



Department
for Education

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Adoption: Getting It Right, Making It Work

Adoption: Getting It Right, Making It Work

This consultation seeks views on amendments to statutory guidance and Regulations about: Fostering for Adoption, consideration of ethnicity when matching children with prospective adopters, placing siblings with an adoptive family, information to be provided about adoption support, the Adoption and Children Act Register and contact in respect of children in care and adopted children. We are also consulting on the revision to the second outcome in standard 13 of the adoption National Minimum Standards and the revamped statutory adoption guidance.

To Prospective adopters, adopters, prospective foster carers, foster carers, Local authorities, the judiciary, lawyers, sector organisations, adoption agencies

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1 Ministerial Foreword

1.1 *In February 2012, I set out my aim “that our adoption system promotes successful and early adoptions, and does not thwart them.” I laid out my proposals for achieving that in [An Action Plan for Adoption: Tackling Delay](#)*

followed up by [Further Action on Adoption: Finding More Loving Homes](#).

Two years on it is clear our changes are making a difference.

Edward and I have personal experience of adoption and know first-hand the massive difference adoption makes to the lives of children and the adoptive family. I was adopted as a baby and Edward has siblings who were adopted by his parents. We are delighted therefore that through our changes more children are happily living in a stable and loving adoptive family – nearly four thousand children in 2012/2013, up by 15% on 2011/2012, and more prospective adopters approved in 2012/2013, up by 34% on 2011/2012 to nearly four thousand one hundred.

But there is still much to do. We are disappointed that there has been no overall improvement in how quickly children are adopted; it still takes children on average 31 months to be adopted from when they entered care. This underlines the urgent need for more adopters to be recruited and approved by adoption agencies and we are determined to continue to tackle this. We are confident we will see an improvement as the new approval process, the £200 million Adoption Reform Grant over 2013-2015 and our £17 million investment over 2013-2016 in voluntary adoption agencies, all take effect. We have achieved much over the past two years. We have given adopters new resources, including the adoption passport, which sets out their rights and entitlements, and launching the First4Adoption one-stop shop for information and support as would-be adopters navigate the system.

We have introduced a faster approval process so that prospective adopters should be approved within six months, and introduced new Regulations so approved prospective adopters and children waiting to be adopted are placed on the adoption register within three months, enabling quicker matches.

We have taken forward a number of adoption changes through the Children and Families Bill. These are about enabling children to move in with their potential adoptive families much earlier; removing the barriers to good placements caused by undue emphasis on finding a “perfect” ethnic match; engaging adopters more closely in the matching process by opening up the Adoption and Children Act Register to approved prospective adopters; better adoption support; changes to post adoption contact; and enabling structural reform of the adopter recruitment system so that it becomes more responsive to demand. In addition, we introduced a new clause that will allow relatives of adults adopted before 30

December 2005 to access intermediary services to facilitate contact between them and the adopted adult's birth relatives. We will be consulting separately on the Regulations and guidance underpinning this clause.

We are now seeking your views on Regulations and statutory guidance that will further make a difference to children's lives. We are particularly grateful to peers and a number of voluntary organisations who have given their time to improve the indicative guidance that was published last October. The Regulations and guidance are about what actions adoption agencies must take in respect of:

- Fostering for Adoption – new Regulations require local authorities, when they are considering adoption, to consider placing the child with foster carers who are also approved prospective adopters and who could go on to adopt the child if adoption becomes the plan and the court makes a placement order or where there is consent. The new Regulations and guidance make clear that the local authority must have considered and given preference to suitable family/friend carers before they consider adoption; and when it would be appropriate (and not appropriate) to consider this provision for children who are voluntarily accommodated.
- Ethnicity – guidance makes clear that children can be placed with prospective adopters who do not share the child's ethnicity but who can meet the needs of the child throughout childhood, whilst recognising that in some cases a close ethnic match will be in the child's best interests.
- Siblings – new Regulations will require local authorities to make decisions on whether to place siblings together or separately based on the individual needs of each child when they start family finding.
- Adoption support – new Regulations set out what information a local authority must provide so that prospective adopters are aware of their adoption support entitlements.
- Adoption and Children Act Register – new Regulations giving approved prospective adopters a more active role in identifying children by allowing them to search the Register for children they might be suitable to adopt. We will be piloting this later on this year.
- Contact – new Regulations will require local authorities to consider the contents of a looked after child's care plan to ensure that contact would be in their best interests. For post adoption contact, guidance on the new "no contact orders" that will allow adoptive parents, or the adopted child to apply to the court to prevent or stop contact.

We are also seeking your views on the slimmer version of the current statutory

adoption guidance. We know how important it is for busy front line practitioners to have statutory guidance which is easy to understand and easy to navigate. We have sought to shorten the guidance on what adoption agencies and adoption support agencies must do. We would welcome your views on whether we have got this right.

We are grateful to you for taking the time to participate in this consultation. Your views are important to us, as we all work towards our shared aim of making adoption, and the experience of adoption, the best it can possibly be.

Michael Gove MP

Secretary of State for Education

Edward Timpson MP

Parliamentary Under Secretary of State for Children and Families

2 Executive Summary

- 2.1** Over the past two years the Government has made many changes to the adoption system, with those changes making a real difference to the lives of children. We will bring into force in early summer 2014 many of the adoption changes that were included in the Children and Families Bill. We shall also make Regulations on placing siblings with adopters.
- 2.2** We want children to move in with their potential adoptive families as early as possible but with appropriate safeguards in place. So, where a local authority is considering placing a child with foster carers who are also approved prospective adopters who could adopt the child if adoption becomes the plan and the court makes a placement order, they can only do so if the Director of Children's Services consider it the best placement for the child. If the child is voluntarily accommodated under section 20 of the Children Act 1989, such placements will be appropriate in only a few instances, and the parents or guardian can remove their child from the local authority's care if they do not agree.
- 2.3** Black children wait on average 13 months longer than white children to move in with their new family. This is partly because some social workers try for too long to look for a perfect ethnic match. A prospective adopter and child do not need to share the same ethnicity; what is important is that the prospective adopter can

meet the most important of the child's identified needs throughout childhood. Removing the undue prominence given to a child's ethnicity in matching decisions should reduce the time children have to wait for a new family, whilst recognising that for some children a close ethnic match will be important.

- 2.4** Allowing siblings to be adopted together or placing a sibling later with the same adoptive parents is important for many, but not all, children. We have made it clear in Regulations and statutory guidance that decisions on whether siblings should be kept together should be based on a balanced assessment of the individual needs of each child in the group.
- 2.5** Good quality support during and after adoption is valued by adoptive parents and can have a real impact on improving the lives of both children and their adoptive family. Many adoptive parents are unaware of their entitlements in relation to adoption support or of the adoption support service adviser who can help them navigate the adoption support system. To rectify this, local authorities will be required to provide adoption support information to people enquiring about adoption, to prospective adopters and to adopters. The Regulations and guidance set out the information that must be provided.
- 2.6** Currently, social workers identify links between approved prospective adopters and children. Allowing approved prospective adopters to play a more active role in identifying children means that they will often consider adopting children who they would otherwise not have been given the opportunity to consider via traditional matching techniques. We are therefore opening up the Adoption and Children Act Register to approved prospective adopters who have signed the search and inspection agreement to allow them to search it for children who are waiting to be adopted. Similarly approved prospective adopters who have expressed a willingness to care for a child on a Fostering for Adoption basis will also be able to search the Register provided they have signed the search and inspection agreement.
- 2.7** The safety of children and the privacy of their information are paramount. To ensure the new adopter-led matching system is secure and fit for purpose, we will be piloting it over nine months starting in summer 2014.
- 2.8** We know that contact between a looked after child and their birth family can be beneficial to the child. Local authorities must allow reasonable contact between the child and their parents or others with parental responsibility for the child where that is consistent with safeguarding and promoting the child's welfare, and

endeavour to promote contact between them and their relatives, friends and other connected persons. However, where a local authority are authorised to refuse contact this duty is disapplied.

2.9 Contact between an adopted child and their birth family can similarly be beneficial to the child, but sometimes it can disrupt or damage the adoptive placement, particular whilst the child is developing attachments to his or her new family. Decisions on contact following adoption should be made by the adoptive family, so we have created a no contact order for which they or the child may apply. They can apply also for a contact order with named individuals or as of right; others will need to seek the court's permission to apply.

2.10 Statutory adoption guidance

The statutory adoption guidance has been restructured and shortened to make it easier to use. The revised guidance now tells agencies what their powers and duties are but not how those powers and duties should be exercised. It now incorporates guidance on intercountry adoption.

2.11 National Minimum Standards, outcome of standard 13

National minimum standard 13 requires Ofsted to take into consideration the percentage of children whom the local authority has placed with a prospective adopter within 12 months of the agency's decision that the child should be placed for adoption. We propose to replace this outcome with indicators A1 and A2 of the adoption scorecards, and taking into account the additional contextual data in the scorecard.

2.12 Further details

Section 3 of this document gives more information about all of these issues and where the associated Regulations and guidance can be downloaded.

2.13 Implementation

We aim to bring into force in early summer the Regulations, revised statutory adoption guidance and standard 13 of the adoption national minimum standards.

3 Background and Context

- 3.1** Amendments to statutory guidance and Regulations are being made because of the Government's proposals in Part 1 of the Children and Families Bill. These are: placing children for whom adoption is being considered with foster carers who are also approved prospective adopters (Fostering for Adoption), consideration of ethnicity when matching children with prospective adopters, information to be provided about adoption support, the Adoption and Children Act Register and contact in respect of children in care and adopted children. The draft Regulations and guidance were initially published on 2 October 2013 (with Regulations on placing siblings with an adoptive family) as part of Parliament's scrutiny process.

4 Proposals

4.1 Fostering for Adoption

This approach has two significant benefits for children: it enables earlier placement with the potential permanent family for the child with the adults taking the risk that the placement may not lead to adoption; and helps drive early family finding.

- 4.2** Fostering for Adoption, like concurrent planning, is a fostering and not an adoptive placement. Consequently, Section 22C of the Children Act 1989 applies.

- 4.3** Local authorities are required to place children, who cannot live with their birth parents or other person with parental responsibility, in the most appropriate placement available. The first decision which they have to make is whether the child can live with his or her birth parents. If that is not reasonably practicable and consistent with the child's welfare, the local authority must then consider placing the child with someone else who is able to care for them. Local authorities are required to give preference to placements with relatives, friends or other connected persons if that is the most appropriate placement available (section 22C(7)(a) of the Children Act 1989). Before coming to decisions about the child, local authorities must always keep in mind their obligations under the European Convention on Human Rights. This includes the rights of birth parents to be listened to, to have their wishes and feelings taken into consideration and to be involved in the decision making process.

- 4.4** If a placement with relatives is not appropriate or possible, the local authority,

having exhausted all other options, must consider alternative placements with a third party. When that includes considering adoption for the child, the new duty requires the local authority also to consider a Fostering for Adoption placement. The new duty thus requires local authorities to consider whether a Fostering for Adoption placement is the most appropriate placement for the child at the point where it is considering adoption for the child. This can be before the decision of the agency decision maker is made or afterwards.

- 4.5** Fostering for Adoption does not displace section 22C(7)(a) of the Children Act 1989 and does not change the existing duty on local authorities to give preference to a placement with relatives, friends or connected persons. Where the local authority's efforts to return a child to live with the birth parents have failed and the local authority is looking for an alternative placement, the first option it must consider is a placement with relatives, friends or a connected person and to give that placement preference subject to, of course, the person identified agreeing to look after the child and to the local authority being satisfied that such a placement would safeguard and promote the child's welfare.
- 4.6** Generally, by the time a local authority considers adoption they should already have considered relatives and friends and decided that they would not be suitable carers for the child. Should a scenario arise where a relative comes forward to care for the child after he or she has been placed in a Fostering for Adoption placement, the local authority still has a duty to assess their suitability to care for the child. The local authority remains under the continuing duty in section 22C(5) of the Children Act 1989 to place the child in the most appropriate placement available.
- 4.7** When considering a Fostering for Adoption placement the local authority should consider the carers' capability to be the child's foster carers, whilst keeping in mind the possibility that they may become the child's adoptive parents, should the placement become an adoptive placement. New regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 (inserted by regulation 9 of the draft Adoption Agencies (Miscellaneous Amendments) Regulations 2014), provides for the local authority's Director of Children's Services to approve the decision that the child should be placed in a Fostering for Adoption placement. In doing so, he or she will need to be satisfied that the placement is the most appropriate placement available for the child, and will safeguard and promote the child's welfare, and that suitable family and friends have first been considered. Where the local authority subsequently considers the child should be placed for adoption, it must comply with Part 5 of the Adoption

Agencies Regulations 2005.

- 4.8** The local authority must notify the prospective adopter and the child's parent or guardian in writing of that decision, and must explain the decision to the child (subject to the child's age and understanding). Where the child is voluntarily accommodated under section 20 of the Children Act 1989, the notification must inform the child's birth parents or guardian of their entitlement to free legal advice and their right to remove their child from care. Under the provisions of the Legal Aid, Sentencing and Punishment Act 2012, legal aid will be available to parents for legal services provided in relation to specified public law proceedings. This will include legal services in relation to care orders, placement and adoption orders and orders that are contemplated (i.e. pre- proceedings).
- 4.9** You can download the amendments to the Adoption Agencies Regulations 2005 and the Care Planning, Placement and Case Review (England) Regulations 2010 which are contained in the Adoption Agencies (Miscellaneous Amendments) Regulations 2014 and the draft statutory adoption guidance.

Consultation questions:

- Does the draft Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review statutory guidance set out clearly the need to consider and give priority to family and friend carers? If no, please say what additional guidance you think is needed.
- Do you consider that the Director of Children's Services is the right person to agree to the placement under section 22C(9A) of the Children Act 1989? If no, please say who you think is the right person and why.
- Does the draft Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review statutory guidance set out clearly the circumstances in which a placement under section 22C(9A) of the Children Act 1989 may be appropriate/not appropriate for a child accommodated under section 20 of the Children Act 1989? If no, please say what additional guidance you think is needed.

- 4.10 Consideration of ethnicity when matching children and prospective adopters**

In March 2012 the Government published An Action Plan for Adoption: Tackling Delay. The Action Plan highlighted key points at which delay can occur. One key point is the process of matching a child to an adoptive family; there was some evidence that in some local authority areas social workers were focusing too much on making a “perfect” ethnic match at the expense of matching children with the most suitable adopters. This meant that black children were waiting 13 months longer than white children to move in with their new family and in some cases missing out on the chance of being adopted altogether.

- 4.11** Improving the chances of black children being adopted needs to be addressed and the Government has taken action by repealing section 1(5) of the Adoption and Children Act 2002. The repeal applies in England only and removes the express requirement on adoption agencies to give due consideration to a child’s religious persuasion, racial origin and cultural and linguistic background when placing a child for adoption. This avoids any suggestion that the child’s religious persuasion, racial origin and cultural and linguistic background are more important than either the child’s welfare, or the harm caused by a delay. Where the child and prospective adopter do not share the same background, the prospective adopter may need additional support. This should be in the form of education and training, for example to strengthen their skills and understanding of the child’s birth heritage, and their level of understanding of the discrimination and racism the child may be confronted with when growing up.
- 4.12** In reaching a placement decision, adoption agencies will continue to be required by section 1(2) and (4) of that Act to make a child’s welfare throughout his or her life their paramount consideration. In doing so, they will have regard to a range of matters, including the child’s needs, wishes and feelings, and his or her background – which includes the child’s religious persuasion, racial origin and cultural and linguistic background - and other relevant characteristics. An adoption agency is also required by section 1(3) of that Act to bear in mind that any delay in coming to a decision is likely to prejudice the child’s welfare.
- 4.13** When looking for approved prospective adopters who may be suitable to adopt a child, new regulation 12A of the Adoption Agencies Regulations 2005 requires the adoption agency to assess the ability of the prospective adopter to meet the needs of the child throughout childhood having regard to the duties in section 1(2)-(4) of the Adoption and Children Act 2002. Sometimes a close ethnic match will be in a child’s best interests, for example where an older child expresses strong wishes. However, it is not in the best interests of children for their placement to be delayed while an ideal ethnic match is sought when approved

prospective adopters who can meet that child's present and future needs are available.

- 4.14** You can download the amendments to the Adoption Agencies Regulations 2005 and the Care Planning, Placement and Case Review (England) Regulations 2010 which are contained in the Adoption Agencies (Miscellaneous Amendments) Regulations 2014 and the draft statutory adoption guidance.

Consultation questions:

- Does the draft statutory adoption guidance set out clearly how factors relating to a child's racial origin, should be taken into account in matching decisions? If no, please say what additional guidance you think is needed.
- Does the draft statutory guidance set out clearly the nature of support that prospective adopters might need when they adopt children of a different ethnicity? If no, please say what additional guidance you think is needed.

4.15 Placing siblings with an adoptive family

When adoption is the plan for children this should happen quickly and without delay. Allowing siblings to be adopted together or placing a sibling later with the same adoptive parents is important for many, but not all, children. Their relationship can provide much needed support and continuity. However, for other children this is not the case; some siblings have negative or abusive relationships which can hold back the development of one or more of them, and there can be other reasons why it is better for siblings to be separated.

- 4.16** Research on the impact of separating or keeping siblings together in adoptive placements is inconclusive. In some cases it is clearly right to separate siblings while in others it is better to keep them together. Professional judgement will always be necessary in understanding the needs of each child as an individual and understanding their relationship with their siblings. Balancing all of these considerations in order to decide what is in the best interests of an individual child is difficult and sensitive.

- 4.17** In July 2012 the Government issued *Placing Children in Sibling Groups for Adoption: A Call for Views* in which it sought views on a way forward that would see decisions made based on the best interests of each individual child within a sibling group. The Government asked "Should the law be made more explicit so

that placing siblings together is considered on a case by case basis for each individual child? Should we revise legislation and guidance to set out the features of good arrangements for contact with siblings when children are adopted separately?” Responses to these proposals were mixed with many respondents noting that improvements in outcomes for sibling placements were more likely to occur with better recruitment practices and better support for adopters of sibling groups. Many respondents indicated that decisions need to be made on a case by case basis. Some respondents expressed concerns that children’s relationships would be undermined by the splitting up of sibling groups because of potentially rigid legislative requirements. The Government said in its response to the Call for Views [February 2013] that it would not pursue changes through primary legislation but to consider the issue through its broader adoption reforms.

4.18 We have decided to make regulatory changes that require siblings be placed together only when it is the right option for each individual child. Where an adoption agency is considering adoption for siblings the agency will need to decide early on whether, based on supporting information and evidence, it is in the best interests of each child to be adopted together or whether the children should be separated and be adopted by different adopters. The decision must 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, and be taken in accordance with the duties on the adoption agency under section 1(2)-(4) of the Adoption and Children Act 2002.

4.19 You can download the amendments to the Adoption Agencies Regulations 2005 and the Care Planning, Placement and Case Review (England) Regulations 2010 which are contained in the Adoption Agencies (Miscellaneous Amendments) Regulations 2014 and the draft statutory adoption guidance.

Consultation questions:

- Does the draft statutory adoption guidance set out clearly the importance of making a prompt and informed decision about whether siblings should be placed for adoption separately or together? If no, please say what additional guidance you think is needed.

4.20 Adoption Support duty to inform

Good quality support during and after adoption is valued by adoptive parents and can have a real impact on improving the lives of both children and their adoptive family. It can encourage people to come forward to adopt and help reduce disruptions. The duty to provide information in relation to adoption support services is one measure the Government has developed to improve the quality and consistency of support available to adoptive parents.

- 4.21** Section 4 of the Adoption and Children Act 2002 places a duty on local authorities to carry out an assessment of a person's need for adoption support when requested by an eligible person. However, evidence suggests that many adoptive parents are unaware of this. An Adoption UK survey of 455 adoptive parents in 2012, for example, found that 64 per cent were not informed by their adoption agency about their right to an assessment. More generally, only 38 per cent of respondents to this survey reported that they did know about their entitlements to adoption support services.
- 4.22** Evidence from the same source also shows that when those eligible do request an assessment, not all local authorities are carrying out the assessments. 6 per cent of adoptive parents who requested an assessment had this request refused. Many adoptive parents are also unaware that Regulations require local authorities to have an adoption support service advisor in place, who should be available to help them navigate the adoption support system.
- 4.23** Section 4B of the Adoption and Children Act 2002 (inserted by clause 6 of the Children and Families Bill) places a duty on local authorities to inform potential adopters, prospective adopters and adoptive parents of their entitlements in relation to adoption support. Under this duty local authorities must provide 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 must be proactive and provide the information requested as set out in section 4B and in the draft Adoption Support Services (Amendments) Regulations 2014 to adoptive parents they know live in their area and to adoptive parents on request.
- 4.24** There will be circumstances when the prescribed information is not wanted or needed by the individual. The draft Regulations set out the circumstances in which a local authority is not required to provide the prescribed information.
- 4.25** Local authorities must proactively give the information to the individuals. It is insufficient to simply make information available which people would then have

to seek out by themselves. For example, simply putting information on a webpage and not informing prospective adopters and adoptive parents about that webpage will not discharge the duty.

- 4.26** You can download the amendments to the Adoption Support Services Agencies Regulations 2005 which are contained in the Adoption Support Services (Amendment) Regulations 2014 and the draft statutory adoption guidance.

Consultation questions:

- Does the draft statutory adoption guidance set out clearly the information about adoption support services that a local authority will have to provide to adopters and prospective adopters? If no, please say what additional guidance you think is needed.
- Does the draft statutory adoption guidance set out clearly when and how the local authority should provide information to adopters and prospective adopters? If no, please say what additional guidance you think is needed.
- Are the Adoption Support Services (Amendment) Regulations 2014 clear? If no, please say what you think is unclear.

4.27 The Adoption and Children Act Register

The Adoption and Children Act Register is a database that currently includes details of children waiting for adoption and approved prospective adopters who have been referred by local authorities and voluntary adoption agencies. The purpose of the Register in adoption is to increase the chances of a child being placed for adoption and reduce the delay in doing so.

- 4.28** Clause 6 of the Children and Families Bill makes changes to the information that can be included on the Register and who can search the Register. Local authorities will be able to refer to the Register details of Fostering for Adoption children and approved prospective adopters will be able to search the Register for both Fostering for Adoption children and children who are waiting to be adopted. These changes apply to England only.

- 4.29** Currently, social workers are responsible for identifying links between approved prospective adopters and children, but the effectiveness of this approach is not

borne out by the evidence. Leading researchers in this area, Professor Julie Selwyn and Professor David Quinton, assert that the research evidence for effectiveness of existing matching techniques is not only “lacking” but “virtually absent”. Evidence from Exchange Days, where social workers are able to meet with approved adopters to share more details about the children that are waiting to be adopted, shows that allowing approved prospective adopters to play a more active role in identifying children means that they will often consider adopting children who they would otherwise not consider (or be considered for) via traditional matching techniques.

- 4.30** The Register will be opened up in a number of pilot areas to allow approved prospective adopters to search it for children who are waiting to be adopted. This will significantly speed up the matching process, particularly for those children who may be harder to place. At present, despite the chronic shortage of adopters, some approved prospective adopters wait for months and sometimes years to be matched with a child.
- 4.31** The safety of children and the privacy of their information are paramount. The information that approved adopters will be able to access will be anonymised, so that the child cannot be identified or enable any direct approach to be made to the child or their birth family. The approved prospective adopters will continue to work closely with Register staff and subsequently the child’s social worker to follow up a link with a child waiting for adoption. The final matching decision will remain the responsibility of the adoption agency.
- 4.32** Approved prospective adopters in the pilot areas will also be able to search the Register for details of Fostering for Adoption children. In addition to the safeguards set out above, the details of these children will be held in a separate section of the Register so that their details can be seen only by the Register staff, social workers and approved prospective adopters who have expressed a willingness to care for a child on a Fostering for Adoption basis.
- 4.33** To test the new adopter-led matching system, the Department for Education will undertake a pilot over 9 months beginning in 2014.
- 4.34** There will be no charge to refer details of children or approved prospective adopters to the Register or for approved prospective adopters to search the Register.
- 4.35** The draft Adoption and [Children Act Register Regulations 2014](#) sets out what

information about a child or approved prospective adopter must be submitted for inclusion on the Register and what information can be disclosed and to whom.

- 4.36** The draft [Adoption and Children Act Register \(Search and Inspection\) Regulations 2014](#) enables approved prospective adopters to inspect the Register and prescribes the information that they can have access to.
- 4.37** You can download The Adoption and Children Act Register (Search and Inspection) Regulations and The Adoption and Children Act Register Regulations 2014. You can also download the Draft Statutory Guidance.

Consultation questions:

- Does the draft statutory adoption guidance set out clearly the requirement and time limit to refer details about children and approved prospective adopters to the Register? If no, please say what additional guidance you think is needed.
- Do you think the proposed arrangements for approved prospective adopters to access the Register will offer suitable safeguards for children and approved prospective adopters? If no, please say what additional arrangements you think are needed.
- What issues should the evaluation of the pilot examine?

4.38 Contact children in the care of local authorities

Local authorities must allow reasonable contact between a child in care and his or her parents, guardians, special guardians and certain others (section 34(1) of the Children Act 1989), and to endeavour to promote contact between them, relatives, friends and connected persons (paragraph 15 of Schedule 2). Clause 8 of the Children and Families Bill amends section 34(1) of the Children Act 1989 to make it clear that contact arrangements are to be driven by the need to safeguard and promote the welfare of the child. When determining whether contact would be in the child's best interests, the local authority must consider the contents of the child's care plan.

- 4.39** The local authority may refuse to allow contact with the individuals listed in section 34(1) if they have been authorised by a court order to refuse contact with that person, or are doing so temporarily under section 34(6). Clause 8 of the Children and Families Bill adds a new section 6A into section 34 to provide that

where a local authority is authorised by the court to refuse contact with an individual or are doing so temporarily under section 34(6) the local authority are not required to endeavour to promote contact between that individual and the child under paragraph 15 of Schedule 2. The individuals are the child's parents, a person who has parental responsibility for the child, any relative, friend or other person connected to the child.

4.40 You can download the amendments to the Care Planning, Placement and Case Review (England) Regulations 2010 which are contained in the The Adoption Agencies (Miscellaneous Amendments) Regulations 2014 and the Draft Statutory Guidance.

Consultation questions:

- Does the draft statutory guidance set out clearly when the duty to endeavour to promote contact under Schedule 2, paragraph 15 no longer applies? If no, please say what additional guidance you think is needed.

4.41 Post adoption contact

We know that contact between an adopted child and their birth family or former guardians can be beneficial to the child, helping their development and enabling them to understand, for example where they came from, their family history, and why they could not return to their parents. However, research by Catherine MacAskill (*Safe Contact: Children in Permanent Placement and their Birth Relatives* [2002]) has shown that the proportion of children suffering negative consequences from contact after adoption was twice the proportion for those whom contact had a positive effect. It is therefore important that adoptive parents have proper recourse to the courts in cases where unsolicited contact is being made with the adoptive child, either directly or indirectly, for example via social media.

4.42 Section 8 of the Children Act 1989 already makes provision for contact orders, but such orders do not work as the Government would like in relation to adoption and, in particular, in relation to enforceable orders of no contact post adoption.

4.43 Clause 8 of the Children and Families Bill provides for specific, adoption related orders prohibiting contact – or 'no contact' orders – to be made by the courts. It also provides for such orders to be made at the point of the adoption order itself.

This might be appropriate where, for example, disruptive contact had been occurring earlier in the adoption process. This new order will allow adoptive parents, or the adopted child themselves, to apply to the court to prevent or stop such contact. Of course, it will not be appropriate for such 'prohibitive' orders to be made in all cases. In deciding whether to make an order the court's paramount consideration must be the child's welfare throughout his or her life. Breach of a contact or no contact order would be contempt of court.

- 4.44** The amendments to the Family Procedure Rules 2010 are expected to come into force in April 2014. The statutory guidance will be published later in early summer 2014. You can download the associated Draft Statutory Guidance.

Consultation question:

- Does the draft statutory adoption guidance set out clearly who can apply for an order under section 51A of the Adoption and Children Act 2002 and when? If no, please say what additional guidance you think is needed.

4.45 Statutory adoption guidance

The statutory adoption guidance has been produced to help local authorities, voluntary adoption agencies and adoption support agencies meet their statutory duties, so it is important that correct and relevant information is given and can be found quickly. The guidance has been revised so that it now tells agencies **what** their powers and duties are. It does not tell them **how** those powers and duties should be exercised.

- 4.46** We have restructured the statutory adoption guidance, incorporated statutory guidance on intercountry adoption, renamed chapters to reflect better the contents and have consolidated chapters so that subjects, such as the Adoption and Children Act Register, can be found in one chapter rather than in multiple chapters. We are not consulting on the policy or current legislation covered in the guidance. The draft guidance referred to in previous chapters of this consultation documents has been included in the revamped version to indicate where it would sit.

- 4.47** Chapter 8 of the current statutory adoption guidance (court proceedings)

(Adoption Agency and Local Authority Responsibilities in Court Proceedings)) has been reviewed and incorporated into the revised *Statutory guidance on court orders and pre-proceedings* so that all guidance on court orders is housed in one document. The revised statutory guidance was issued for consultation on 12 February 2014.

4.48 The Government's adoption reform programme aims to speed up adoption so that children for whom adoption is the best outcome can be quickly placed in loving families and supported effectively. Throughout the statutory guidance and adoption National Minimum Standards there are a number of suggested and prescribed timescales for different aspects of the adoption process. Your views are sought on whether the timescales remain the right ones.

4.49 You can download the revised Draft Statutory Guidance.

Consultation question:

- Does the revised version of the statutory adoption guidance meet the needs of adoption agencies and adoption support agencies? If no, please say what guidance you think is needed.

Are the timescales the right ones to help achieve a quicker adoption process? If no, please say what changes you think are necessary.

4.50 National Minimum Standards, outcome of standard 13

National minimum standard 13 reflects National Indicator 61 that measures the percentage of children in each local authority who are placed within 12 months of the agency decision maker's decision that a child should be placed for adoption. It excludes the period from the child's entry into care to the agency's decision maker's decision. The current version of the outcome for standard 13 is:

“STANDARD 13 – Matching and placing the child with prospective adopters who can meet most of their assessed needs

Outcome

- Children benefit from stable placements and are matched and placed with prospective adopters who can meet most, if not all, of their assessed needs.

- Children feel loved, safe and secure with their prospective adoptive parents with whom they were originally placed; and these children were placed within 12 months of the decision of the agency’s decision-maker that they should be placed for adoption.”

4.51 With the publication of [*An Action Plan for Adoption: Tackling Delay*](#) the focus has been on the entirety of the child’s journey through care. The scorecards referred to in the Action Plan measures (1) the time taken from entry to care to placement with the adoptive family; and (2) the time taken from placement order to the match with the adoptive family. This provides information on the entirety of the child’s journey through care, which is essential for the child, but allows that part of the process (early family finding and matching) that is wholly within the control of the local authority to be shown separately. The scorecard indicators are:

- Indicator 1 – Average time between a child entering care and moving in with its adoptive family, for children who have been adopted.
- Indicator 2 – Average time between a local authority receiving court authority to place a child and the local authority deciding on a match to an adoptive family.

4.52 We propose to replace the second part of the outcome in standard 13 to reflect indicators 1 and 2 of the adoption scorecards, and taking into account the additional contextual data in the scorecard. The proposed amendment is in italics and would look like this:

“STANDARD 13 – Matching and placing the child with prospective adopters who can meet most of their assessed needs

Outcome

- Children benefit from stable placements and are matched and placed with prospective adopters who can meet most, if not all, of their assessed needs.
- *Children feel loved, safe and secure with the adoptive parents with whom they were originally placed; and these children were placed within the*

time frame set out in the adoption scorecard indicators A1 (average time between a child entering care and moving in with its adoptive family, for children who have been adopted) and A2 (average time between a local authority receiving court authority to place a child and the local authority deciding on a match to an adoptive family).”

Consultation questions:

- Do you think that the scorecard indicators are a more appropriate measure of timely placement for the child than the current National Indicator 61, as they take into account both the time from entry to care to placement with the adoptive family and, separately, the time between a local authority receiving court authority to place a child and the local authority deciding on a match with an adoptive family? If no, please explain what you think is the appropriate measure.
- Do you think that the contextual data in the scorecard should be taken into consideration? If no, please explain why you think the contextual data should not be taken into consideration.

5 How To Respond

- 5.1** Consultation responses can be completed online at www.education.gov.uk/consultations by emailing Gettingitrightmakingitwork.CONULTATION@education.gsi.gov.uk or by downloading a response form which should be completed and sent to:

Adoption Division, Department for Education, Sanctuary Buildings, First Floor,
Great Smith Street, London, SW1P 3BT

6 Additional Copies

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

7 Plans for making results public

- 7.1** The results of the consultation and the Department's response will be published on the DfE e-consultation website in late May 2014.