



# **Independent Review Mechanism**

## **Annual Report 2020 - 2021**

**May 2021**

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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 17<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.

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.

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

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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

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 is able to 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 panel'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 156 applications in the year to the end of March 2021;

- 151 fostering
- 4 adoption
- 1 access to adoption records

Of these the IRM accepted 139 cases, 136 fostering and 3 adoption, 19 cases, all fostering, were withdrawn at some point in the process after formal acceptance. 101 cases were reviewed with IRM review panels held on 61 occasions. There are a number of cases every year which are accepted or have review panels held in the following reporting year.

## The impact of the Covid pandemic

The IRM has moved to working remotely from home in response to the COVID pandemic providing a digital first service for the IRM. There has been a significant shift in bringing the service up-to-date over the last year and are now offering virtual panels and an electronic application process.

This move to a fully electronic service, though initially challenging, has led to communications that are now much quicker and more cost effective.

In order to respond to the challenges that the Covid 19 restrictions have presented, IRM panels had to move to being held virtually in order to continue to offer this important service to those that need it. This change has had benefits, it has improved accessibility as applicants no longer have to be concerned about where they have to travel to and whether they can afford to do so. Agencies also have benefitted in saving staff time and travel costs, there has been positive feedback from applicants and agencies about the online panels.

Virtual panels have the additional benefit of increasing the flexibility of panel dates and use of panel members. There are now up to 6 panels held per month which are more spaced throughout the month with extra panels being arranged to accommodate unforeseen circumstances.

# Fostering

## Activity 2020-2021

Activity in fostering has increased in the last year, including an increase in applications from Connected Persons which went from 26 to 33. The IRM responded to a further 76 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 how they are being managed and the platforms used.

Four applications were not accepted as they were out of the regulatory timescales for acceptance (28 calendar days for fostering).

Of the 151 applications made 11 were not formally accepted until the next reporting year, but applications are counted from the date they apply.

- 4 were following a full assessment of suitability to foster;
- 5 were following brief (incomplete) assessments;
- 4 were changes in terms of approval,
- 101 were consideration of ongoing suitability to foster
- 33 were from connected persons in relation to specific children
- 4 not accepted

Of the cases accepted 79 (58%) were from Local Authorities and 57 (42%) from independent fostering providers (IFPs) (figure does not include those accepted in the next year or those not accepted, which is 11 in total). This is an increase in the percentage from



33% to 42% for IFP from the last reporting year and may reflect the increase in Children's Trusts which are designated IFPs.

## IRM panels and outcomes

The constitution of panels is set out in the 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, 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 2020/21 with one panel member acting as “host” for virtual panels to manage the technical and admission aspects of those panels. IRM panels heard 97 fostering cases in the year to March 31 2020:

- 1 was following a full assessment of suitability to foster;
- 1 after a brief assessment
- 2 for a change in terms of approval;
- 78 ongoing suitability to foster;
- 15 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 (56) with the remaining 41 cases coming from IFPs.

The IRM has recorded full outcomes for 95 fostering applications within the reporting period (20/21). IRM panels upheld the QD in 80 cases and recommended applicants were not

suitable to foster; decision makers then made not suitable final decisions. In 9 cases where the IRM panel recommended applicants were suitable (6 were ongoing suitability and 3 connected person applications) the decision maker disagreed with IRM recommendation. In 1 further application regarding terms of approval the IRM panel recommended the applicants as not suitable, the decision maker did not uphold the recommendation. In 5 cases the decision maker agreed with the IRM's recommendation overturning the QD, 1 was a brief assessment, 2 were ongoing suitability and 2 connected persons.

## 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	16
South West	8
North West	25
North East	22
Central	42
South East	16
London	16
Wales	1

6 applications locations were unrecorded. Geographically, the agencies mostly correspond to applicants apart from one where the applicants were in a different geographical location.

### Relationships (applications)

From the information received for accepted applications:

Married couples	56
Couples in a civil partnership	19

Single female applicant	19
Single male applicant	3
Divorced person	1
Widows	2
Widower	1
Joint relatives	1

### Sexuality (as defined by applicants)

Heterosexual	87
Lesbian	1
Gay	2
Other	3

### Ages

Ages ranged from 30 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	2
Age Range 25 – 29	4
Age Range 35 – 39	5
Age Range 40 – 44	14

Age Range 40 – 44	18
Age Range 50 – 54	29
Age Range 55 – 59	35
Age Range 60 – 64	26
Age Range 65 – 69	8
Age Range 70 – 74	5
Age Range 75 – 79	0
Age Range 80+	0

## Ethnicity

In this reporting year, the majority of applicants were White British with the next highest group identifying as Asian / Asian British - Pakistani. The National Statistics for Fostering<sup>3</sup> 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 18%.

White British – 84	84
White – Irish 1	1
White – Other	4

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<sup>3</sup> [Fostering in England 2019 to 2020: main findings](#)

Asian / Asian British – Indian	2
Asian / Asian British – Pakistani	6
Asian / Asian British – Bangladeshi	1
Asian / Asian British – Other	1
Black / Black British – Caribbean	3
Black / Black British – African	5
Black / Black British – Other	0
Chinese	1
Mixed - White & Black Caribbean	0
Mixed - White & Black African	0
Mixed - White & Asian	0
Mixed – Other	0
Other	1

## Religion

No religion	27
Christian	41
Islam	7
Hindu	2

Other	1
No response	11

### **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 2020-2021

Activity in adoption reduced to 4 applications, with 3 being accepted in the reporting year. The IRM responded to a further 13 enquiries mainly from potential applicants. Of the 3 cases accepted 1 was from Local Authorities / RAA and 2 from Voluntary AAs. There was also an Adoption Disclosure application which was not accepted.

## IRM panels and outcomes in adoption

IRM panels heard 4 adoption cases in the year, 2 being full assessments and 2 ongoing suitability, the IRM panels made positive recommendations in 3 cases and recommended not suitable in 1 of the ongoing suitability cases, all recommendations were upheld by the decision maker.

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, although figures around Christmas are often higher than other months. These numbers represent the numbers of applications and do not represent the numbers of accepted applications as discussed above.

	2020/2021		2019/2020		2018/2019	
	Fostering	Adoption	Fostering	Adoption	Fostering	Adoption
April	10	1	8	0	11	0
May	9	0	6	2	10	0
June	11	1	10	1	10	1
July	12	0	8	1	8	1
August	7	A/D* 1	13	3	12	3
September	19	1	11	0	6	2
October	12	0	10	0	6	1
November	17	0	9	0	14	0
December	21	0	13	0	7	1
January	12	0	14	0	10	0
February	5	0	4	1	8	0
March	16	1	11	0	6	0
Totals	156	4 A/D* 1	117	8	108	9

\*A/D = Adoption Disclosure Application

## Common Themes

Applications to the IRM feature many and varied situations though each year seems to raise some particular issues of its own, this year Coronavirus has brought challenges to everyone.

This reporting period reflects some of the impact of the pandemic though it will take longer to analyse and reflect on the extent of the impact on all the people that we work with.

There have been the usual challenges with the variable quality of QD and final decision letters, the information that we send out about these has seemed to help though there are still those that are of an unacceptable quality with lack of decision maker reasons often being the problem. These contrast significantly with those that 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.

Agencies can sometimes be confused about the status of applicants who are informed that they are no longer foster carers once a QD 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.

Another area which can also lead to some misunderstanding is when applicants have made formal complaints alongside their 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.

A number of cases in this reporting year have related to medical issues which have either been unknown to the agency or worsened since a foster carer became registered.

This may be due in part to the pandemic but it is also a reflection of the lack of consistent approach to updating medical information through formal review by medical professionals as there is no regulatory requirement regarding the frequency for medical reviews.

Alcohol 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.

There are a number of themes which reappear on a regular basis these include agencies treating allegations or concerns 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 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 are also a cause of concern as many have generic terms on first approval that include emergency, short and long term (which in itself should only be made for specific children after assessment) before they have gained any experience.

The last theme that has been current in this year, though it is ongoing, 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 QD. These have to be the full documents with no alteration or redaction 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 do this 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 is one final point that should be highlighted from this year's report and that is the anomaly of the number of applications from the highest area of population (London) ranking only 4th with 3 other areas.

## Sharing the learning

The position of the IRM means that it sees examples of different practices within agencies some good and some not so. This experience has resulted in the circulation of guidance, with the support of the DfE about QD and Final Decision letters to assist agencies. This was done as they can be variable in content and in the way that decision makers reasons are relayed to applicants, both type of letters should detail what the decision maker has considered as well as giving their own reasons. This is particularly so when there is only reference to applicants not meeting national minimum standards as reasons for not being suitable without explaining how the applicants are not achieving them.

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

## Complaints, Concerns and Compliments

The IRM has received 3 complaints during the period, one was about the IRM process, and the other 2 concerned the evidence presented by the agency and the IRM panel recommendation neither of which come within the IRM complaints procedure.

All complaints were dealt with in timescales.

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 is able to 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:

*“Very helpful and efficient. All Review Panel Members were friendly and understanding with us. The allocated caseworker was outstanding in the support given and provided throughout the process on behalf of the IRM. It’s important that the IRM provides this very valuable service when Foster Parents are seriously let down by their FSP giving the opportunity for other Professionals to review their case”.*

*“This was my first virtual IRM. I thought it worked very well indeed. Far less stressful for my clients, who were in the comfort of their own home and who had not had the additional stress, time and cost of a lengthy journey before panel or the prospect of a long and tiring journey home. In my opinion a far better way of doing things for those of us who are not London/Birmingham based. I hope you will continue to offer virtual IRM panel attendance after the pandemic restrictions are over”.*

*“I have learned a lot from attending IRM Panel today. This will have enabled me in enhancing my social work practice. Thank you for your input to improve our fostering service”*

*“This was a very complex case and it was clear that panel members had read the papers well”.*

*“All participants were given time to speak and respect shown. When clarity was sought, panel members asked questions in a different way to help participants understand.”*

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.

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