



# **Independent Review Mechanism**

## **Annual Report 2021 - 2022**

**April 2022**

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## Summary

The Independent Review Mechanism (IRM) was established under the Adoption and Children Act 2002 and subsequent regulation coming into existence in 2004 and is now in its 18<sup>th</sup> year of operation. The IRM has been holding independent reviews for adoption applications since 2004 and since 2009 for fostering applications. The purpose of the IRM is to assist fostering or adoption decision makers in reaching a final decision about suitability to foster or adopt.

The IRM is responsible to the Secretary of State for Education for reviewing Qualifying Determinations (QDs).<sup>1</sup> The QDs made by a fostering service provider (FSP) or an adoption agency (AA) cover a number of different areas:

- a person's suitability to foster or adopt
- Terms of Approval for foster carers where the fostering service wish to change them and the foster carer does not agree
- where people are applying to receive information from adoption records.

The IRM does this by holding independent review panels that thoroughly review the proposed decision, using information provided by all parties and providing a recommendation with reasons to the agency decision maker.

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<sup>1</sup> A Qualifying Determination (QD) is a letter from an ADM indicating that the ADM is minded to make a final decision, giving reasons and listing the options available, one of which is to apply to the IRM

From the applicants' perspective, it provides the opportunity to have their case independently reviewed and to bring to the IRM Panel's attention any information that they feel was not properly considered by their agency. For agencies, it underwrites their responsibility to foster carers and adopters to operate within the framework of adoption and fostering regulations.

In addition, the Review Panel can also provide feedback for the agency on its policy, practice and procedure and any learning the Panel feels it would be relevant for them to consider from the case. This is an important quality assurance exercise for applicants and agencies alike.

As the IRM operates throughout England, it can offer a snapshot of fostering and adoption practice across the country. As a result, it is able to identify and share information with all those interested in fostering and adoption services in England about issues and challenges that have been identified through the IRM's work.

The IRM is delivered under contract to the Department of Education by Coram Children's Legal Centre (CCLC). The IRM is partially funded by the Department for Education, this funding is supplemented by a £2,591 contribution to each case from providers whose decisions are reviewed by the panels. This contribution is a regulatory requirement <sup>2</sup> with payments based on a sliding scale should an application be withdrawn before the papers are sent out to the IRM panel members; withdrawal is not possible after this point. <sup>i</sup>

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<sup>2</sup> [The Independent Review of Determinations \(Adoption and Fostering\) Regulations 2009 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## Who is this publication for?

- Service providers
- Foster carers
- Adopters
- Prospective foster carers and adopters
- Those seeking access to adoption records

## Overview of service

The IRM received 148 applications in the year to the end of March 2022.

- 141 fostering, of these 51 were from connected persons
- 7 adoption

The IRM accepted 137 in this period, 132 fostering and 5 adoption. 31 cases, all fostering, were withdrawn at some point in the process during the reporting year after they had been formally accepted. 116 cases were reviewed with IRM review panels held on 68 occasions. There are a number of cases every year which are accepted but have review panels held in the following reporting year.

## The IRM service now

The IRM has moved to a primarily digital service both in response to Covid 19 and more importantly to meet the need to provide an accessible service in a sustainable way. The shift in bringing the service up to date with virtual panels and an electronic application process will continue with face-to-face panels only being offered in exceptional circumstances to meet a specific need.

The electronic service has led to communications that are now much quicker and more cost effective and recognises the world in which children and young people live and the need for those caring for them to be able to use technology in order to keep them safe in the digital world.

Virtual panels have improved accessibility as applicants no longer have to be concerned about where they must travel to and whether they can afford to do so. Agencies also have benefitted in saving staff time and travel costs. There continues to be positive feedback from applicants and agencies about the online panels. The IRM has held virtual panels for applicants where English is not their first language, including those where British Sign Language (BSL) is their first language. These panels have worked well despite additional challenges. Panels involving interpreters will take longer and extra breaks may be necessary, and where BSL is used, 2 interpreters are needed to prevent fatigue.

Virtual panels have the additional benefit of increasing the flexibility of panel dates and use of panel members. There are now 6 panels on average held each month with extra ones being arranged to accommodate unforeseen circumstances.

# Fostering

## Activity 2021-2022

Activity in fostering has slightly decreased in the last year, but the increase in applications from connected persons has continued from 33 to 51. The IRM responded to a further 60 enquiries from potential applicants and FSPs, some of these later turned into applications but others were “standalone” enquiries or requests for advice. The enquiries covered a range of different topics including what potential adopters or foster carers could do when they were told that they would not receive a positive recommendation from the approvals panel, but they did not wish to withdraw their application; what options were available to foster carers when they were put on hold by their FSP and did not have children placed with them and questions about virtual panels and what options were available if foster carers had resigned but were still being taken through a formal deregistration process.

3 applications were not accepted as they were out of the regulatory timescales for acceptance (28 calendar days for fostering). A further 6 were not accepted for a variety of reasons including that applicants had already resigned, QDs had been issued erroneously, assessments had not reached stage 2 and applicants had already made representations to the fostering service.

Types of application:

- 1 was following a full assessment of suitability to foster.
- 5 were following brief (incomplete) assessments.
- 2 were changes in terms of approval.
- 82 were consideration of ongoing suitability to foster.
- 51 were from connected persons in relation to specific children.

Of the cases accepted, 92 (70%) were from Local Authorities and 40 (30%) were from independent fostering providers (IFPs) (figure does not include those accepted in the next year or those not accepted). This is a decrease in the percentage from 42% to 30% for

IFPs from the last reporting year and represents a return to the way percentages were split pre pandemic.

## **IRM panels and outcomes**

The constitution of panels is set out in the IRM 2009 regulations (as amended), which make clear that panels must be made up of social workers, people with experience of fostering and adoption, for example care experienced people, foster carers, education and health professionals and registered medical practitioners for panels where there are medical issues. Preparation work for the panels is undertaken by the IRM team with each application having a caseworker (who is a registered social worker) who ensures that the IRM panels have the information that they need to look at situations as fully as possible. They work with a designated legal adviser to prepare the cases; the legal adviser is available by phone for advice when the IRM panel is sitting.

The number of panel members varies according to the type of application being considered. Where suitability to foster or adopt is being considered, the minimum number of panel members is 5 (plus a panel adviser and panel secretary), for an access to adoption records hearing it is three, again plus a panel adviser and panel secretary. On average, each panel consisted of 7 members in 2021/22 with one panel member acting as “host” for virtual panels to manage the technical and admission aspects of those panels. IRM panels heard 113 fostering cases in the year to March 31, 2022:

- 3 were following a full assessment of suitability to foster
- 4 after a brief assessment
- 2 for a change in terms of approval
- 71 ongoing suitability to foster
- 33 were from connected persons in relation to specific children

A brief assessment refers to an assessment that has been started but has been stopped before completion.

The majority of applicants requested reviews on decisions made by Local Authorities (60%) with the remaining 40% of cases coming from IFPs.

The IRM has recorded full outcomes for 94 fostering applications within the reporting period (21/22). IRM panels upheld the QD in 71 cases. These consisted of 50 ongoing suitability, 19 connected persons and 2 brief assessments, and recommended applicants were not suitable to foster; decision makers then made not suitable final decisions. In 14 cases where the IRM panel recommended applicants were suitable (1 brief assessment, 7 ongoing suitability and 4 connected person and 1 change of terms of approval applications) the decision maker disagreed with IRM recommendation, however in 1 case the ADM decided on a further assessment.

In the 9 remaining applications the decision maker agreed with the IRM's recommendation overturning the QD in 2 full assessments, 4 ongoing suitability and 3 connected persons applications.

The proportion of positive recommendations has increased slightly from the last reporting year when IRM panels upheld the QD in 80 cases and recommended the applicants were suitable in 9. These ratios will continue to be monitored for changes in future years.

## Demographics

### Geographical Locations

In addition to the important support service the IRM offers to applicants and providers, they are able to provide insight into those that access the service. This information is used to shape DfE policy development. The numbers provided are variable because not all applicants chose to disclose the information requested.

The applications were from a spread of geographical areas:

East	13
South West	12
North West	19
North East	16
Central	52
South East	19
London	8
Wales	2

The majority of applicants are located within the same area as the agency with the exception of those living in Wales and a small number who are located in different areas to their agencies.

### Relationships (applications)

From the information received for accepted applications:

Married couples	42
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Couples in a civil partnership	14
Single female applicant	18
Single male applicant	2
Divorced person	1
Widow	4
Widower	0
Separated	2
Joint relatives	1

### Sexuality (as defined by applicants)

Heterosexual	74
Lesbian	1
Gay	1
Other	1

### Ages

Ages ranged from 25 to 79 with the majority being the in 55-59 age bracket and is broken down as follows:

Age Range 18 – 24	0
Age Range 25 – 29	4
Age Range 30 – 34	6

Age Range 35 – 39	8
Age Range 40 – 44	7
Age Range 40 – 44	11
Age Range 50 – 54	22
Age Range 55 – 59	28
Age Range 60 – 64	21
Age Range 65 – 69	9
Age Range 70 – 74	5
Age Range 75 – 79	7
Age Range 80+	0

## Ethnicity

In this reporting year, the majority of applicants were White British with the next highest groups identifying as Black/Black British - African Caribbean and Asian / Asian British – Pakistani followed by Black / Black British – African, which is a change in groups from the last reporting year. The National Statistics for Fostering (2019/20) indicate that 28% of foster carers are from non-White ethnicities - the number of applications to the IRM from non-White foster carers who have provided this information is lower at 19%.

White British –	67
White – Irish	3
White – Other	1
Asian / Asian British – Indian	0

Asian / Asian British – Pakistani	6
Asian / Asian British – Bangladeshi	1
Asian / Asian British – Other	0
Black / Black British – Caribbean	4
Black/Black British - African Caribbean	6
Black / Black British – African	5
Black / Black British – Other	0
Chinese	0
Mixed - White & Black Caribbean	3
Mixed - White & Black African	1
Mixed - White & Asian	0
Mixed – Other	0
Other	0

## Religion

No religion	22
Christian	37
Islam	7
Hindu	0

Judaism	1
Buddhism	1
Other	1
No response	12

### **Additional Vulnerabilities**

Applicants identified additional vulnerabilities in 9 cases, where required arrangements were made to support full involvement in the IRM panels and process.

# Adoption

## Activity in 2021-2022

Activity in adoption increased to 7 applications, with 4 being accepted in the reporting year.

The IRM responded to a further 8 enquiries mainly from potential applicants.

All 4 accepted cases were from Local Authorities / RAAs. 3 applications were not accepted, 1 involved an agency in Wales and was outside the jurisdiction, 1 was an assessment that had not reached stage 2 and in 1 the applicants had not received a Qualifying Determination as their agency refused to take the applicant to panel.

## IRM panels and outcomes in adoption

IRM panels heard 3 adoption cases in the year, 2 being full assessments and 1 a brief assessment. The IRM panels made a positive recommendation in 1 case and the final decision from the decision maker is currently outstanding. There were not suitable recommendations in 2 cases (1 full assessment and 1 brief), and the decision maker upheld both recommendations.

Further information is not being provided on the adoption applicants due to the low numbers and ensuring confidentiality of applicants and agencies.

## Applications for each month in the last 3 years

The figures below demonstrate that applications do not seem to follow any kind of regular pattern and vary from year to year. These numbers represent the numbers of applications and do not represent the numbers of accepted applications as discussed above.

	2021/2022		2020/2021		2019/2020	
	Fostering	Adoption	Fostering	Adoption	Fostering	Adoption
April	15	3	10	1	8	0
May	12	0	9	0	6	2
June	12	1	11	1	10	1
July	13	0	12	0	8	1
August	17	0	7	A/D* 1	13	3
September	9	1	19	1	11	0
October	10	1	12	0	10	0
November	13	0	17	0	9	0
December	10	1	21	0	13	0
January	11	0	12	0	14	0
February	8	0	5	0	4	1
March	11	0	16	1	11	0
Totals	141	7	151	4 A/D* 1	117	8

\*A/D = Adoption Disclosure Application

## Common Themes

Applications to the IRM feature many and varied situations though there are some ongoing issues which feature regularly. Challenges resulting from Coronavirus are still present and are likely to continue for some time.

There continues to be challenges through the variable quality of Qualifying Determination and final decision letters and what they should contain. A number of agencies fail to provide copies of final decisions (it is a regulatory requirement), sometimes over several months. We have adopted the practice of sending out the information about these with the minutes to assist.

Some agencies offer an excellent service and give applicants the information they need in a way that they can understand and relate to them as individuals rather than just listing national minimum standards that they have not met but without saying how.

There still can be misunderstanding in some agencies about the status of applicants who are informed that they are no longer foster carers once a Qualifying Determination is issued which can cause confusion as foster carers remain registered until the decision maker makes the final decision at the end of the IRM process.

Formal complaints from applicants to agencies can also lead to some misunderstanding when these are running alongside applications to the IRM. The IRM does not deal with complaints about agencies - they only deal with suitability of applicants or terms of approval and therefore for complaints to be put on hold whilst an application goes through the IRM process is not appropriate as they are separate processes. It is made clear to applicants that the IRM neither deals with complaints nor re-investigates allegations but offers a fresh look at their situation and suitability by an independent panel.

There have continued to be a number of cases in this reporting year that have related to medical issues which have either been unknown to the agency or worsened since a foster carer became registered. It is acknowledged that this may be due in part to the impact of the pandemic, but it is also a reflection of the lack of a consistent approach to updating medical information through formal review by medical professionals. There are

considerable variations in practice from agency to agency in relation to the frequency for medical reviews.

Alcohol and drug use and misuse have been issues in some applications and although these can be seemingly straightforward if an applicant has acted inappropriately they are not helped if an agency does not have a clear policy on alcohol use that can be referred to when issues arise.

Practice in response to allegations continues to be variable with the time taken for investigations to be completed varying considerably. Agency practice on concerns can vary with allegations or concerns being considered as single entities rather than looking at emerging patterns over time. Agencies could make better use of their panels in these situations by using them to set targets and dates for panel reviews (and taking appropriate action if they are not met) rather than situations only coming to panel when the agency feel that deregistration is the only option.

The terms of approval that define the type of placements that foster carers can have remains an issue as many continue to have generic terms that include emergency, short and long term (which in itself should only be made for specific children after assessment) without taking into account the experience and needs of the fostering household.

A further ongoing theme relates to papers that are considered by the agency's panel. When an application is accepted for an IRM review panel, the agency has to provide all the documents that the panel considered, together with any additional documents considered by the decision maker in reaching the Qualifying Determination. These have to be the full documents with no alteration or redaction and if, for whatever reason, the agency is unable to provide these documents to the IRM in this condition they would be in breach of regulation. This is a situation that has arisen and as the agency was unable to comply, they had no option but to withdraw the QD and go through the process again with a fresh panel with considerable distress for the applicants. Agencies need to ensure that any documents in this situation will be able to be sent to the IRM should an application be made so that similar situations do not arise.

There has again been a significant increase in the number of connected persons applications, rising to 51 this year from 33 last year. It is difficult to assess the reasons for the increase in this type of application. It could be linked to the impact of the pandemic and the increased stresses for families including the restrictions on personal support which have led to concerns about placements. Alternatively it may be that there is more awareness that the IRM is an option open to connected persons- both those who are being newly assessed and those who have had children in placement.

The variation in IT skills in long registered foster carers continues to be an issue with some clearly struggling. It is unclear how consistent access to training is in agencies though there are packages available. It is essential that foster carers and adopters have the necessary knowledge and skills in this area if they are to provide the necessary safeguards for children.

Comparable to other regions the London area has the lowest number of applications though it is the highest area of population.

## Sharing the learning

Work has been undertaken in the last year to raise the profile of the IRM and to share what we do and how we work as well as themes that are emerging. The Contract Manager has met virtually with decision makers, panel members, agency managers, Fostertalk and Fosterline staff to facilitate this.

The IRM now holds a list of stakeholder / agency contacts and uses this to circulate information including the IRM updated information sheets and those about Qualifying Determinations and Final Decision letters.

We will be seeking to build on these in future years and continuing engaging with stakeholders to take this work further.

## Complaints, Concerns and Compliments

The IRM has received 1 formal complaint during the period. However, as this concerned information provided by the agency and the IRM panel recommendation, it could not be treated as a formal complaint as it did not come within the IRM complaints procedure.

There were 2 further expressions of concern about agency information and the IRM panel recommendation which received responses though they were not dealt with as formal complaints. Where there was concern about information provided by the agency this is not in the remit of the IRM and would need to be addressed directly with the agency.

Where applicants are not happy with the IRM panel recommendation, they are able to challenge this decision through judicial review. This does not come within the remit of the IRM complaints procedure.

The IRM dealt with the complaint and concerns within the timescales for complaints.

The IRM offers the opportunity for applicants, representatives and supporters who attend panel to feedback on their experience of the IRM through a questionnaire. These are used to inform practice and to update processes so that the IRM can ensure that the service meets the needs of all users.

Positive feedback has been received from applicants and representatives which, as the examples below show, illustrate how positively virtual panels are regarded:

*“We were kept fully up to date about every stage of the IRM and was emailed regularly with updates. We were extremely satisfied that everything was explained clearly within the information leaflets we were given and also within emails we received. The IRM provided an excellent prompt service, and we received all letters and papers within their set timescale. Although it can be a daunting experience having to attend the panel meeting, the panel members made us feel very welcome, relaxed and we felt we were very much respected by them”.*

*“Excellent communication, full and easily understandable information. Very aware of our nervousness, made us feel very comfortable, questions were clear, very patient, listened to our replies, explained their questions if we did not quite understand”.*

*“Contact with the IRM was greatly supported by the case worker. Treatment received was fair and professional.”*

*“The information provided in the documentation that was sent electronically was very clear, informative and helpful. Our agency made no contact with us. We understand that it is important to ‘contain’ a meeting where emotions can be high, and we were grateful to have the opportunity to be heard, we have been ignored for a long time. Thank you for the service that you provided, and for the sensitive and professional manner in which it was delivered.”*

Much of the feedback that the IRM receives is applicants expressing thanks for the opportunity of having been listened to and having their situation thoroughly looked at by an independent panel. These comments are not only from those who receive a positive recommendation but also from those who do not.

One issue that has been raised on several occasions is the order in which the applicants and agencies present their case to panel. Currently the applicants’ questions and opportunity to address the panel are before the agency representatives. This has been discussed and considered within the IRM and by chairs and panel members numerous times, and it has consistently been concluded that the applicants should go first as it is their application.



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