Adoption and Fostering: Tackling Delay: DfE Consultation

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Summary
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Overview
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The proposals cover a new, shorter, two stage training and assessment process for prospective adopters; a fast-track procedure for previous adopters and approved foster carers; increasing the use of the Adoption Register; requiring the use of a matching agreement between adoption agencies and approved prospective adopters; a ‘Fostering for Adoption’ proposal; restricting the size of adoption and fostering panels; changes to the sharing of case records between fostering services and adoption agencies; changes to the approval process for foster carers; and changes to requirements around delegation of day-to-day decision making to a child’s foster carer. The Children’s Rights Director is consulting children separately on the two-stage adopter approval process, the ‘Fostering for Adoption’ proposal, and the delegation of authority to foster carers.

The proposals for adopter approval process arise directly from the Expert Working Group established in autumn 2010 (which includes representatives from local authorities, voluntary adoption agencies, adoption support agencies and adoptive parents). The proposals for fostering arise from the Improving Fostering Services Programme, through which the Government has worked with foster carers, practitioners, managers and sector organisations; it is proposed to consult on further improvements in due course.

Briefing in full
The 35-page consultation document is in six chapters, and includes 28 specific questions about the proposals. A number of the proposals will require amendments to Regulations; the proposed draft Regulations are published as annexes to the consultation.
Prospective Adopters’ journey

The Government wants to increase the number of people coming forward as prospective adopters of children who are less likely to be adopted (older and disabled children, and sibling groups) – and when they do, it wants them to be ‘welcomed with open arms and to receive all the information, help and support they need from the initial point of contact right through the adoption process’; it wants the process to be ‘rigorous without being unnecessarily burdensome’, and believes that many prospective adopters are lost to the system after being put off by their experiences. (Bids are being invited to run the National Gateway for Adoption, which will be an accessible, friendly and expert point of contact and access into the adoption system.)

The main proposal (anticipated in An Action Plan for Adoption: Tackling Delay, published in March 2012; see related briefing) is for a new two stage approval process for prospective adopters. Stage One, a two month initial training and preparation stage, will commence when a prospective adopter registers interest with an adoption agency and ends with the agency’s decision as to whether the prospective adopter can proceed to Stage Two; all required checks will be carried out, and references sought, during Stage One. Stage Two, a four month assessment stage, will commence when an agency receives notification from the prospective adopter that s/he wishes to proceed with the assessment process and will end with the agency decision maker’s decision about the suitability of the prospective adopter to adopt a looked after child. Prospective adopters who wish to make a complaint about the outcome of the process will be able to do so via the local complaints procedures for Stage One and the Independent Review Mechanism for Stage Two.

The document sets out in some detail the processes at each stage, including timescales (which are important, as performance on timeliness of the approval process will be measured in future) and complaints procedures.

The Expert Working Group also proposed fast-track procedures for previous adopters and foster carers, who it is envisaged would skip Stage One and receive a tailored assessment and any necessary additional training.

In order to increase the use made of the Adoption Register, it is proposed to:

- require LAs to refer a child’s details to the Register as soon as possible (and no more than three months) after the decision that the child should be placed for adoption (unless a particular match is under consideration)
- require all adoption agencies to refer a prospective adopter to the Register (subject to consent) as soon as possible (and no more than three months) after approval (unless a particular match is under consideration)
- require LAs to ensure that all information about a child referred to the Register is kept up to date
- require all adoption agencies to agree with approved prospective adopters a matching agreement setting out what the prospective adopter will do and when to search for a child for whom s/he makes a suitable match, and how the agency will provide support. (DfE is working with the British Association for Adoption and Fostering on a standard template.)
Early Permanence - ‘Fostering for Adoption’

An Action Plan for Adoption included the evidence base for the importance of ensuring that all children who cannot live with their parents are placed quickly in the right form of permanent care for them, as delay in decision making and action reduces children’s life chances, with the youngest children being particularly vulnerable. Of more than 3,000 children adopted in 2010-11, only 470 were under the age of one when placed for adoption with their adoptive parents – but 1,350 (44%) of the children adopted in 2010-11 were aged under one month when they became looked after; on average, they were placed for adoption with their adoptive families around 16 months after becoming looked after.

Currently a child may only go to live with their adoptive family if their birth parents give their consent or a court makes a placement order. To overcome this, some LAs have approved prospective adopters as foster carers, to care for the child on a fostering basis as soon as the child comes into care; if the courts make a placement order, the child can stay with the family and the placement becomes one of adoption. The Action Plan sought to promote this and similar practices, but the document says they are still not widely used. In July, the Prime Minister announced plans to legislate to encourage LAs to place children with an adoption decision with approved adopters who are also approved foster carers; subject to Parliamentary approval, the changes would come into force in spring 2014. The document sets out how it is envisaged the process would work in practice.

Adoption and fostering panels

The Expert Working Group recommended further consideration of the role and membership of adoption panels. There is concern that large panels can lead to delay, and intimidate prospective adopters – which may also apply to fostering panels. The Department is therefore minded to restrict membership of adoption and fostering panels to a maximum of five with a quorum of three (four for joint panels), the quorum to include the person appointed to chair the panel or a vice-chair, a social worker with at least three years relevant post-qualifying experience and one other member (two for joint panels), at least one of whom should be an independent member. It is not minded to make changes to the central list from which panel members are drawn.

Sharing case records between fostering and adoption agencies

When a foster carer moves to a new fostering service, regulations currently enable the new fostering service to seek access to the applicant’s case records from the previous service, and require the previous service to provide access if the foster carer agrees; but this only applies where the applicant’s approval with their current fostering service has been terminated. It is proposed to amend the regulations so that such case records can be made available (subject to appropriate consent) to the new service for assessment purposes before the foster carer’s approval with their current service is terminated – though it will have to be terminated before they can be approved by the second fostering service, as a person cannot be approved as a foster carer by two fostering services at the same time. It is also proposed to give fostering services greater flexibility to decide how access to records should be provided, and to reduce the timeframe for providing access from one month to ten working days. Before giving another fostering service access to case records, a fostering agency will need to ensure that information referring to a child or a person who has not consented to their information being shared is redacted. It is proposed
that these changes would be implemented immediately once the amending Regulations come into force.

Where a foster carer or prospective foster carer has applied to adopt, Regulations currently prevent their fostering service from making their case records available to the adoption agency to inform the approval process; similarly, Regulations currently prevent an adoption agency from sharing an adopter’s or prospective adopter’s case records with a fostering service or another adoption agency with whom they are seeking to foster or adopt. It is proposed to amend the Regulations to allow such sharing, and the document sets out how it is envisaged this would work in practice.

Assessment and approval of prospective foster carers

The majority of looked after children (74%) are in foster care, and it is estimated that the current national shortage of foster carers is around 7,100 in England – and that it is more acute for some groups of children (eg. children with a disability, teenagers and sibling groups). During Foster Care Fortnight in May, the then Minister for Children and Families, Tim Loughton, announced a package of measures to maximise the number of approved foster carers. It is proposed that the process for assessing and approving prospective foster carers should be made more proportionate and timely, with the intention of:

- enabling fostering services to assess prospective foster carers more quickly
- attracting more applicants to foster by making the process more transparent
- removing unnecessary barriers to the appropriate placement of a child with a particular foster carer
- aligning the assessment process with adoption where appropriate.

The document sets out the detail of the proposals, including the amendment of Regulations; introducing the option of a brief report for prospective foster carers (to mirror that currently in place for prospective adopters) to terminate an assessment before it is completed (if evidence emerges during the assessment which leads the assessing social worker to judge that the prospective foster carer is not suitable); removing the requirement to interview two personal referees if there is a reference from a service where the applicant has fostered in the last year; and removing the present requirement to wait 28 days before a foster carer’s terms of approval can be changed, if the foster carer has given their written agreement to the change (where such changes are made, the fostering service would have to set out in writing any additional support needs that may arise, and how these would be met – and changing a foster carer’s terms of approval necessarily requires a review of their approval). It is intended that the proposed changes would be implemented immediately the new Regulations came into force.

The changes being consulted on in this document align the fostering and adoption approval processes in a number of ways – but not entirely. There is a question on whether any elements of the adoption approval process described in Chapter 1 should be applied to the fostering assessment and approval process.
The placement plan and delegation of authority to foster carers

An important aspect of the care given to children in foster care is ensuring that authority for day-to-day decision making about the child is appropriately delegated to their foster carers, and looked after children say they want their foster carers to have the authority to make such decisions (eg. about sleep overs with friends, attending school trips, or having haircuts). Birth parents have parental responsibility for their children, and a foster carer can legally do “what is reasonable in all the circumstances” to safeguard and promote their foster child’s welfare – so LAs need to engage with the parents and the foster carer to decide where authority to make decisions about the child should be delegated. ‘The statutory framework for fostering services makes clear that authority for day-to-day decision making about foster children should be delegated to the foster carer wherever possible (respecting parents’ views) but anecdotal evidence suggests that this is not happening in many local authority areas.’

It is proposed to amend Regulations and statutory guidance to specify the areas of decision making where it must be made clear in the placement plan who has the authority to take the decision, and to provide additional detail about what these areas cover, who might be expected to make particular decisions and what factors might lead to a decision to depart from that expectation. It is proposed that the areas of decision making that must be included in the placement plan should be medical/dental treatment, education, leisure and home life, faith and religious observance, use of social media, and any other matters considered relevant; these amendments would apply to children in foster placements and those in residential care. It is proposed that these changes would be implemented at the next review of the child’s care plan following the amended Regulations coming into force.

It is also proposed that statutory guidance should be amended to require each local authority to publish its own policy about delegation of authority to foster carers and residential carers.

Comment

This consultation is the latest step – but still not the last – in a process of reform to speed up adoption and fostering processes so that more children are placed more quickly, but still appropriately. This is broadly supported by the sector, but it will be important for those involved to respond on the detailed proposals.

Statistics released a week after the consultation was launched showed that there were 67,050 looked after children at 31 March 2012, an increase of 2 per cent compared to 31 March 2011 and an increase of 13 per cent compared to 31 March 2008; that of children looked after at 31 March 2012, 50,260 were cared for in a foster placement, representing 75 per cent of all children looked after at 31 March 2012; and that there were 28,220 children who started to be looked after during the year ending 31 March 2012, an increase of 3 per cent from the previous year’s figure of 27,500 and an increase of 21 per cent from 2008. They also show that there were 3,450 looked after children adopted during the year ending 31 March 2012 – the highest figure since 2007 and an increase of 12 per cent from the 2011 figure.

The continuing upward trend in the number of children entering the care system underlines the urgent need to recruit more potential adopters and foster carers, and to minimise delays in
securing appropriate placements. They also show the increasing pressure facing local authorities, alongside major reductions in their resources; the significant increase in the number of adoptions in 2011-12 demonstrates the efforts being made to meet these challenges.

External links
Adoption and Fostering: Tackling Delay consultation

Related briefing
An Action Plan for Adoption: Tackling Delay

For further information, please visit www.lgiu.org.uk or email john.fowler@lgiu.org.uk