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Llywodraeth Cymru  
Welsh Government

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Welsh Government

## Consultation Document

# Extending Access to Intermediary Services for Descendants and Relatives of Adopted People

Date of issue: 28 July 2014

Action required: Responses by 27 October 2014

## Overview

The Welsh Government is committed to extending access to intermediary services to the children and grandchildren of adults adopted in Wales before 30 December 2005. This consultation seeks views on which other categories of relatives should have access to intermediary services. It also asks other questions about intermediary services, such as when an adopted person can veto an intermediary agency from making contact.

## How to respond

Please respond by filling in the questionnaire at the back of this document, and sending it by e-mail to: [intermediaryservices@wales.gsi.gov.uk](mailto:intermediaryservices@wales.gsi.gov.uk)

or by post to:

Children and Adults Placements Team  
Social Services and Integration Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

## Contact details

For further information:

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Children and Adults Placements Team  
Social Services and Integration Directorate  
Cathays Park  
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CF10 3NQ

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Telephone: 029 2082 3049

## Data protection

### How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

## **1. What is this consultation about?**

- 1.1. The Welsh Ministers have the power, under sections 9 and 98 (1A) of the Adoption and Children Act 2002 to make regulations which would enable the descendants and relatives of persons adopted before 30 December 2005 to use 'intermediary services' to make contact with the adopted person's birth family. This consultation seeks views on which groups of relatives of such adopted persons should be granted access to intermediary services.
- 1.2. Intermediary services were set up to facilitate contact between adopted people and their birth relatives. They also provide counselling, support and advice. At the moment, they can only be used by adopted people and their birth relatives. Using their the new powers, the Welsh Ministers will be able to extend access to such services to other categories of people such as the children and grandchildren of adopted persons, and to members of the adopted person's wider family, such as the spouses of their descendants.
- 1.3. This consultation also asks a series of questions about what safeguards we should put in place to balance the desire of relatives to gain information against the right to privacy of people who were adopted. In particular, we are seeking views on whether the adopted person should have the right to make an absolute or qualified veto for making contact. The questions are listed below, in section 5.

## **2. What is the current situation?**

- 2.1. An 'intermediary service' is a service provided by an intermediary agency for the purposes of assisting adopted adults to obtain information their adoption, and facilitating contact between them and their birth relatives. Intermediary services were introduced under section 98 of the Adoption and Children Act 2002, and apply only in relation to adoptions made before 30 December 2005<sup>1</sup>, when the 2002 Act came into effect. 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 (as "relatives" by section 98 of the 2002 Act) in the following terms: *"in relation to an adopted person, means any person who (but for his or her adoption) would be related to him by blood (including half-blood marriage or civil partnership)"*.
- 2.2. 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

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<sup>1</sup> There is a different procedure in place in relation to adoptions which took place on or after 31 December 2005.

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 amendment made to section 98 of the Adoption and Children Act 2002 by section 1 of the Children and Families Act 2014 will enable regulations to be made by the Welsh Ministers to extend access to intermediary services to any 'persons with a prescribed relationship' to the adopted person.

- 2.3. An intermediary agency may be a local authority, voluntary adoption agency or adoption support agency. As well as facilitating contact between adopted people and their birth relatives, they also provide counselling, support and advice. The intermediary agency has to take reasonable steps to contact the appropriate adoption agency to see if a veto exists. 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, and the views of the appropriate adoption agency, having considered any information obtained from the Adoption Contact Register and any other circumstances of the case.
- 2.4. 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. An absolute veto prevents an intermediary agency from making contact with the adopted person; and a qualified veto restricts the circumstances in which an intermediary agency can make an approach to the adopted person. In practice, the veto is rarely used, and it ceases upon the adopted person's death.
- 2.5. The current restriction upon access to intermediary services described in paragraph 2.1 means that others who may have good reasons for wishing to make contact with the adopted person's birth relatives, including the adopted person descendants (such as children or grandchildren), do not have the same rights as the birth relatives.
- 2.6. Information about adoptions after 30 December 2005 is held under a different legal framework which does not distinguish between descendants and other relatives. This creates an anomaly between the descendants of people adopted before and after this date.

### **3. Why do we want to extend access to intermediary services?**

- 3.1. There are a number of reasons why an adoptive family or descendants of an adoptive person might wish to access intermediary services. As well as natural curiosity about the background or history of the adoptive person's birth family, there may be health reasons such as finding out about a hereditary medical condition or other health issue which could affect the health of a person's children.

- 3.2. This is also an issue of equality. The current exclusion of persons related to an adopted person from the definition of relative in section 98 of the 2002 Act creates an unfair anomaly in the legislation. The subsection (1A) allows the Welsh Ministers to make regulations which give the descendants and adoptive relatives of an adopted person the same rights and access to intermediary services as birth relatives and, in doing so, would create a level playing field between those affected by adoption before and after 30 December 2005, when the Adoption and Children Act 2002 came into force.
- 3.3. Following 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, the UK Government tabled an amendment to the Children and Families Bill that became section 1 of the Children and Families Act 2014. In January 2013, the National Assembly for Wales supported a Legislative Consent Motion tabled by Gwenda Thomas AM, Deputy Minister for Social Services, giving consent for the Westminster Parliament to legislate to amend the 2002 Act in respect of Wales. Section 1 of the 2014 Act inserts a new subsection (1A) into section 98 of the Adoption and Children Act 2002 (*pre-commencement adoptions: information*).

#### **4. What are we proposing?**

- 4.1. The Welsh Government believes that there are good reasons why access to intermediary services should be extended to the descendants and relatives of adopted persons. As a minimum we believe that access should be extended to the children and grandchildren of an adopted person (including those who are themselves adopted). This consultation seeks views on what other groups of descendants or adopted relatives should be added to the list of persons within a prescribed relationship (hereafter described as “prescribed persons”) to a person adopted before 30 December 2005 and the adopted person’s birth relatives.
- 4.2. We also believe that there should be adequate safeguards in place to protect the family and private life of adopted adults, and to balance the sometimes competing rights of adopted people, ‘prescribed persons’ and birth relatives. We are therefore seeking views on what safeguards we might need to put in place, including the use of contact vetoes by the adopted person.
- 4.3. The UK Government has recently launched a similar consultation on proposals for extending access to intermediary services in England, and plans to bring regulations into force in September 2014. The Welsh Government plans to bring regulations into force for Wales by summer 2015.

## **5. Consultation questions**

### **Question 1**

Who should have access to intermediary services?

We are proposing to extend access to the children and grandchildren of adopted people. Which of the following groups of descendants and relatives of adopted people do you think should be added to the list of 'prescribed persons':

- Direct blood descendants of the adopted person, with a limit up to great grandchildren
- Adoptive descendants of the adopted person, with a limit up to great grandchildren
- Step children
- Step grandchildren
- Spouse or civil partner
- Adoptive parents
- Adoptive siblings
- Adoptive grandparents
- Adoptive aunts and uncles
- Adoptive first cousins
- Any person who, as a result of the adopted person's adoption, is related to him or her by law, including marriage or civil partnership?

### **Question 2**

Should birth relatives be able to use intermediary services 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?

### **Question 3**

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

### **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?

### **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?

**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?

**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?

**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?

## Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Please mark the category which best describes you as a respondent:

<input type="checkbox"/> Adopted adults	<input type="checkbox"/> Birth relatives of adopted adults	<input type="checkbox"/> Adoptive relatives of adopted adults
<input type="checkbox"/> Descendants of adopted adults	<input type="checkbox"/> Local authorities	<input type="checkbox"/> Adoption support agencies
<input type="checkbox"/> Voluntary adoption agencies	<input type="checkbox"/> Lawyers	

Other (please specify):

### Question 1

Who should have access to intermediary services?

We are proposing to extend access to the children and grandchildren of adopted people. Which of the following groups of descendants and relatives of adopted people do you think should be added to the list of 'prescribed persons':

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

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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b) Adoptive descendants of the adopted person, with a limit up to great grandchildren?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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c) Step children

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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d) Step grandchildren

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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e) spouse or civil partner

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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f) adoptive parents

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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g) adoptive siblings

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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h) adoptive grand parents

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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i) adoptive aunts/uncles

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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j) adoptive first cousins

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
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k) any person, who as a result of the adopted person's adoption, are related to him by law, including marriage or civil partnership?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### Question 2

Should birth relatives be able to use intermediary services 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?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### Question 3

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

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### 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?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### 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?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### 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?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### 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”?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### 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?

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Please explain				

### Question 9

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: