention adoptions will either involve adoption proceedings in the receiving State (a Convention adoption) or adoption proceedings in England and Wales (a Convention adoption order). An adoption should proceed under the Convention in all cases where the Convention is in force between the UK and the receiving State. Local authorities must contact the Department for Education's intercountry adoption casework team about these cases.

29. Local authorities should consider section 49 of the Act and establish the residence and domicile status of the prospective adopters, and consider the immigration laws of the receiving State. These factors might influence the decision as to whether adoption proceedings will commence in the receiving State, in England or Wales following a section 84 order or whether it is more appropriate to commence Convention adoption order proceedings in England, Wales or in the receiving State. The following case study is an example of the processes to be followed if a decision is made to proceed to a Convention adoption. It is not intended to be prescriptive as to best practice and may not be an appropriate model in all cases is set out below.

CASE STUDY

The child's fostering placement for an assessment is with relatives abroad; Convention Adoption where adoption proceedings are contemplated in the receiving State

Phase 1

1. A child in the care of the local authority is being considered for Intercountry adoption with relatives abroad.
2. The local authority contacts the Central Authority, (the Department for Education) to inform them that the child is being considered for Intercountry adoption.
3. The Department for Education informs the Central Authority in the receiving State about the case and requests advice on roles, responsibilities and procedures for the receiving State's Convention cases.
4. The relatives travel to the child's home in England, where they are introduced to the

child and observe the child's routine in the child's current environment. The child might be placed with those relatives under regulation 24 (temporary approval of relative, friend or other person connected with C) of the Care Planning, Placement and Case Review (England) Regulations 2010.

5. The local authority should seek advice from an immigration/adoption law specialist in the receiving country to clarify immigration and citizenship issues in relation to the child entering and settling in the receiving State.

6. The local authority files an application at court for approval under paragraph 19(1) of Schedule 2 to the Children Act 1989. Evidence is filed in support of the application; the application is heard and approval granted.

7. The child travels to the receiving State with the relatives, a carer known to the child and a social worker for a placement assessment.

8. Further introductions take place with the family and the child within 1-2 weeks, after which the present carer will return. The social worker will remain for a period of up to 4 weeks and then return to England.

9. The child remains with the relatives and their family for the statutory period - at least 10 weeks.

10. Whilst in the receiving country, the social worker will commence assessment pursuant to AAR 31(2)(d) and section 43 of the Act (in respect of an application for a section 84 order).

Phase 2

1. The Department for Education receives the Article 15 report (the prospective adopter's assessment) from an accredited adoption agency in the receiving country.

2. The Department for Education checks the Article 15 report for completeness and compliance and sends it to the local authority.

3. The local authority convenes an adoption panel to consider the match after the prospective adopter's approval to adopt has been confirmed in the Article 15 report.

4. The social worker sends the 'adoption placement report' pursuant to AAR 31(2) (d) to the relatives 10 working days in advance of the Adoption Panel. The social worker completes the child's permanency report (to include a summary of possibilities for placement of the child within the United Kingdom) and an assessment of whether adoption by the relatives abroad is in the child's best interests pursuant to FER 38.

5. The child returns to England. If the report recommends adoption by the relatives they come with the child.

6. If it is then thought necessary and appropriate the local authority will pursue an application for a placement order pursuant to section 18 of the Act.

7. Pursuant to FER 44 the Adoption Panel will consider the matching report and Article 15 report.

Phase 3

1. If taking into account the Adoption Panel's recommendations, the ADM decides that the placement should proceed, the local authority will notify the Department for Education (FER 40) and prepare a report in accordance with Article 16 (FER 46), including the reasons for the decision. The local authority will provide details to the Department for Education in respect of any placement order or consent provided by the birth parent.

2. The local authority sends the Article 16 report to the Department for Education who will forward it to the Central Authority of the receiving country.

3. The prospective adopters decide to adopt in the receiving State rather than in England (this is the latest point at which this decision should be made).

4. The local authority confirms to the Department for Education that:

- it has met the prospective adopter and explained the requirement to make an application for an order under section 84 of the 2002 Act before the child can be removed from the UK for the purpose of adoption
- the prospective adopter has visited the child
- the prospective adopter is content for the adoption to proceed.

5. The Central Authority of the receiving State confirms the matters set out in FER 47(1)(a)–(e).

6. The Department for Education and the Central Authority of the receiving State agree that the adoption may proceed (in accordance with Article 17(c)).

7. The local authority agency places the child for adoption with the prospective adopter (as long as authority to place for adoption has been obtained by agreement of each parent or guardian or a placement order) and provides the prospective adopters with a placement plan.

8. The prospective adopter files an application for an order under section 84 of the Act and evidence in support of the application, including evidence to satisfy the requirement in FER 48(a) and (f) .

9. The local authority files evidence in respect of the section 84 application, to include evidence to satisfy the requirements of FER 48(b)–(e).

Phase 4

1. The application under section 84 of the Act for parental responsibility is determined by the court. If an order is made the care order and any other Children Act 1989 orders will be automatically discharged. The local authority should arrange for goodbye visits for the

child with the child's family. After the court has made a section 84 order the local authority will no longer have parental responsibility and will need the consent of the prospective adopters for the visits.

2. Subject to the court granting a parental responsibility order the relatives will travel with the child to the receiving State and will apply for a Convention Adoption within the receiving State .

3. The Central Authority in the receiving State will issue an Article 23 certificate to the UK Central authority when the adoption order is made. The Department for Education will record and forward Article 23 certificate to the local authority.

Annex F: Offences and penalties

Below is a summary of the offences since 30 December 2005 under the Act and regulations and the time limit within which proceedings may be brought.

Time period within which proceedings may be brought

Although offences under sections 9, 59, 93, 94 and 95 of the Adoption and Children Act 2002 (the Act) are summary offences, section 138 of the Act extends the normal time limits. Proceedings for these offences may not be brought more than six years after the commission of the offence but subject to that may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to their knowledge. Aside from this, the normal time limits for summary offences (six months from the commission of the offence) apply to summary offences under the Act. Certain of the offences under the Act are triable either way (e.g. sections 83 and 85) and may therefore be tried on indictment without time limit.

Arranging adoptions: section 92

Generally, only adoption agencies and persons acting in pursuance of a High Court order may take the steps specified in relation to the adoption of children. Where stipulated below, certain individuals are exempted from this general restriction. An adoption agency is a local authority or a registered adoption society, known also a VAA.

The steps are:

- Asking a person other than an adoption agency to provide a child for adoption. For example, a birth parent or a third party is asked to supply a child.
- Asking a person other than an adoption agency to provide prospective adopters for a child. For example, where the birth parent approaches a third party, such as an intermediary, and asks them to provide adopters for their child.
- Offering to find a child for adoption. For example, where X approaches Y and suggests that X can locate a child for Y to adopt.
- Offering a child for adoption to a person other than to an adoption agency. This would be where X, a parent of a child or an intermediary, who has already identified a child who could be adopted makes a direct proposal about them to Y.
- Handing over a child to any person other than to an adoption agency with a view to the child's adoption by the person who receives them or by someone else. For example, it would be where X takes and gives the child to Y for adoption, or X takes and gives the child to Z, so that Z can hand the child over to Y.
- Receiving a child for the purpose of adoption in contravention of sub-paragraph (e). This would catch Y for taking the child from either X or Z. It would also catch Z for receiving a child from X to hand the child over to Y.

- Entering into an agreement with any person for the adoption of a child, or for the purpose of facilitating the adoption of a child, where no adoption agency is acting on behalf of the child in the adoption. For example, this would catch both X and Y in their agreement for the adoption of the child by Y and it may also catch Z for helping to facilitate this arrangement under sub-paragraph (e) or in any other way that Z assists X and Y in the adoption of the child. “Agreement” includes an arrangement whether or not enforceable.
- Initiating or taking part in negotiations of which the purpose is the conclusion of an agreement within sub-paragraph (g) for the adoption of a child, or an agreement to facilitate the adoption of a child. In the example of X and Y it would also catch W who has no other role in the illicit adoption but does open up negotiations between X and Y by introducing them to each other for this purpose. Another example is V who participates in the negotiations, perhaps in a mediating role.
- Causing another person to take any of the steps mentioned in sub-paragraphs (a)-(h). This final step makes it clear that although a person may not have taken any of the steps in sub-paragraphs (a)-(h), that person commits an offence if they induce any other person to do so.

People who may also arrange adoptions

Paragraph 1 does not apply to a person taking any of the steps in sub-paragraphs (d), (e), (g)-(i) if the prospective adopters are parents, relatives or guardians of the child (or one of them is), or the partner of a parent of the child. Section 144(1) of the Act defines “relative” in relation to a child as a grandparent, brother, sister, uncle or aunt, whether of the full-blood or half-blood or by marriage, or civil partnership.

Offence

An offence will be committed if a person takes any of the steps above in contravention of section 92(1). Where section 92(1) is contravened by an adoption society, (i.e. because it is not registered) then the person who manages the adoption society will also be guilty of the offence.

Penalty: section 93

Liable on summary conviction, to a term of imprisonment not exceeding six months and/or a fine not exceeding £10,000.

Preparation of reports: section 94

The Restrictions on the Preparation of Adoption Reports Regulations 2005 prescribes those persons who may prepare or supervise the preparation of adoption reports for the purposes of section 94 of the Act. In summary they must be registered and properly experienced and properly supervised social workers employed by, or acting on behalf of, an adoption agency, or a student training to become a social worker who is employed by,

or placed with, an adoption agency, and supervised by a properly experienced social worker employed by the adoption agency.

These restrictions apply in the following circumstances:

- Preparing a report about whether a child should be placed for adoption (child's permanence report).
- Preparing a report about the suitability of a prospective adopter to adopt a child (prospective adopter's report).
- Preparing a report about whether a child should be placed for adoption with a particular prospective adopter (adoption placement report).
- Preparing a report of a visit to a child after they have been placed for adoption.
- Preparing a report of a visit or review of an adoption placement where a child has been brought into the country for adoption.
- Preparing a report of a review of a child's case where an intercountry prospective adopter fails to make an application to the court for an adoption order within two years of notifying the local authority of their intention to adopt the child.
- Preparing a pre-adoption report for a relevant authority in the child's State of origin of an intercountry adoption placement (otherwise than in accordance with the Adoption Agencies Regulations 2005 (AAR) or corresponding Welsh provision).
- Preparing a post-adoption report for a relevant authority in the child's State of origin following the adoption of the child (otherwise than in accordance with the AAR or corresponding Welsh provision).
- Preparing a report for the court in accordance with section 43 (reports in adoption agency cases) or section 44(5) (reports in non-agency cases) of the Act.
- Preparing a report for the court considering the making of an order under section 84 of the Act giving parental responsibility prior to the child being adopted abroad.

Offence

An offence will be committed if a person contravenes section 94 of the Act or causes a person to prepare a report, or submits to any person a report which has been prepared in contravention of section 94.

It is also an offence to prepare, cause to be prepared or submit a report prepared in contravention of section 94 of the Act.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding six months and/or a fine not exceeding level 5 on the standard scale.

Payments: section 95

It is a principle of the conventions relating to adoption to which the UK is a signatory that there should be no trade or traffic in children and no improper financial gains in the adoption process. Section 95 therefore prohibits various payments in connections with adoption; and section 2 requires registered adoption societies to operate on a not-for-profit basis. However, certain payments made to an adoption agency are accepted under section 96 of the Act.

Offence

The offences are: to make, offer or receive payments for or in consideration of

- the adoption of a child;
- giving consent to adoption;
- the removal from the UK of a child who is a Commonwealth citizen, or is habitually resident in the UK, to a place outside the British Islands for the purpose of adoption;
- A person taking any of the steps set out in paragraph 2(a) – (i) above in contravention of section 92(1);
- preparing a report in contravention of section 94(1).

Penalty

Liable on summary conviction to a term of imprisonment not exceeding six months and/or a fine not exceeding £10,000.

Advertising: section 123

Under section 123 certain advertisements or information about adoption that may only be published or distributed by or on behalf of an adoption agency.

Offence

An offence will have been committed where:

- There is an advertisement indicating that-

the parent or guardian of the child wants the child to be adopted,

a person wants to adopt a child,

a person is willing to take any steps in paragraph 2(a)-(e), (g) and (i) and that person is not an adoption agency,

a person is willing to receive a child handed over to them with a view to the child being adopted by them or another person, and the person is not an adoption agency,

a person is willing to remove a child from the UK for the purposes of adoption.

- Information is provided on how to do anything which would constitute an offence under certain provisions of the Act, the Adoption (Scotland) Act 1978 or the Adoption (Northern Ireland) Order 1987.
- Information about a particular child as a child available for adoption other than through an adoption agency.

Penalty: section 124

Liable on summary conviction, a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Restriction on bringing children into the UK: section 83

Section 83 of the Act applies where a person is habitually resident in the British Islands and brings a child into the UK for the purposes of adoption or having adopted the child outside the UK within the previous 12 months. This does not apply if the child has been, or is intended to be adopted under the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (Hague Convention). But regulation 59 of the Adoptions with a Foreign Element Regulations 2005 imposes other offences in relation to Convention adoptions. Before a person may bring a child into the UK, they must be assessed and approved as suitable to adopt by a UK adoption agency, and comply with the other relevant requirements of the Adoptions with a Foreign Element Regulations 2005.

Offence: section 83(7)

An offence would be committed if a person brings, or causes another to bring, a child into the UK and:

- they have not been assessed and approved as suitable to adopt by a UK adoption agency; or
- they have not met any condition required by the Adoptions with a Foreign Element Regulations 2005

Penalty

Liable on summary conviction to imprisonment for a term not exceeding six months, and/or a fine not exceeding the statutory maximum.

On conviction on indictment, to imprisonment for a term not exceeding twelve months, and/or a fine.

Taking a child abroad for adoption: section 85

Children who are Commonwealth citizens or who are habitually resident in the UK cannot be removed from the UK to a place outside the British Islands for the purposes of adoption. The exception is where a court has made an order giving the prospective

adopter parental responsibility for the child under section 84 of the Act (or authority is given under the relevant Scottish or Northern Irish legislation).

Offence

An offence would be committed:

- if a child is removed from the UK without a parental responsibility order (or authority given under the relevant Scottish or Northern Irish legislation);
- a person makes arrangements to remove a child without a parental responsibility order (or authority given under the relevant Scottish or Northern Irish legislation) including those where they;

enter into an arrangement for the purpose of facilitating the removal of the child;

initiate or take part in any negotiations of which the purpose is the conclusion of an arrangement with sub-paragraph (i), or

causes another person to take any step mentioned in sub-paragraph (i) or (ii).

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding six months and/or a fine not exceeding the statutory maximum. On conviction on indictment, to a term of imprisonment not exceeding twelve months, and/or a fine.

Inspection of premises: section 15

This section provides for a person authorised by the appropriate Minister to:

- inspect premises in which a child who has been placed for adoption is living or, in which a child in respect of whom a notice of intention to adopt is living; and
- inspect any records relating to the discharge of an adoption agency's functions, as specified by the Minister.

Offence

An offence would be committed if any person intentionally obstructed another in the exercise of any of the powers under section 15 (including the powers of entry).

Penalty

Liable on summary conviction, to a fine not exceeding level 3 on the standard scale.

Prohibitions on removal of child from prospective adopters or local authority/agency accommodation: section 30

Where a child has been placed for adoption with parental consent or the child has not been placed but there is such consent, only the adoption agency or a person with leave of the court may remove the child. Where a child has not been placed but there is a

placement order application pending; only the local authority or a person who has leave of the court may remove the child.

Offence

An offence would be committed if an unauthorised person removed the child from the prospective adopter or accommodation provided by the local authority or adoption agency, respectively.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Recovery by parent where child not placed or is a baby: section 31

Child placed for adoption without authority or a baby

If the child's parent or guardian informs the agency that they wish the child or baby to be returned to them the prospective adopter must return the child to the agency within seven days unless an application is, or has been, made for a placement order and the application has not been disposed of.

Offence

An offence would be committed if the prospective adopter fails to return the child within seven days to the adoption agency.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Recovery by parent where child placed and consent withdrawn: section 32.

If the child's parent or guardian informs the agency that they wish the child to be returned, the prospective adopter must return the child to the agency within 14 days unless an application is, or has been, made for a placement order and the application has not been disposed of (or an application for an adoption or special guardianship order is pending).

Offence

An offence would be committed if the prospective adopter fails to return the child within 14 days to the adoption agency.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Recovery by parent where child placed with parental consent and placement order refused: section 33

If the child's parent or guardian informs the agency that they wish the child to be returned to them the prospective adopter must return the child to the agency on a date determined by the court.

Offence

An offence would be committed if the prospective adopter fails to return the child by the set date to the local authority.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Placement orders - prohibition on removal: section 34

Where a placement order is in force or has been revoked, but the child has not been returned by the prospective adopter or remains in accommodation provided by the local authority, the child may only be removed by the local authority.

Where the court has revoked a placement order and determines that the child is not to remain with the prospective adopter, they must return the child to the local authority within the period determined by the court.

Offence

An offence would be committed if:

- a person other than the local authority removed the child from the prospective adopter;
- the prospective adopter fails to return the child by the set date to the local authority.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Return of child in other cases: section 35

Where an adoption agency considers that a child should not remain with the prospective adopter, the agency can give notice to them to return the child.

Offence

An offence would be committed if the prospective adopter fails to return the child within seven days of receiving notice from the agency.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Restrictions on removal of child in non-agency cases: sections 36-40

A child may only be removed from the home of the persons who have applied for an adoption order, have given notice of their intention to adopt, or have applied for leave to apply for an adoption order, and the applications have not been disposed of, i.e. where removed:

- with the court's leave;
- by a local authority (sections 37-40);
- by a person with parental responsibility for the child (section 38(5)); or
- a parent or guardian (section 39(3)).

Offence

An offence would be committed by a person who does not return a child to a parent or guardian who is entitled to remove that child and has requested their return, or by a person who removes a child and is not authorised to do so under sections 36-40.

Penalty

Liable on summary conviction, to a term of imprisonment not exceeding three months and/or a fine not exceeding level 5 on the standard scale.

Recovery orders: section 41

Section 41 makes provision for what is to happen where a child is removed, or there are reasonable grounds for believing that a person intends to remove a child, or a child is withheld and not returned, in breach of sections 30-40. It also applies where a person has failed to comply with sections 31(4), 32(2), 33(2), 34(3) or 35(2).

In those circumstances an application may be made to the court and the court may by order:

- direct any person who is in a position to do so to produce the child,
- authorise the removal of the child by certain person,

- require anyone who has information as to the child's whereabouts to disclose that information to a constable or officer of the court, or
- authorise a constable to enter any premises specified in the order (if there are reasonable grounds for believing the child is there) and search for the child, using reasonable force if necessary.

Offence

An offence would be committed if a person intentionally obstructs a person exercising the power of removal conferred by the court order.

A person who is required by an order to disclose information must disclose that information even though it might amount to evidence that they had committed an offence. However, in any criminal proceedings in which the person is charged with an offence the prosecution cannot adduce evidence relating to the information provided or ask questions about it, unless it is raised by or on behalf of that person. There is one exception which is excluded in subsection (8), for example offences under section 2 or 5 of the Perjury Act 1911.

Penalty

Liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Disclosure of information – adoptions post 30 December 2005: section 57

A registered adoption society may not disclose identifying information about an adopted adult, birth relative or other person except in accordance with sections 56-65 of the Act and the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 (AIR). It is intended to ensure that sensitive information about a person's adoption is properly safeguarded and only disclosed under certain circumstances.

If a registered adoption society is found to have contravened section 57 it may be grounds for Ofsted to cancel the agency's registration under section 14 of the Care Standards Act 2000 (as amended).

Offence: section 59 and AIR 21

10.160 An offence would be committed if the registered adoption society disclosed information otherwise than in accordance with sections 56-65 of the Act and the AIR.

Penalty

10.161 Liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Disclosure of information – adoptions pre 30 December 2005

Under regulation 7 of the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 (ISR), an intermediary agency may not disclose identifying information about an adopted adult, birth relative or other person without consent of the person about whom the information relates. It is intended to ensure that sensitive information about a person's adoption is properly safeguarded. An intermediary agency may be a registered adoption society or an adoption support agency.

Offence: ISR 17

10.162 An offence would be committed by an intermediary agency if it disclosed identifying information to the applicant without the subject's consent, and it did so without reasonable excuse.

Penalty

10.163 Liable on summary conviction to a fine not exceeding level 5 on the standard scale. If found guilty the agency will be liable to a fine. It may also be subject to cancellation of its registration by Ofsted, the registration authority. Where a local authority providing an intermediary contravenes ISR 7 the appropriate Minister may take action under section 14 of the Act.

Adoption Support Agencies - setting up, managing and conduct

The Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005 set out the requirements in relation to setting up and managing, an Adoption Support Agency. The Regulations set out the conduct of the agency. Should Ofsted, as the registration authority, find there to be a contravention or a failure to comply with the Regulations, it may serve notice on the registered person. This notice sets out the contravention or failure, the action that must be taken to comply with the regulations, and the time within which remedial action must be completed; this can be no more than three months. The notice must also set out the time within which the registered person may make representations to Ofsted. Ofsted may also bring proceedings in respect of a former registered person in respect of a failure to comply with regulations 14 or 22.

Offence

The registered person will have committed an offence if they contravened or failed to comply with:

- Regulations 5.1-5.7 and 6 (Statement of Purpose and Children's Guide and review of those documents)

- Regulation 7.1 and 7.4 (Fitness of registered provider) Regulation 8(2) (Appointment of manager)
- Regulation 9(1) (Fitness of manager)
- Regulation 10 (Registered person – general requirements)
- Regulation 11 (Notification of offences)
- Regulation 12(1) and (2) (Arrangements for the protection of children)
- Regulation 13 (Provision of services)
- Regulation 14 (Records with respect to services)
- Regulations 16-18 (Complaints and staffing of agency)
- Regulation 19(1) (Fitness of workers)
- Regulation 20 (Employment of staff)
- Regulation 21(1) (Staff disciplinary procedure)
- Regulation 22 (Records with respect to staff)
- Regulation 23 (Fitness of premises)
- Regulation 24(1) and (2) (Notifiable events)
- Regulation 25 (Financial position)
- Regulation 26 (Notice of absence)
- Regulation 27(1) (Notice of changes)

Penalty

The registered person is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

10.164

Further sources of information

Associated resources (external links)

- [Further Action on Adoption: Finding More Loving Homes.](#)
- [First4Adoption](#)
- [Fostering for Adoption: Practice Guidance](#)
- [Adoption and Children Act Register](#)
- [Independent Review Mechanism](#)
- [The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption](#)

Other departmental advice and guidance you may be interested in

- *Statutory Guidance on court orders and pre-proceedings*
- [Children Act 1989 Guidance and Regulations: Volume 2: Care Planning, Placement and Case Review](#)
- Sharing information for the purposes of foster carer or adopter assessments - ['Assessment and Approval of Foster Carers'](#).
- [Adoption - National Minimum Standards](#)
- Practice Guidance - [Adoption: Access to Information and Intermediary Services](#)

Contact

- The Department for Education's intercountry adoption team - ics.darlington@education.gsi.gov.uk.



Department
for Education

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