



Department
for Education

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**Intermediary Services For Descendants-Relatives Of Adopted
People:**

Intermediary Services For Descendants-Relatives Of Adopted People:

This consultation seeks views on which groups of people should be granted access to “intermediary services”. Intermediary services currently facilitate contact and (in some circumstances) disclosure of information between adopted adults and their birth relatives. During the Lords report stage of the Children and Families Bill (now an Act), the Government agreed to amend the Bill to address the issue of allowing the direct descendants of adopted people and other relatives access to intermediary services.

To Adopted adults, birth relatives of adopted adults, adoptive relatives of adopted adults, descendants of adopted adults, local authorities, adoption support agencies, voluntary adoption agencies, lawyers.

Issued 10 April 2014

Enquiries

To If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288

e-mail: accesstointermediaryservices.CONSULTATION@education.gsi.gov.uk.

Contact Details

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the Department's '[Contact Us](#)' page.

1 Ministerial Foreword

1.1 The importance of facilitating greater openness in adoption has now been recognised for a number of years and as someone who has adopted siblings myself, I am very conscious of the issues that often surface around adoption. Many adopted persons express a strong need, particularly as adults, to be able to access information about their birth families and the circumstances surrounding their adoption.

- 1.2** There has been growing pressure to change the law to allow the direct descendants of adopted people to access information about the adoptions that took place before 30 December 2005. After various helpful discussions with Nick De Bois MP, Lady Hamwee, Lady Butler-Sloss, Professor Elizabeth Cooke of the Law Commission, the British Association for Adoption and Fostering (BAAF) and other stakeholders the Government agreed to table a Government amendment to the Children and Families Bill that became section 1 of the Children and Families Act 2014. I'd like to thank everyone that contributed to what was a constructive approach to this sensitive issue.
- 1.3** Under current law, as it applies to adoptions that took place before 30 December 2005, both the adopted person and their birth relatives are able to make use of an intermediary service to facilitate contact between them. But the children of the adopted person are not. This anomaly leaves a number of people in the dark about their family history. The amendment will allow regulations to be made that will extend access to intermediary services to those with a prescribed relationship with the adopted person. The reason this change does not apply to adoptions that took place after 30 December 2005 is because information about these adoptions is held and accessible under a different legal framework which does not distinguish between descendants and other relatives.
- 1.4** The wording of the new clause refers to "persons with a prescribed relationship" rather than 'descendants' because were we to put 'descendant' on the face of the Bill, we believe this would limit the extended access to children and grandchildren of the adopted person. Whilst it is our intention that the regulations will at a minimum include the children and grandchildren of the adopted person, we also wish to consult on whether it is appropriate for others, such as spouses and siblings of the adopted person, to be able to access the same services.
- 1.5** We have worked with BAAF and sought the views of the General Register Office (GRO) and the Welsh Government in preparing this consultation paper. The consultation covers two sets of questions around who should have access to intermediary services and what safeguards we should put in place to balance the desire of relatives to access information against the right to privacy of people who were adopted.
- 1.6** We are now seeking your views on which groups of people should be granted access to "intermediary services". We are particularly grateful to peers and stakeholders who have given their time to explore this complicated subject. 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.

Edward Timpson MP

Parliamentary Under Secretary of State for Children and Families

2 Background

- 2.1** In February 2013 the House of Lords' Select Committee on Adoption Legislation recommended that the Government amend section 98 of the Adoption and Children Act 2002 to bring within its scope the direct descendants of adopted persons. At that time, the Government did not follow this course of action but explored with the Law Commission whether the issue of access to adoption information for the descendants of adopted people might be included within a possible project as part of the Commission's 12th programme of law reform. However, following discussions with peers, Nick de Bois MP, Professor Elizabeth Cooke of the Law Commission, BAAF and other stakeholders, the Government agreed to table a Government amendment to

the Bill that became section 1 of the Children and Families Act 2014.

3 Implementation

3.1 We aim to bring regulations into force in September 2014.

4 Introduction

4.1 The Government is committed to extending access to intermediary services to the children and grandchildren of adults adopted before 30 December 2005, for the purposes of facilitating contact between them and the adopted person's birth relatives. We are seeking views about who else should be allowed access to such services. We are also seeking views on whether the adopted person should have the right to make an absolute or qualified veto for making contact

5 Current position

5.1 An intermediary service is a service provided by an intermediary agency for the purposes of assisting adopted adults who were adopted before 30 December 2005 to obtain information about their adoption, and facilitating contact between such persons and their birth relatives. Since intermediary services were introduced on 30 December 2005, applications can only be accepted by an intermediary agency from an adopted adult to make contact with members of their birth family, and by birth relatives to make contact with an adopted adult. Birth relatives are defined as any person who (but for his adoption) would be related to him by blood (including half-blood), marriage or civil partnership.

5.2 This means that others, who may have good reasons for wishing to make contact with the adopted person's birth relatives, including the adopted person's own children or grandchildren do not have the same rights as the birth relatives and face an impasse if the adopted person has not independently contacted his or her birth relatives, as they have no legal right to access intermediary services. The Children and Families Act 2014 now enables regulations to be made to extend access to intermediary services to any "persons with a prescribed relationship".

5.3 The role of an intermediary agency is to facilitate contact between adopted people and birth relatives and to provide counselling, support and advice. An intermediary services can only be provided to adults by an intermediary agency (i.e. local authority, adoption support agency or voluntary adoption agency).

5.4 Currently adopted people may register (in writing) a veto to prevent an intermediary agency from making contact or to say that they only want to be contacted in certain circumstances. The intermediary agency has to take reasonable steps to contact the appropriate adoption agency to see if a veto exists. We are seeking views on whether the vetoes should be extended to "prescribed persons".

5.5 Intermediary agencies have the discretion to decide whether to accept, or continue with, an application having considered the welfare of the adopted person, the views of any person to whom the information relates, the views of the appropriate adoption agency, having considered any information obtained from the Adoption Contact Register and any other circumstances of the case.

5.6 We do not propose to make changes to how or when adopted adults can access information about their adoption, or how and when birth relatives of adopted adults can seek intermediary services. In addition these changes will not apply to any adoption that took place on or after 30 December 2005, as there are a different set of rules for managing and disclosing information relating to adoptions after that date.

6 Proposal

6.1 Currently a wide range of birth relatives are able to access intermediary services to make contact with an adopted adult. However, none of the adoptive family has the same access.

6.2 The Government believes that there are a number of principles as to why access to intermediary services should be made available to others and adoptive relatives such as: personal reasons – the right to know about the background/history of the adopted person's birth family; health reasons -to find out about a hereditary medical condition or health issue which could affect the health of a person's child/children; and equality - to have equal rights and the same access as birth relatives. The Government proposes at a minimum to allow access to intermediary services to children and grandchildren of the adopted person.

6.3 However, we need to balance the competing rights of the family and private life of adopted adults, "prescribed persons" and birth relatives. It is important that we balance the need to extend access with the needs of those adopted persons who may wish for no contact to be made. As noted above, intermediary agencies have discretion on whether to pursue applications, taking into account a number of factors including the welfare of the adopted person and there are currently two key safeguards in the way intermediary services are provided:

- Adopted adults have the right to register one of two types of contact vetoes: an absolute or qualified veto. An absolute veto will prevent an intermediary agency from making contact with the adopted person.
- A qualified veto restricts the circumstances in which an intermediary agency can make an approach to the adopted person.

Contact vetoes are rarely used and cease upon the adopted person's death.

(1) Example - Lucy's father was adopted in 1946 but never talked about his adoption or sought any information about his birth parents. Lucy's father passed away and Lucy felt a strong desire to find out about her dad's birth family and his adoption. Lucy's application to an intermediary agency was declined on the basis that Lucy was not eligible for IS.

(2) Example - John's late wife was adopted. They have two children one of whom had been suspected of having a hereditary medical condition. John applied to the court on behalf of his son to obtain information about his late wife's birth family history to find out if there was a medical history of a hereditary medical condition. John had previously applied to the NHS information service but was declined on the basis that he was not eligible for the service. The

court declined the application on the basis that this was not an exceptional circumstance and John had no other way of finding out about his late wife's birth family.

7 How To Respond

7.1 Send by post to:

Adoption Division
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

to: accesstointermediaryservices.CONULTATION@education.gsi.gov.uk.

8 Additional Copies

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

9 Plans for making results public

9.1 The results of the consultation and the Department's response will be published on the DfE e-consultation website in August 2014.