



Department  
for Education

# **Intermediary services for descendants: relatives of adopted people**

**Government consultation response**

**September 2014**

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## Introduction

The consultation sought views on which groups of people should be granted access to 'intermediary services', for the purpose of tracing and facilitating contact between adopted person's birth relatives and a range of other relatives. The consultation also sought views on what safeguards should be put in place to balance the desire of relatives accessing such services against the privacy of people who were adopted before 30 December 2005. Intermediary services are delivered through agencies that currently specialise in facilitating contact and (in some circumstances) disclosure of information between adopted adults and their birth relatives.

## Summary of responses received and the government's response

The consultation ran between 10 April and 29 May 2014 and 50 responses were received. The consultation document was published on the Department for Education's website and on GOV.UK's website. The consultation was also advertised using social media.

A number of respondents who provided comments but did not select a 'yes' or 'no' response were automatically selected as 'not sure'. There is, therefore, a high proportion of 'not sure' responses for some questions.

A list of organisations that responded to the consultation can be found in Annex A.

A breakdown of respondents is as follows:

Respondent type	Total
Birth relatives of adopted adults	11
Descendants of adopted adults	11
Adopted adults	6
Local authorities	6
Voluntary adoption agencies	5
Other <sup>1</sup>	4
Adoption support agencies	3
Adoptive relatives of adopted adults	2
Lawyers	2

## Main findings from the consultation

The majority of respondents welcomed the proposals and agreed that access to intermediary services should be extended. A clear majority believed that children and grandchildren of adopted adults should have access to intermediary services. Around half of respondents agreed that others should also have access to intermediary services,

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<sup>1</sup> Those that fell into the 'other' category include professional associations, members of the public, legal groups and those respondents who did not specify.

in particular circumstances and with appropriate safeguards in place for the adopted person. Views on which 'other' relatives should have access were mixed and in some cases qualified - for example, while a clear majority favoured spouses having access to intermediary services, a number of respondents commented that this should only be accepted if the adopted person has deceased, whilst others felt a spouse should be able to apply on behalf of a child.

A number of comments emphasised the complexity and emotional sensitivity of complex cases within this area. Additionally, these respondents advocated a case by case approach which enables professionals to make decisions based on the individual circumstances of each case rather than being overly prescriptive about who has access on the sole basis of legal relationships.

The majority of respondents set out how important it is that the adopted person retains control of information about them and their adoption.

## Next steps

The Government agrees that intermediary agencies are best placed to make decisions using their professional judgment and expertise based on the individual circumstances of each case. The Government will therefore amend The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 to:

- Make provision for intermediary services to facilitate contact between ‘persons with a prescribed relationship’ and the birth relatives of a person adopted before 30 December 2005.
- Define ‘persons with a prescribed relationship’ to include a wide category of relatives of the adopted person, including but not limited to the children, grandchildren and great grandchildren of adopted persons.
- Require all intermediary services to ensure the consent of the adopted person is obtained before contact or information sharing is facilitated between persons with a prescribed relationship and birth relatives, other than:
  - Where a person with a prescribed relationship seeks non-identifying medical information from birth relatives of the adopted person and this can be shared by the intermediary agency without sharing identifying information;
  - Where a person with a prescribed relationship wishes to make contact with a birth relative and the adopted person cannot be found, despite all reasonable steps having been taken;
  - Where the adopted person has died or lacks capacity.

Intermediary agencies will retain their current ability to decide whether any application for their services is appropriate, taking into account the welfare of the adopted person, the applicant and any other person who may be affected by the application.

Where a person with a prescribed relationship applies for contact with a birth relative:

- the intermediary service would be required to take all reasonable steps to seek the views of the adopted person. If the adopted person could not be found, or if they could be found but were incapable of giving informed consent, it would be for the intermediary service to decide whether it was appropriate to proceed with the application. If the adopted person was found but did not consent to the application proceeding, the intermediary agency should not continue with the application. However, the intermediary agency would have discretion to proceed with an application from a spouse, child, grandchild or great grandchild in order to share essential information about the medical history of relatives, if this can be done without disclosing identifying information. These provisions would apply while the adopted person is alive.

- Where a birth relative applies for contact with a person with a prescribed relationship:
  - if the adopted person has registered a veto against contact, the intermediary agency should reject the application without making contact with the adopted person, unless the adopted person is deceased;
  - if there is no veto in place, the intermediary agency must seek the views of the adopted person. If the adopted person does not consent or cannot be found, the intermediary agency cannot proceed with the application unless the adopted person is deceased or not able to give informed consent;
  - current Regulations already allow an intermediary agency discretion to disclose identifying information without consent of the subject if they are deceased or the agency determines that he is incapable of giving informed consent. This would remain unchanged.

## Question 1

‘Prescribed persons’ will include children and grandchildren (including subsequent by adoption), should prescribed persons also be the following:

### 1 a. Direct blood descendants of the adopted person, with a limit up to great grandchildren?

There were 48 responses to this question.

	Total	Percent
Yes	42	88%
No	6	13%
Not sure	0	0%

The majority of respondents agreed with the proposal to extend access to intermediary services to the direct descendants of adopted persons with a limit up to great grandchildren.

### b. Stepchildren

There were 41 responses to this question.

	Total	Percent
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	<b>Total</b>	<b>Percent</b>
Yes	16	39%
No	15	37%
Not sure	10	24%

39% of respondents thought that stepchildren should be given access to intermediary services and 37% disagreed. A number of comments suggested that the intermediary agency should assess the reason for the application before accepting it and others felt that an application should not be accepted based only on a general interest in genealogy.



### c. Step grandchildren

There were 40 responses to this question.

	Total	Percent
Yes	15	37%
No	17	43%
Not sure	8	20%

No comments.

### d. Spouse

There were 45 responses to this question.

	Total	Percent
Yes	31	69%
No	6	13%
Not sure	8	18%

While the majority of respondents agreed that the spouse of an adopted person should be given access to intermediary services, a high proportion of those agreed on the basis that the adopted person has deceased or in particular circumstances such as concerning medical information on behalf of a child.

### e. Civil partner

There were 42 responses to this question.

	Total	Percent
Yes	25	60%
No	9	21%
Not sure	8	19%

While 60% of respondents agreed that civil partners should be given access to intermediary services, a high proportion of those agreed on the basis that the adopted person has deceased or in particular circumstances such as concerning medical information on behalf of a child.

### **f. Adoptive parents**

There were 41 responses to this question.

	<b>Total</b>	<b>Percent</b>
Yes	29	70%
No	8	20%
Not sure	4	10%

70% of respondents thought that adoptive parents should be given access to intermediary services on the basis that the adopted person has deceased.

### **g. Adoptive siblings**

There were 43 responses to this question.

	<b>Total</b>	<b>Percent</b>
Yes	25	58%
No	15	35%
Not sure	3	7%

While 58% of respondents thought that adoptive siblings should be given access to intermediary services, comments suggested that siblings should not have an automatic right, but that there might be particular circumstances where an application might be appropriate.

## **h. Adoptive grandparents**

There were 42 responses to this question.

	<b>Total</b>	<b>Percent</b>
Yes	20	48%
No	16	38%
Not sure	6	14%

No comments.

## **i. Adoptive aunts and uncles**

There were 41 responses to this question.

	<b>Total</b>	<b>Percent</b>
Yes	11	27%
No	23	56%
Not sure	7	17%

No comments.

## **j. Adoptive cousins**

There were 42 responses to this question.

	<b>Total</b>	<b>Percent</b>
Yes	12	29%
No	23	54%
Not sure	7	17%

No comments.

**k. Any person, who as a result of the adopted person’s adoption, are related to him by law, including marriage or civil partnership?**

There were 43 responses to this question.

	<b>Total</b>	<b>Percent</b>
Yes	17	40%
No	20	47%
Not sure	6	13%

There were mixed views about extending access more widely and some concerns around the confidentiality of the adopted person’s information. Some respondents suggested that prescribed persons should not be given an automatic right to intermediary services but that in particular circumstances it may be appropriate and that the discretion of the intermediary agency is paramount.

## **Question 2**

**Should birth relatives be able to use IS to contact prescribed persons in the same way that prescribed persons will be able to contact birth relatives. For example if the adopted person they are trying to contact has died should another relative be approached?**

There were 42 responses to this question.

	<b>Total</b>	<b>Percent</b>
Yes	29	69%
No	5	13%
Not sure	8	18%

Again there were mixed views. A proportion of respondents stated that this reflects current good practice which is already working well. Some respondents suggested that statutory guidance should be clear about what is good practice and that the intermediary agency should take into account the welfare of others who may be affected by the approach.

Comments also suggested that intermediary agencies should have some discretion to provide non-identifying information in circumstances where they have been unable to trace the adopted person for consent or the adopted person is temporarily incapacitated.

### Question 3

**Should an intermediary agency be able to accept an application from a ‘prescribed person’ while the adopted person is alive?**

There were 45 responses to this question.

	Total	Percent
Yes	27	60%
No	12	27%
Not sure	6	13%

60% of respondents thought that an intermediary service should be able to accept an application from a prescribed person while the adopted person is alive, but on the basis that the intermediary agency has sought the views and consent of the adopted person.

### Question 4

**Should an intermediary agency be able to accept an application from a “prescribed person” while the adopted person is still living but lacks capacity to make decisions about the use of intermediary services?**

There were 43 responses to this question.

	Total	Percent
Yes	28	65%
No	7	17%
Not sure	8	18%

The majority of respondents agreed that it may be appropriate in some circumstances to accept an application from a prescribed person while the adopted person is still living but lacks capacity to make decisions, but with the knowledge of the adopted person unless

there are exceptional circumstances. The professional judgement of the intermediary agency is paramount.

## Question 5

**If a “prescribed person” is able to apply for an intermediary service while the adopted person is living, should the adopted person be able to register an absolute or qualified veto that would stop or restrict an intermediary agency from acting on behalf of, or providing information to, a “prescribed person”?**

There were 40 responses to this question.

	Total	Percent
Yes	28	70%
No	8	22%
Not sure	4	8%

The majority of respondents agreed that the adopted person should retain control in all but in exceptional circumstances and have the facility to place a veto against prescribed persons accessing an intermediary agency. Other comments suggested that if a veto is registered in response to an application for an intermediary agency, the agency has a responsibility to liaise with the adopted adult, the prescribed person and the intermediary agency. Other views expressed that adopted adults should only be able to register a qualified veto in particular circumstances and with the investigation of the intermediary agency.

## Question 6

**If your answer to Question 5 was “yes”, should a veto by an adopted person continue to apply after that person’s death?**

There were 40 responses to this question.

	Total	Percent
Yes	4	10%
No	29	73%
Not sure	7	17%

73% of respondents disagreed that a veto should continue to apply after the adopted person’s death. A number of comments suggested that the reasons for the veto and evidence should be considered carefully by the agency, and that in some circumstances it may be appropriate to disregard the veto after the adopted person’s death.

## Question 7

**If a “prescribed person” is able to apply for an intermediary service while the adopted person is living, should the intermediary agency be required to contact the adopted person to find out their wishes, and assess whether they are capable of giving views before continuing with an application from a “prescribed person”?**

There were 40 responses to this question.

	Total	Percent
Yes	35	88%
No	5	13%
Not sure	0	0%

88% of respondents agreed that the adopted person should be contacted when receiving an application from a prescribed person. For those that commented, the majority felt that it should be mandatory for the intermediary agency to make contact with the adopted person to seek their views about an application from a prescribed person.

## Question 8

**If your answer to question 7 was ‘yes’ should an intermediary agency be able to make contact with the birth family in certain circumstances where it considers that to be in the interests of the applicant’s welfare?**

There were 37 responses to this question.

	Total	Percent
Yes	29	78%
No	5	14%
Not sure	3	8%

A high proportion of respondents agreed that in some circumstances it may be appropriate for intermediary agencies to contact the birth family where it considers it to be in the best interests of the applicant’s welfare. The majority of comments emphasised the complexity of adoption search and reunion and that complex cases should be assessed based on the individual circumstances and the importance of the discretion of the intermediary agency.



## **Annex A: List of organisations that responded to the consultation**

- After Adoption
- British Association of Adoption and Fostering (BAAF)
- Cabrini Children's Society
- Coram
- Descendants of Deceased Adopted Persons Group
- Essex County Council
- Faith in Families
- Father Hudson's Society
- Leicestershire County Council
- Northamptonshire County Council
- Nottinghamshire Council
- Parents and Children Together (PACT)
- Rayment Society
- South East Post Adoption Network
- Staffordshire County Council

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



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