

Consultation

Launch Date 18 September 2012

Respond by 7 December 2012

Ref: Department for Education

Adoption and Fostering: Tackling Delay

This document consults on a range of adoption and fostering proposals. For adoption these are the new, shorter two stage approval process for prospective adopters, and fast-track procedure for approved foster carers and previous adopters, changes aimed at increasing the use made by adoption agencies of the Adoption Register and changes to Regulations to make it easier for prospective adopters to be approved as temporary foster carers - the "Fostering for Adoption" proposal. On fostering there is a package of changes to the foster carer assessment and approval process to make the process clearer, more proportionate and responsive to the needs of children coming into the care system; and to ensure foster carers are able to take everyday decisions about the children in their care (known as delegated authority). For adoption and fostering we are consulting on proposals for the sharing of case records between fostering services and adoption agencies and are seeking views on whether the size of adoption and fostering panels should be restricted.

Adoption and Fostering: tackling delay

A Consultation

To Parents, prospective adopters/foster carers, local authorities, adoption and fostering agencies, the judiciary and legal sector and organisations with an interest in adoption and/or fostering.

Issued 18 September 2012

Enquiries To If your enquiry is related to the policy content of the consultation, you can contact the Department's national enquiry line on 0370 000 2288 or email AdoptionandFostering.CONULTATION@education.gsi.gov.uk

Contact Details

If you have a query relating to the consultation process you can contact the CYPFD Team by telephone: 0370 000 2288 or via the Department's ['Contact Us'](#) page.

1 Executive Summary

1.1 This document consults on a number of proposals relating to adoption and fostering, a summary of which is set out below. Everyone's view is valid and welcomed. Those practitioners involved in fostering and adoption will have a specific interest in reading the proposals. The Children's Rights Director is consulting children separately on the new two stage adopter approval process, the "*Fostering for Adoption*" proposal, and on the delegation of authority to foster carers.

1.2 The closing date for responses to the consultation is 7 December 2012. The Government's response and the report of the Children's Rights Director will be published in spring 2013. Revised statutory adoption and fostering guidance will be published in advance of the changes to the adoption and fostering system coming into force in summer 2013.

2 Adoption

[Approval process for prospective adopters - Chapter 1 paragraphs 7.1 - 7.12.3](#)

2.1

We have already said, in [An Action Plan for Adoption: Tackling Delay](#), that we value adoptive parents: without them children who need an

adoptive family will not be placed. We need more adoptive families, and we particularly need more who can meet the needs of the children with complex needs. Yet we know from potential prospective adopters that they are often discouraged when they approach their adoption agency, and that the approval process can - for no good reason - take up to two years. That is why we have at the heart of the Government's adoption reforms a new, shorter, two stage training and assessment process for prospective adopters. This should allow potential adopters first to learn more about adoption, and then to move quickly to the assessment process. Whilst remaining rigorous, the approval process will be more adopter-led and time bound; and there will be a fast track process for previous adopters and approved foster carers.

- 2.2 The adopter process will be supported by the National Gateway for Adoption, for which we are currently seeking a delivery partner. The Gateway will allow those interested in adoption to learn more about what adoption means, its joys and challenges, both for the adoptive family and the children needing an adoptive family, and about the characteristics and needs of those children. They will then be better informed about what adoption means before they approach an adoption agency. They will also be able to gain advice and information about the local authorities and voluntary adoption agencies most appropriate for them.
- 2.3 The new process will comprise a two month initial training and preparation stage (Stage One) and a four month assessment stage (Stage Two).
- 2.4 Stage One will commence when a prospective adopter registers his/her interest with an adoption agency, and will end with the agency's decision on whether the prospective adopter can proceed to Stage Two. All required checks and references will be completed during Stage One.
- 2.5 Stage Two will commence when a prospective adopter notifies an agency that he/she wishes to proceed with the assessment process and will end with the agency decision maker's decision about the suitability of the prospective adopter to adopt a looked after child.
- 2.6 The Independent Review Mechanism will apply only to determinations made during Stage Two. Prospective adopters who wish to do so may make a complaint via the local complaints procedures (Children Act 1989 and Representations Procedure (England) Regulations 2006) where they are considered unsuitable to adopt during Stage One.

Fast track procedure for previous adopters and approved foster carers - Chapter 1 paragraphs 7.13.1 - 7.13.5

2.7

Previous adopters who have adopted in a court in England or Wales after having been approved under the Adoption Agencies Regulations 2005 (or corresponding Welsh provisions) or the Adoptions with a Foreign Element Regulations 2005, and anyone who is an approved foster carer in England or Wales at the time they apply to adopt and has had a foster child placed with them, will receive a tailored assessment and, at the same time, any necessary additional training.

Adoption Register - Chapter 1 paragraph 7.14.1

2.8

We propose to place a duty on local authorities to refer a child's details to the Adoption Register as soon as possible and no later than three months from the decision that he/she should be placed for adoption (unless the agency is actively considering a match for the child with a particular prospective adopter) and to ensure that all the information about the child referred to the Register is kept up to date. We also propose to place a duty on all adoption agencies to refer a prospective adopter's details (subject to their consent) to the Register no later than three months from approval (unless they are actively considering matching him/her with a particular child).

Matching agreement - Chapter 1 paragraph 7.14.1

2.9

We propose to require all adoption agencies to agree with approved prospective adopters a matching agreement setting out what the approved prospective adopter will do and when to search for a child for whom he/she may be a suitable match (including through use of the Adoption Register, Exchange Days, the *Be My Parent* and *Children Who Wait* magazines and Placement Activity Days). The matching agreement will also make clear how the agency will support the prospective adopter with this task.

Early permanence - "*Fostering for Adoption*" - Chapter 2

2.10

We know that delay is damaging to children so we propose to allow approved prospective adopters to be approved rapidly as temporary foster carers so that they can foster a named child (with whom they have been matched to adopt) whilst a placement order is sought. This is called "Fostering for Adoption" and will allow children to move in with their likely permanent families much earlier than now. This will be a fostering placement; the child cannot be placed for adoption unless the court makes a placement order.

3 Adoption and Fostering

Adoption and Fostering panels - Chapter 3

- 3.1 We are concerned that some adoption agencies have large adoption panels and that this may be leading to delay and be intimidating to prospective adopters. We consider that these issues may also apply to fostering panels. We are therefore minded to restrict the size of adoption and fostering panels to a maximum of five members with a quorum of three (or four for joint panels).

Sharing case records between fostering services and adoption agencies - Chapter 4

Allowing a foster carer's case records to be shared with a new fostering service before the carer's approval with their old service is terminated - Chapter 4 paragraphs 10.1.1 - 10.1.7

- 3.2 Currently, a fostering service can only access the case records of an applicant who has fostered before if the applicant's approval with their previous fostering service has been terminated. This is inconsistent with the need, in many cases, for a foster carer moving service to do so seamlessly, without a break in his/her approval (particularly if a child is in placement). To address this problem, it is proposed that a fostering service to which a carer is moving should be able to access the carer's case records before his/her approval with their current fostering service has been terminated, in order to inform their assessment of the applicant's suitability to foster for them.

Allowing fostering services and adoption agencies to share cases records of foster carers and prospective adopters for assessment purposes - Chapter 4 paragraphs 10.3.1 - 10.3.6

- 3.3 A change is also proposed to allow a foster carer's or prospective foster carer's case records to be shared with an adoption agency and to allow an adopter's or prospective adopter's case records to be shared with the fostering service they are seeking to foster with.

4 Fostering

Approval process for foster carers - Chapter 5 paragraphs 11.1 - 11.4.3

- 4.1 Makes clear what information a fostering service can collect before deciding whether to start an assessment of an applicant's suitability to

foster. It is proposed that the assessment should start after the Criminal Record Bureau check, health check and references have been received and considered. This start point is aligned with the start of Stage Two of the adoption assessment process. An applicant considered unsuitable to foster before the start of the assessment may complain via the fostering service's complaints procedure if they disagree with this decision.

Introduction of a brief report - Chapter 5 paragraphs 11.5.1 - 11.5.3

- 4.2 Once an assessment has been started, the fostering service can terminate it via a brief report if their decision maker decides there is sufficient evidence that the prospective foster carer is unsuitable to foster. A prospective foster carer who disagrees with this decision can make representations to the fostering service or seek an independent review from the Independent Review Mechanism. The option of a brief report is already available to adoption agencies.

Personal references - Chapter 5 paragraphs 11.6.1 - 11.6.3

- 4.3 A fostering service will not have to interview personal referees where an applicant has been an approved foster carer in the last 12 months and a written reference is provided by his/her current or previous fostering service.

Terms of approval - Chapter 5 paragraphs 11.7.1 - 11.7.6

- 4.4 There is currently a requirement to wait 28 calendar days before implementing a change to a foster carer's terms of approval, regardless of whether the change has the foster carer's agreement or was requested by the foster carer. It is proposed to remove this requirement where the carer agrees to the change and there is a statement of how any additional support needs will be met.

Delegated authority - Chapter 6

- 4.5 Statutory changes were made in April 2011 to underline the importance of delegating day-to-day decision making to a child's foster carer wherever possible. However, practice remains patchy. Changes are therefore proposed to require a child's placement plan to say, for specified key areas of decision making, who has authority to take the decision. Statutory guidance will be amended to make clearer the expectations around delegation to foster carers and residential workers to require local authorities to have a published policy on delegation of authority to foster carers and residential workers.

5 Your views

- 5.1 We are interested in your views on our proposals and the amendments to the Regulations.
- 5.2 There may of course be other areas that you think should be considered; we would be interested in hearing your views on what these might be and how they might reduce delay and bureaucracy whilst continuing to help ensure the welfare and safety of looked after children.
- 5.3 We will be making changes to the statutory adoption and fostering guidance and national minimum standards following the conclusion of this consultation. We will consult a range of stakeholders on those changes. Those stakeholders will include the Association of Directors of Children's Services, the Local Government Association, the Consortium of Voluntary Adoption Agencies, the British Association for Adoption and Fostering, Coram, Adoption UK, the Fostering Network, the Nationwide Association of Fostering Providers, Ofsted and working groups including foster carers and other front line practitioners.

6 Background and Context

- 6.1 The Government wants all looked after children to benefit from care and to receive help and support that improves their chances in life. When children cannot return home and adoption is right for them, it should happen without delay. When children need a foster placement, the placement should meet their needs. If children's life chances are to be improved, the quality of foster care and the speed at which adoption happens must be addressed.
- 6.2 The Government's drive to improve adoption goes back to the establishment of a Ministerial Advisory Group in autumn 2010, followed by a number of milestones that included revised statutory guidance in February 2011, the appointment of Martin Narey as Ministerial Adviser on Adoption in July 2011, and in March 2012 the launch of [An Action Plan for Adoption: Tackling Delay](#). The Action Plan made an evidence-based case for addressing, urgently, delay in the adoption system and set out a number of proposals for doing so, some of which will be delivered through primary legislation. The Action Plan focused on tackling delay; valuing prospective adopters; and system improvement.
- 6.3 The Action Plan and the adoption proposals on which we are consulting have been informed by many people, including members of the Ministerial Advisory Group, Martin Narey, the Ministerial Adviser on

Adoption, and an Expert Working Group. The reform proposals on the adopter approval process came directly from the Expert Working Group which included representatives from local authorities, voluntary adoption agencies, adoption support agencies and some adoptive parents.

6.4 Through the Improving Fostering Services Programme, the Government has worked with foster carers, practitioners, managers and sector organisations from across the country to decide how this should be done. The Programme has focused on five key areas: recruitment and retention of foster carers; assessment and approval of foster carers; delegation of authority to foster carers; training for foster carers and social workers; and the commissioning of services for looked after children.

6.5 As a result of this work, the then Parliamentary Under-Secretary of State for Children and Families, Tim Loughton, announced a number of [policy proposals](#) during Foster Care Fortnight in May. The proposals being consulted on here include the need to make the assessment and approval process for foster carers clearer, more proportionate and timely; and to support improvements in practice around delegation of authority to foster carers. The Government will continue to work with the sector on what further improvements can be made to fostering services across the five key strands of the Programme, and expects to consult on these in due course.

7 Chapter 1: Prospective Adopters' journey

7.1 This Government wants more people from all walks of life to come forward to adopt those children who may have been overlooked in the past - older and disabled children and those in sibling groups - and when they do, we want them to be welcomed with open arms and to receive all the information, help and support they need from the initial point of contact right through the adoption process. We want the process to be planned, timely and transparent, and to be rigorous without being unnecessarily burdensome. Above all, we want adopters to feel valued and respected for the chance they provide to transform a child's life. Many local authorities have, following publication of the adoption scorecards, pulled out all the stops to improve local practice and the adoption services they provide.

7.2 However, last December, when we set up an Expert Working Group comprising of key partners from across the adoption sector to help redesign and speed up the process of approving prospective adopters, we had significant concerns that many prospective adopters were being lost to the system when more adopters who are able to meet the needs

of the looked after children awaiting adoption are needed.

- 7.3 While some people were receiving welcoming reassurance and support when they expressed interest in adoption, others found that adoption agencies responded slowly or not at all to initial enquiries. As a result, many people gave up and did not pursue their interest in adoption. Some prospective adopters found the approval process a thorough, valuable and rewarding opportunity to examine and develop their capacity to parent a vulnerable child with complex needs. But many prospective adopters found that the assessment of their suitability to adopt took much longer than it should, sometimes with no clear sense of when it would end. Others felt that they did not get the opportunity to ask obvious questions or discuss their strengths and weaknesses openly during training and preparation because this ran parallel with and, so may have compromised, their assessment.
- 7.4 In addition, we know that the existence and cost of the Independent Review Mechanism leads to a cautious approach by adoption agencies to accepting applications, and also that the timing of required checks (e.g. Criminal Records Bureau and health checks and, where applicable, checks for information held by the local authority in whose area the prospective adopter lives) can mean that some individuals progress through the process before the results of these checks are known, tying up scarce resources and social worker time, when they may not be appropriate individuals to be adoptive parents.
- 7.5 At the heart of the Expert Working Group's recommendations was a new, shorter two stage approval process for prospective adopters. The new process will comprise a two month initial training and preparation stage (Stage One), and a four month assessment stage (Stage Two).
- 7.6 Stage One will commence when a prospective adopter registers his/her interest with an adoption agency and will end with the agency's decision as to whether the prospective adopter can proceed to Stage Two. All required checks will be carried out, and references sought, during Stage One.
- 7.7 Stage Two will commence when an agency receives notification from the prospective adopter that he/she wishes to proceed with the assessment process and will end with the agency decision maker's decision about the suitability of the prospective adopter to adopt a looked after child.
- 7.8 Prospective adopters who wish to do so may make a complaint via the local complaints procedures (Children Act 1989 and Representations

Procedure (England) Regulations 2006) where they are considered unsuitable to adopt during Stage One. The Independent Review Mechanism will apply only to determinations made during Stage Two.

- 7.9 Alongside these reforms we are inviting bids to run the National Gateway for Adoption, an accessible, friendly and expert point of contact and access into the adoption system. The Gateway will give potential prospective adopters clear, honest and objective advice about the adoption process and the often complex needs of children. It will also provide advice about the local authorities and voluntary adoption agencies most appropriate for a person interested in adoption.
- 7.10 We made clear in [*An Action Plan for Adoption: Tackling Delay*](#) that we think this new process "has the potential to improve significantly the quality of the service that prospective adopters receive from the adoption system and to begin to increase the numbers that enter and complete the assessment process while providing appropriate rigour". Further to the publication of the Action Plan in March we have developed detailed proposals for the new two stage process, which build on the Expert Working Group's original recommendations
- 7.11 **We have outlined below how we envisage this process (which will also apply to prospective adopters who wish to adopt from abroad (subject to some modifications)) and a fast-track procedure for previous adopters and approved foster carers will work in practice, and have posed a number of questions to which we would welcome responses. The amendments to the Adoption Agencies Regulations 2005 (AARs) are set out in the Adoption Agencies (Miscellaneous Amendments) Regulations 2013 at Annex A. Some of the proposed changes will require amendments to the AARs (which apply in relation to England only) while others will be included in the statutory adoption guidance. The changes to the AARs will mean consequential amendments to the Adoptions with a Foreign Element Regulations 2005 (FERs) (which apply in relation to England and Wales) to reflect those changes. We are consulting Welsh Ministers in accordance with section 16(1) of the Adoption (Intercountry Aspects) Act 1999 on the changes which need to be made to the FERs in consequence of the amendments to the AARs.**
- 7.12 New two stage approval process

7.12.1 ***Pre-Stage One - information sharing***

- **Potential prospective adopters may approach the National Gateway for Adoption or a local adoption agency for general information about adoption** (e.g. the legal implications, the sort of children awaiting adoption, the approval process and level of commitment required of prospective adopters as well as the positive consequences, and the types of issues prospective adopters need to consider and what they might need to do before deciding whether to register their interest in becoming an adopter).
- **Where a potential prospective adopter is minded to pursue his/her interest in adoption he/she may approach a local agency for further, more detailed information about adoption** and on the needs of the children awaiting adoption and what this would mean for an adoptive parent.
- **Agencies will be required to provide this detailed information within 10 working days, through an information session, a visit or pre-planned telephone call with the potential prospective adopter or similar** (which may need to take place in the evening or at the weekend to fit around his/her life style and working pattern), or to indicate if they are not currently recruiting in which case they will be expected to redirect him/her to the National Gateway for Adoption or another agency which is recruiting.

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

7.12.2 ***Stage One (two months) - initial training/preparation and required checks/references***

- **If a potential prospective adopter wishes to proceed to Stage One he/she will need to register his/her interest with a local agency.** If an agency is approached and that agency is not currently recruiting the potential prospective adopter will have the choice of going directly to another agency or to the National Gateway for Adoption for sign-posting on to another agency. We are working with the British Association for Adoption and

Fostering to draw up a standard form which is acceptable to, and can be used by, all adoption agencies. Agencies will be required to issue the form immediately and to follow up with the potential prospective adopter where this is not received within two weeks (where they are recruiting). .

- **The clock for Stage One will start ticking from when a prospective adopter registers his/her interest with an agency.**
- **Agencies will be required to decide within five working days from when a prospective adopter registers his/her interest whether or not to accept this, and may need to arrange a visit, have a meeting or a pre-planned telephone call with the potential prospective adopter in order to do so.** We do not expect that agencies will accept all registrations of interest because there may be circumstances where this is not appropriate (e.g. where they temporarily lack the capacity to take on more prospective adopters in which case they will be expected to redirect the potential prospective adopter), or where there is clear evidence that the potential prospective adopter is highly unlikely to be willing to take, or to be able to develop his/her capacity to take, the sort of child awaiting adoption and this has been explained to him/her.

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

- **Where an agency declines a registration of interest it will be required to provide the potential prospective adopter with a clear written explanation of the reasons why, and he/she will have the choice of going directly to another agency or to the National Gateway for Adoption for sign-posting to another agency.**
- **Where an agency accepts a registration of interest it will be required to explain Stage One and what will be required of the prospective adopter, and provide information** (e.g. on the e-learning and other materials available, and how to access these). The onus will be on the prospective adopter to lead Stage One.

Question 3: *Should adoption agencies be required to visit or have a*

meeting or pre-planned telephone call with prospective adopters during Stage One of the process to ensure that they have the opportunity to ask for more information or training based on their particular needs?

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

- **Agencies will be required to pursue all required checks and references in parallel with initial training and preparation.** We envisage a greater emphasis during Stage One on, and use by prospective adopters of e-learning and other materials which offer them the opportunity to self-assess aspects of their parenting capacity (e.g. health and safety) and allow them to identify their own training needs.

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

- **Where it is clear that Stage One will need to take longer than two months** (e.g. where a Criminal Records Bureau check is delayed, or the prospective adopter is struggling with the process or there has been a significant event in his/her life such as a family bereavement), **agencies will be required to detail the reasons for the extended timescale on the prospective adopter's case record, along with the supporting evidence. This information will be important given that performance on the timeliness of the approval process will in future be measured.**
- **Where a prospective adopter is considered unsuitable to adopt during (or at the end of) Stage One as a consequence of a Criminal Records Bureau check or for any other reason, agencies will be required to provide the prospective adopter with a clear written explanation of the reasons why he/she will not be able to proceed to Stage Two.** Prospective adopters who wish to do so may make a complaint about being considered unsuitable to adopt during Stage One using the existing local complaints procedures. They will also be able to raise general concerns about the process with the National Gateway for Adoption, which will be able to pass these on to individual Directors of Children's Services e.g. where there appears to have been a service failure. The Independent Review Mechanism will apply only to determinations made during Stage

Two.

- There will be a maximum time limit of six months if a prospective adopter wants to take a break between Stages One and Two or an agency recommends or requires this. We think six months would be sufficient in the vast majority of cases to allow prospective adopters, for example, to resolve a housing, employment or financial issue, or recover from an illness or family bereavement. Where a prospective adopter needs a break of longer than six months - or, alternatively, wants to take a break before successfully completing Stage One - he/she will need to restart Stage One when he/she is ready to pursue his/her interest in becoming an adoptive parent. In these circumstances, agencies will be required to arrange a 're-entry interview' within 5 working days of contact from the prospective adopter.

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

- **Where it is considered during (or at the end of) Stage One that a prospective adopter may be suitable to adopt, the agency will be required to notify him/her of its decision, and to explain that he/she must notify them if he/she wishes to proceed to Stage Two and that he/she has six months from the agency's notification in which to do so.**
- **Stage One will end, and the clock stop ticking, with the agency's decision on whether the prospective adopter can proceed to Stage Two.**

7.12.3 **Stage Two (four months) - intensive training/preparation and assessment**

- **Prospective adopters will not be able to 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.**
- **The clock for Stage Two will start ticking from receipt of this notification, and agencies will be required to commence this stage with a meeting** (or pre-planned telephone call) between the prospective adopter and his/her allocated social worker where the social worker will explain Stage Two and what will be required of the prospective adopter, contingency plans for social worker sickness/annual leave, the decision making process and the role of the adoption panel.
- **Agencies will be required to provide any necessary intensive training/preparation, and to carry out an assessment of the prospective adopter's suitability to adopt and produce a report on that assessment.**
- **Agencies will be required to agree with the prospective adopter an assessment agreement** detailing what his/her assessment will cover/involve, dates for meetings/visits and when it will be completed, what he/she is agreeing to do and to what timescale, and any further relevant information that may be required from him/her. We are working with the British Association for Adoption and Fostering to draw up a standard assessment agreement form.
- **Where it is clear that Stage Two will need to take longer than four months** (e.g. where the prospective adopter is struggling with the process or there has been a significant event in his/her life such as a family bereavement), **agencies will be able to extend this by two months to a maximum of six months and will be required to detail the reasons for the extended timescale on the adopter's case record, along with the supporting evidence. Again, this information will be important given that performance on the timeliness of the approval process will in future be measured.**

Question 7: *Should prospective adopters be able to request an extension of longer than two months to Stage Two of the process? If yes, in what circumstances and by how much should they be able to*

extend Stage Two before having to restart the approval process from scratch?

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

- **Stage Two will end, and the clock stop ticking, with the agency decision maker's determination about the suitability of the prospective adopter to adopt a looked after child.** If a prospective adopter is considered unsuitable to adopt during Stage Two, he/she will be able to make representations to the agency or request a review of the determination by the Independent Review Mechanism. He/she will also be able to raise general concerns about the process with the National Gateway for Adoption, which will be able to pass these on to the relevant Director of Children's Services e.g. where there appears to have been a service failure.

foster carers

- 7.13.1 In addition to the new two stage approval process for prospective adopters, the Expert Working Group proposed that there should be fast-track procedures for previous adopters and foster carers. It is envisaged that 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 provisions) or the Adoptions with a Foreign Element Regulations 2005) and anyone who is an approved foster carer in England or Wales at the time they apply to adopt and has had a foster child placed with them will skip Stage One and receive a tailored assessment (to take account of factors such as their previous experience of adopting or fostering and the needs of the child they have previously adopted/fostered). At the same time, any necessary additional training (e.g. where they are seeking to adopt a child with needs which are very different to those of the child they have fostered/previously adopted) will be provided. Agencies will in each individual case need to determine whether statutory checks and/or references should be sought depending on the time since approval and, in the case of foster carers, the time since a child was placed with them.

Question 9: *Should the fast-track procedure for previous adopters and approved foster carers be extended to include adopters who were approved in England or Wales prior to the coming into force of the Adoption and Children Act 2002 (this would mean that those who had been approved more than seven years ago would be included)? If so, what should the criteria for inclusion be? Which, if any, other groups should be included?*

- 7.13.2 On approaching an adoption agency, previous adopters and approved foster carers who have had a foster child placed with them will be asked to provide their name and contact details, to state when they were approved as suitable to foster/adopt, by which fostering service/adoption agency and when they had a foster child placed with them (if an approved foster carer), and to declare whether there has been any change in their circumstances since they were approved. The agency will be able to request further information if a change of circumstances is declared.

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

- 7.14 Matching/Adoption Register

7.14.1 In order to increase the use made by adoption agencies of the Adoption Register we propose to:

- place a duty on local authorities to refer a child's details to the Adoption Register as soon as possible after, and no later than three months from, the decision that the child should be placed for adoption unless they are actively considering a match for the child with a particular prospective adopter;
- place a duty on all adoption agencies to refer a prospective adopter to the Adoption Register (subject to his/her consent) as soon as possible after, and no later than three months from, approval unless they are actively considering matching him/her with a particular child;
- require local authorities to ensure that all information about a child referred to the Adoption Register is kept up to date; and
- require all adoption agencies to agree with approved prospective adopters a matching agreement setting out what the approved prospective adopter will do and when to search for a child for whom he/she make be a suitable match (including through use of the Adoption Register, Exchange Days, the *Be My Parent* and *Children Who Wait* magazines and Placement Activity Days). The matching agreement will also make clear how the agency will support the prospective adopter with this task. We are working with the British Association for Adoption and Fostering to draw up a standard template for the matching agreement.

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

8 Chapter 2: Early Permanence – “Fostering for Adoption”

8.1 In [An Action Plan for Adoption: Tackling Delay](#) we set out the strong evidence-base for the importance of ensuring that all children who cannot live with their parents are placed swiftly in the right form of permanent care for them. Research in this area shows that delay in decision making and action has an unacceptable price in terms of the reduction in children's life chances (Selwyn, J.; Sturgess, W.; Quinton, D. and Baxter, C (2006) *Costs and outcomes of non-infant adoptions*, British Association for Adoption and Fostering). The Action Plan also made the point that it is the youngest children who are particularly

vulnerable to the harmful effects of delay and disruption.

- 8.2 For children, the moment they move in with their adoptive parents is more important than the moment they are formally adopted. But just 470 of over 3,000 children were under the age of one when they were placed for adoption with their adoptive parents in 2010-11. This is all the more significant given that a recent analysis found that 1,350 (44%) of the children adopted in 2010-11 were aged under one month when they became looked after. On average these children were placed for adoption with their adoptive families around 16 months after becoming looked after.
- 8.3 The Government want children to move in with their adoptive parents earlier than now. Currently a child may only go to live with their adoptive family if his/her birth parents give their consent or a court makes a placement order. Waiting for the court to consider an application for a placement order takes time and means that children are waiting longer than they should have to before they can finally settle down with their new family.
- 8.4 To overcome this, some local authorities have approved prospective adopters as foster carers to care for the child, on a fostering basis, as soon as the child comes into care. If the courts make a placement order the child can stay with the same family and the placement becomes one of adoption. This minimises the damage caused by disruption to children of moving between placements. In the Action Plan, we sought to promote this and similar practices. However, we know that these are still not widely used.
- 8.5 On 6 July, the Prime Minister announced proposals to introduce in legislation a new duty to encourage local authorities to place children with an adoption decision with approved adopters who are also approved foster carers. Should Parliament approve the clauses, we propose to bring the changes into force by spring 2014.
- 8.6 We will call the practice described by the proposed new duty "*Fostering for Adoption*". We hope that this practice will make it easier for local authorities to place children with approved prospective adopters while the courts consider the application for a placement order. However, the process for approving prospective adopters as foster carers can be

quite lengthy. We therefore propose amending the Care Planning, Placement and Case Review (England) Regulations 2010 to make it easier for approved prospective adopters to be approved as temporary foster carers for a named child who has had an adoption decision. Once approved the named child can move in with their new family. The placement would be a foster placement because at this stage the local authority would not have the authority to place the child for adoption.

- 8.7 There are risks to "*Fostering for Adoption*" but we believe them to be low. In the two years ending 31 March 2011, local authorities reversed the decision for 680 children in England that they should be placed for adoption. In 70 cases the courts did not make a placement order, but the most common reason for a reversal (after "any other reason") was that the child's needs changed subsequent to the decision (220 cases).
- 8.8 **We have outlined below how we envisage this process will work in practice. We have posed two questions to which we would welcome responses. The amendments to the Care Planning, Placement and Case Review (England) Regulations 2010 are set out in the draft Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013 at Annex B.**
- 8.9 The local authority will have to comply with Part 3 of the Adoption Agencies Regulations 2005 (duties of adoption agency where the agency is considering adoption for a child) and make an application for a placement order. The application for a placement order should be made immediately the agency decision maker has decided that the child should be placed for adoption and not wait until the approved prospective adopters have been approved as temporary foster carers.
- 8.10 Assessment for temporary approval as a foster carer
- 8.10.1 The assessment process would be similar to that for [temporary approval](#) of a relative, friend or other connected person and would not require the fostering panel to be involved. The local authority would not need to seek references or conduct a health or Criminal Records Bureau check. This is because these actions will have been done as part of the adoption approval process.
- 8.10.2 To be approved, as temporary foster carers, the prospective adopters would need to demonstrate that they could care for the named child as a foster carer and safeguard and promote the child's welfare and meet his/her needs as set out in the care plan. The local authority would need to consider whether the proposed arrangements would safeguard and

promote the child's welfare and meet the child's needs as set out in the care plan.

- 8.10.3 As part of the assessment process the local authority will need to explain clearly the legal and practical differences of a foster carer and an adoptive parent and be satisfied that the approved prospective adopters understand these differences and will be able to incorporate those requirements in to the way they care for the child.
- 8.10.4 It will be for the local authority to ensure that these approved prospective adopters understand their role as temporary foster carers and issues such as delegated authority, and that they receive appropriate training and support. We will fund Coram, the leading centre in concurrent planning, to broaden their reach as a national Centre of Excellence in Adoption and Early Permanence. This will allow all local authorities and voluntary adoption agencies to access expertise in the sort of management practices that make for effectively early permanence practice, including "*Fostering for Adoption*".
- 8.10.5 Once the local authority has completed the assessment of the suitability of the approved prospective adopters to be approved as temporary foster carers, they would refer the case to the local authority's decision maker for a decision. Prior to this, or indeed at the same time, the local authority would refer the proposed adoptive placement to the adoption panel. Once affirmative decisions have been made, the child can move in with the temporary foster carers at a mutually agreed time.
- 8.10.6 The temporary approval as a foster carer would remain in place until the child is formally placed for adoption with them or the child's foster placement with them ends. The foster placement may end because the prospective adopters no longer wish to adopt the child, the court does not make a placement order, the local authority no longer considers them suitable to adopt or if they decide to become foster carers and are approved in accordance with the Fostering Services (England) Regulations 2011.

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

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

- 9.1 The Expert Working Group recommended that further consideration be given to the role and membership of adoption panels. We are concerned that large adoption panels may lead to delay and intimidate prospective adopters and consider that these issues may also apply to fostering panels. We are therefore minded to restrict members of adoption and fostering panels to a maximum of five with a quorum of three (or four for joint panels). The quorum would include the person appointed to chair the panel or a vice chair, a social worker with at least three years' relevant post-qualifying experience and one other member (or two for joint panels), at least one of whom should be an independent member. We are also minded to limit participating non-panel members to two, although occasional observers (e.g. for research or supervision purposes) would be acceptable. We are not minded to make any changes to the central list from which panel members are drawn.

We would appreciate your views on this.

10 Chapter 4: Sharing case records between fostering services and adoption agencies

- 10.1 Allowing a foster carer's case records to be shared with a new fostering service before the carer's approval with their old service is terminated

10.1.1 When a foster carer moves to a new fostering service, regulations 26(2)(d) and 32(6) of the [Fostering Services \(England\) Regulations 2011](#) (FSRs) provide the power for the new fostering service to seek access to the applicant's case records from the previous fostering service, and a consequential requirement on the previous service to provide that access if the foster carer agrees to this.

10.1.2 The intention was to avoid unnecessary duplication of information collection and so make the reassessment process quicker and less burdensome for foster carers moving service. However, the provision currently only applies where the applicant's approval with their current fostering service has already been terminated. This conflicts with the need, in many cases, for a carer to move seamlessly to a new fostering service and, if a child is in placement, that there must not be a period during which the foster carer is not approved to foster.

10.1.3 **We have outlined below how we envisage this process will work in practice. We have posed two questions to which we would welcome responses. The amendments to the FSRs are set out in the draft Care Planning, Placement and Case Review and Fostering**

Services (England) (Miscellaneous Amendments) Regulations 2013 at Annex B.

- 10.1.4 To address the anomaly outlined above and realise the original aim of streamlining the reapproval process, it is proposed that the FSRs should be amended to extend the existing provisions so that a foster carer's case records can be made available (with the consent of the foster carer, any household members or other relevant individuals referred to in the records), to the new fostering service for reassessment purposes, before the foster carer's approval with their current service has been terminated. As now, however, the foster carer's approval with their first fostering service must have been terminated before they can be approved by the second fostering service - a person cannot be approved as a foster carer by two fostering services at the same time.
- 10.1.5 The FSRs currently refer to making case records "available for inspection", which suggests that the new fostering service is only able to look at the records on the current fostering service's premises. To allow services wider options it is therefore proposed to also amend the FSRs to give fostering services greater flexibility to decide how access to the records should be provided (which might include making them available for inspection; sending copies; giving copies to the foster carer to take to the new service; etc).
- 10.1.6 It is also proposed that the timeframe for providing access to the case records should be reduced from one month to ten working days, to facilitate a more timely assessment process.
- 10.1.7 Before giving another fostering service access to a foster carer's case records, a fostering service will need to ensure that any information referring to a child, or a person who has not consented to their information being shared, is redacted.

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

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

10.2 Transitional arrangements

- 10.2.1 It is proposed that the amendments to record sharing should be implemented immediately upon the coming into force of the amending

Regulations.

Question 16: *Do you foresee any problems with the proposed implementation? If yes, please explain why.*

- 10.3 Allowing fostering services and adoption agencies to share case records of foster carers and prospective adopters for assessment purposes
- 10.3.1 Where a foster carer or prospective foster carer has applied to adopt, [regulation 32\(5\) of the FSRs](#) currently prevent their fostering service from making their case records available to the adoption agency in order to inform the adoption approval process. Similarly [regulations 41 and 42 of the Adoption Agencies Regulations 2005](#) (AARs) prevent an adoption agency from sharing an adopter's or prospective adopter's case records with a fostering service or another adoption agency to which they have applied to foster or adopt. This barrier to information sharing represents a missed opportunity to rationalise data collection and to make the approval processes for prospective adopters and foster carers more efficient.
- 10.3.2 **We have outlined below how we envisage this process will work in practice. We have posed a question to which we would welcome responses. The amendments to the AARs are set out in the draft Adoption Agencies (Miscellaneous Amendments) Regulations 2013 at Annex A. The corresponding amendment to the FSRs is set out in the draft Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013 at Annex B.**
- 10.3.3 We propose to amend the FSRs and the AARs to allow a foster carer's or prospective foster carer's records to be shared with an adoption agency where the foster carer wishes to adopt a child, and to allow an adopter's or prospective adopter's case records to be shared with a fostering service or adoption agency they are seeking to foster or adopt with. This should contribute to the efficiency and timeliness of the adopter and foster carer approval processes; facilitate the proposed fast-track adopter process for previous adopters and approved foster carers (discussed in Chapter 1 paragraphs 7.13.1 - 17.13.5) and the proposed option of temporary approval of approved prospective adopters as foster carers for named children where the plan for the child is adoption ("*Fostering for Adoption*", discussed in Chapter 2).
- 10.3.4 As with the current provision for fostering services to share a foster

carer's case records for reassessment purposes, it is proposed that:

- the assessing fostering service/adoption agency should be able to seek access to the foster carer's/prospective foster carer's, or adopter's/prospective adopter's, case records and the exporting service/agency should be required to comply with that request
- this power/requirement should be contingent on the consent of the foster carer/prospective foster carer or adopter/prospective adopter and any relevant household members or other persons referred to in the case records
- references in a foster carer's/prospective foster carer's, or adopter's/prospective adopter's case records to a child or third party who has not consented to their case records being shared should be redacted.

10.3.5 It is proposed that the fostering service or adoption agency should be able to 'make the records available' in a number of ways. For example, by providing the case records to the foster carer/prospective foster carer or adopter/prospective adopter to pass on to the assessing adoption agency/fostering service; by allowing the assessing agency/service to photocopy the records or inspect them on the exporting service/agency's premises; by securely transferring them by post or email; etc. Fostering services/adoption agencies providing access to case records should ensure that this is done securely and in a way that is practicable for the service/agency seeking the access.

10.3.6 To enable case records to be used within the proposed new fast track adoption process (described at Chapter 1, paragraphs 7.13.1-17.13.5) it is proposed that the timeframe for providing access to those case records to an adoption agency should be five working days. As fast track approval does not apply to the assessment of a person's suitability to foster, the timeframe for providing access to case records to a fostering service is ten working days.

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

11 Chapter 5: Assessment and approval of prospective foster

carers

- 11.1 The majority of looked after children (74%) are in foster care. In order to improve outcomes for these children there needs to be a sufficiently large, diverse and flexible pool of foster carers to enable individual children to be matched with a carer who can meet their needs. There is currently a national shortage of foster carers, estimated by the Fostering Network to be around [7,100 carers in England](#). This shortage is not uniform across the country and anecdotal evidence indicates that it is more acute for some types of children, e.g. children with a disability, teenagers and sibling groups.
- 11.2 During Foster Care Fortnight in May, the then Parliamentary Under Secretary of State for Children and Families, Tim Loughton, announced [a package of measures](#) intended to maximise the number of approved foster carers. As part of this it is proposed that the process for assessing and approving prospective foster carers should be made clearer, more proportionate and timely, with the intention of:
- enabling fostering services to assess prospective foster carers more quickly by focusing resources more efficiently
 - attracting more applicants to foster by making the assessment process more transparent
 - removing unnecessary barriers to the appropriate placement of a child with a particular foster carer, so foster carers can be engaged more flexibly to meet children's needs
 - aligning the assessment process with adoption where appropriate.
- 11.3 **Details of the specific policies being consulted on are below. We have posed a number of questions to which we would welcome responses. The proposed changes will require amendments to the Fostering Services (England) Regulations 2011 and to the Care Planning, Placement and Case Review (England) Regulations 2010. The amendments to these Regulations are set out in the draft Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013 at Annex B.**
- 11.4 Making clear in Regulations where the formal assessment starts

- 11.4.1 The Fostering Services (England) Regulations 2011 (FSRs) are currently unclear about when the formal assessment of a person's suitability to foster starts. Clarifying the assessment's start point is important because under current arrangements:
- once started, an assessment must be completed (unless the prospective foster carer withdraws) and
 - once completed, if the determination is not to approve the prospective foster carer as suitable to foster, the prospective foster carer has the option of making representations to their fostering service provider (considered by the service's fostering panel), or of seeking an independent review by the Independent Review Mechanism (IRM), prior to the fostering service's decision maker reaching his/her final decision about the prospective foster carer's suitability to foster.
- 11.4.2 Currently, the FSRs imply that the assessment starts as soon as [any information](#) referred to in the FSRs is collected (which includes information as basic as the person's name and address). This conflicts with [regulation 26\(1\)](#) of the FSRs for the fostering service provider to first consider whether the person may be suitable to foster **before** deciding whether to start an assessment. The FSRs do not say what information can be collected in order to inform these initial considerations about whether the person "may be suitable to become a foster parent". This has led to some confusion about the point at which the assessment starts.
- 11.4.3 To address this problem, it is proposed that the FSRs be amended to state that:
- the assessment must be considered to have started after the point in the process at which the statutory checks (including the criminal records bureau check, health check and references) have been received and considered; unless the prospective foster carer:
 - withdraws his/her application or
 - is notified by the fostering service within 10 working days of the date the service received the statutory checks that a decision has been made not to proceed to the assessment.

- A decision not to proceed to the assessment:
 - need not be informed by a recommendation from the service's fostering panel and
 - must be notified to the applicant in writing, including the reasons for the decision.
- An applicant who is unhappy with a decision not to proceed to the assessment:
 - will not have the right to make representation to the fostering service;
 - will not have the right to seek a review by the IRM but
 - will have the right to complain via their local complaints procedure.
- Where it is decided that an application should proceed to an assessment, this must be notified to the applicant in writing within 10 working days of the fostering service receiving the statutory checks and must set out clearly what the assessment entails.

Question 18: *Do you agree with the proposed start point of the assessment?*

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

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

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

(c) neither of the above (please provide comments).

11.5 Introducing the option of a brief report for prospective foster carers

- 11.5.1 Unlike for adoption agencies assessing prospective adopters, fostering services do not have the option of terminating an assessment of a prospective foster carer via a brief report. There is no policy justification for this difference, and it can lead to a waste of resources because assessments currently have to be completed even when evidence that the prospective foster carer is unsuitable to foster emerges during the assessment process.
- 11.5.2 A [brief report](#) for prospective foster carers would mirror that currently in place for prospective adopters. If evidence emerges during an assessment which leads the assessing social worker to judge that the prospective foster carer is not suitable to foster, they may submit a brief report to the service's fostering panel setting out their reasons. The prospective foster carer will have 10 working days to submit any observations on the content of the brief report. The fostering panel will consider the report, alongside any observations made by the prospective foster carer, and make a recommendation to the fostering service's decision maker about whether the assessment should be terminated or continued to completion. If the decision maker's determination is to terminate the assessment, the fostering service will provide written reasons for the termination and the prospective foster carer will have the option of making representations to the fostering service or of seeking an independent review by the IRM, in which case the decision maker's final decision would take account of the further recommendation of the fostering panel or the IRM.
- 11.5.3 As is currently the case for prospective adopters, the prospective foster carer will have a second opportunity to make representations to the fostering service or seek an independent review if, following the first representation/review, the assessment is completed and the final decision is not to approve. In practice, we expect the number of prospective foster carers making representations twice or seeking two IRM reviews during the assessment process will be minimal. It is a rare occurrence in the current adoption context, and the proposal to begin the assessment (where the right to the IRM begins) after the statutory checks have been completed should reduce the likelihood further.

Question 20: *Do you agree with the proposal to introduce brief reports for prospective foster carers?*

- 11.6 Removing the requirement to interview two personal referees if there is a reference from a service the applicant has fostered for in the last year

- 11.6.1 Fostering services are currently required to interview two personal referees as part of the assessment process for prospective foster carers. However, where an applicant has been an approved foster carer in the last year and is moving to a new fostering service, personal referees are often not in the best position to comment on the applicant's fostering experience and expertise. This information can be better provided by the applicant's existing or previous fostering service.
- 11.6.2 Therefore, for applicants who have been an approved foster carer in the last year, it is proposed that the current requirement to interview two personal referees should be replaced with a requirement to do so only if a written reference from the applicant's existing or previous fostering service is not obtained.
- 11.6.3 In recognition of the possibility of libel action in relation to an unfavourable reference (and in line with the position for employer references) we do not propose to place fostering services under a duty to provide a reference, rather they have a (currently existing) power to do so.

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

11.7 Changing a foster carer's terms of approval

- 11.7.1 A person's approval to foster is often limited by terms such as the age or number of children the foster carer is approved to foster. A local authority can only place a child with a foster carer outside their terms of approval for six working days in an emergency and changing terms of approval takes 28 calendar days, even if the foster carer has agreed to (or asked for) the change.
- 11.7.2 The requirement to wait 28 calendar days before a change to a foster carer's terms of approval can be implemented acts as a barrier to the flexible deployment of foster carers. In some cases it can mean that a child is not placed with a foster carer, or has to be moved to new foster carers after six days, despite the foster carer being the most suitable to meet the child's needs - for example, they may have the capacity to care for the child and already be caring for the child's sibling.
- 11.7.3 The existing requirement makes it difficult for fostering services to deploy foster carers in a way that best meets the needs of children and

is particularly unwelcome given the national shortage of foster carers. It is therefore proposed that the FSRs be amended to remove the requirement to wait 28 calendar days before terms of approval can be changed, if the foster carer has given their written agreement to that change. If the foster carer does not give their written agreement, the fostering service will continue to be required to wait 28 calendar days before implementing a change to terms of approval, during which time the foster carer will have the option of making representations to the fostering service or seeking an independent review by the IRM.

- 11.7.4 In all cases where terms of approval are changed, the fostering service will be required to set out in writing any additional support needs the foster family, including the foster carer(s), their household members and any other foster children placed, may have as a result of the change and how these will be met.
- 11.7.5 These proposals are intended to guard against terms of approval being amended inappropriately in reaction to the need to place a child, without properly considering the foster carer's capacity to meet the child's needs. There is evidence that placements outside of terms of approval result in placement breakdown.
- 11.7.6 Changing a foster carer's terms of approval necessarily requires a [review](#) of their approval. Requirements to seek the carer's agreement to a change in terms, and to set out how the foster family's additional support needs as a result of this change will be met, will therefore be in addition to the existing requirement that as part of the review of the foster carer's approval the fostering service must seek and take into account the views of the foster carer, any child placed with the foster carer (subject to the child's age and understanding), and any local authority which has placed a child with the foster carer in the preceding year.

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

11.8 Transitional arrangements

- 11.8.1 It is proposed that the amendments proposed above to the fostering assessment should be implemented immediately upon the coming into force of the Care Planning, Placement and Case Review and Fostering

Services (England) (Miscellaneous Amendments) Regulations 2013.

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

11.9 Alignment of the fostering and adoption approval process

11.9.1 Changes being consulted on in this document align the fostering and adoption approval processes in a number of respects, e.g. aligning the start of the fostering assessment stage with the start of Stage Two of the adoption process and introducing a brief report for fostering. However, there remain elements of the two processes which are not aligned.

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

12 Chapter 6: The placement plan and delegation of authority to foster carers

12.1 Once approved to foster, it is important that foster carers are supported and enabled to provide excellent care to the children they foster. An important aspect of this is ensuring that authority for day-to-day decision making about the child is appropriately delegated to his/her foster carer.

12.2 Looked after children are clear that they want their foster carers to have the authority to make day-to-day decisions, such as whether they can sleep over with friends, attend a school trip or have their hair cut. Local requirements on foster carers to seek social worker approval for such everyday decisions result in children feeling different from their peers and delays decision making so children miss opportunities. Lack of effective delegation also makes it more difficult for foster carers to provide an effective parenting role, to offer their foster children a full experience of family life, and to meet their [duty](#) to care for their foster children as if they were their own children.

12.3 Birth parents have parental responsibility for their children, and in the case of a child subject to a care order so does the child's responsible local authority. A foster carer can legally do "[what is reasonable in all the circumstances](#)" to safeguard and promote their foster child's welfare,

but they do not have parental responsibility. Therefore, the local authority needs to engage with the parents and the foster carer to decide where authority to make decisions about the child should be delegated. The statutory framework for fostering services makes clear that authority for day-to-day decision making about foster children should be delegated to the foster carer wherever possible (respecting parents' views) but anecdotal evidence suggests that this is not happening in many local authority areas.

12.4 **Details of how we propose to address these concerns are set out below. We have posed a number of questions to which we would welcome responses. The proposed changes will require amendments to the Care Planning, Placement and Case Review (England) Regulations 2010 and to statutory guidance. The amendments to these Regulations are set out in Annex B.**

12.5 Requiring the placement plan to cover specified areas of decision making

12.5.1 Anecdotal evidence suggests that in some areas children's placement plans (the part of their care plan concerned with how their day-to-day needs will be met) are not being used as they should to record who has the authority to make particular decisions about them, resulting in confusion about who can make what decisions about a child's care.

12.5.2 The Care Planning, Placement and Case Review (England) Regulations 2010 (the Regulations) currently require the placement plan to include "[any circumstances in which F \[the foster carer\] must obtain the prior approval of either the responsible authority or P \[the parent\] before making decisions in relation to C \[the child\] or the C's \[the child's\] care](#)". The [Regulations](#) also state that where a child is accommodated voluntarily (i.e. with the agreement of their parent(s)) that the placement plan should set out the respective responsibilities of the responsible local authority and the child's parents and any delegation of authority from the parents to the responsible authority. The Regulations do not, however, give any detail about the areas of decision making the placement plan should cover. It is, therefore, proposed that:

- the Regulations should be amended to specify the areas of decision making where it must be made clear in the placement plan who has the authority to take the decision and
- statutory guidance should be amended to provide additional detail about what these areas cover, who might be expected to

make particular decisions and what factors might lead to a decision to depart from that expectation (bearing in mind that this will depend on whether the placement is subject to a care order or is voluntary, what the child's and the foster carer's views are on the matter, etc).

12.5.3 It is proposed that the areas of decision making that must be included in the placement plan should be:

- a. medical or dental treatment
- b. education
- c. leisure and home life
- d. faith and religious observance
- e. use of social media
- f. any other matters considered relevant.

12.5.4 These amendments would apply to children in foster placements and those placed in residential care.

Question 25: *Do you agree that these are the right areas of decision making to specify in the Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013? If no, please explain why not.*

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

12.6 Transitional arrangements

12.6.1 We propose that the amendments relating to requiring the placement plan to cover specified areas of decision making should be implemented at the next review of the child's care plan following the coming into force of the Care Planning, Placement and Case Review and Fostering Services (England) (Miscellaneous Amendments) Regulations 2013.

Question 27: *Do you foresee any problems with the proposed*

implementation? If yes, please explain why.

12.7 Requiring each local authority to publish a policy on delegation of authority

- 12.7.1 Positive leadership is essential if the aim of improving practice around delegation of authority is to be realised. The Government wants local senior officials and lead members for children to send out clear messages about the importance of effective delegation and their commitment to supporting foster carers and social workers to achieve this. Therefore it is proposed that statutory guidance should be amended to require each local authority to publish their own policy about delegation of authority to foster carers and residential workers.

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

13 How To Respond

- 13.1 You can respond to the consultation by completing the response form and emailing it to AdoptionandFostering.CONULTATION@education.gsi.gov.uk or sending it by post to:

CYPFD Team, Department for Education, Area 1C, Castle View House, East Lane, Runcorn, Cheshire, WA7 2GJ.

14 Additional Copies

- 14.1 Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at: <http://www.education.gov.uk/consultations>.

15 Plans for making results public

- 15.1 The results of the consultation and the Department's response will be published on the Department for Education e-consultation website in spring 2013. The amendment Regulations will come into force in summer 2013.