



Independent Review Mechanism

Annual Report 2022-2023

April 2023

Contents

| | |
|---|----|
| <u>Summary</u> | 4 |
| <u>Who is this publication for?</u> | 6 |
| <u>Overview of service</u> | 7 |
| <u>The IRM service now</u> | 8 |
| <u>Fostering</u> | 9 |
| <u>Activity 2022-2023</u> | 9 |
| <u>IRM panels and outcomes</u> | 11 |
| <u>Demographics</u> | 13 |
| <u>Geographical Locations</u> | 13 |
| <u>Relationships (applications)</u> | 13 |
| <u>Sexuality (as defined by applicants)</u> | 14 |
| <u>Ages</u> | 14 |
| <u>Ethnicity</u> | 15 |
| <u>Religion</u> | 16 |
| <u>Additional Vulnerabilities</u> | 17 |
| <u>Adoption</u> | 18 |

| | |
|--|----|
| <u>Activity in 2022-2023</u> | 18 |
| <u>IRM panels and outcomes in adoption</u> | 18 |
| <u>Applications for each month in the last 3 years</u> | 19 |
| <u>Common Themes</u> | 20 |
| <u>Sharing the learning</u> | 23 |
| <u>Complaints, Concerns and Compliments</u> | 24 |

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 19th 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).¹ 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.

¹ A Qualifying Determination (QD) is a letter from an Agency Decision Maker (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, and often does, 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 sees a snapshot of fostering and adoption practice across the country. This provides an opportunity 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 ² 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.

² [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 117 applications in the year to the end of March 2023.

- 109 fostering, of these 44 were from connected persons
- 8 adoption

The IRM accepted 109 applications in this period - 101 fostering and 8 adoption. 9 cases, all fostering, were withdrawn at some point in the process after they had been formally accepted. 113 cases were reviewed with IRM review panels held on 65 occasions. The total number of cases reviewed is higher than the number of cases accepted because 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 is a primarily digital service which reflects the need for it to be accessible, cost efficient as well as having an awareness of its environmental impact. Panels are held virtually and the application process is electronic, though adjustments can be made for additional needs and a face-to-face panel could be offered in exceptional circumstances to meet a specific need.

The electronic service provides communication that is fast and cost effective. It 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 and considerably reduced costs for applicants and agencies as well as removing the stress of travel. 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 and were able to overcome any additional challenges presented. Panels involving interpreters do take longer and extra breaks can be given if necessary, and where BSL is used, 2 interpreters are used to prevent fatigue.

Virtual panels have the additional benefit of increasing the flexibility of panel dates and use of panel members. The IRM has a target of 120 cases being heard annually with dates arranged for 60 panels, but unforeseen circumstances can mean last minute postponements impact on this as it is not possible to slot in another case at short notice.

Fostering

Activity 2022-2023

Activity in fostering has slightly decreased in the last year from 141 applications in 2021-2022 to 109 applications in 2022-2023. Of these 109 applications, 65 were from mainstream carers and 44 were from connected persons (60% and 40% respectively). This compares to last year, in which there was a slightly lower proportion, (64% and 36% respectively) of connected person applications (90 mainstream compared to 51 connected persons in 2021-2022).

The IRM responded to a further 55 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; what options were available if foster carers had resigned but were still being taken through a formal deregistration process and discussions with ADMs about a number of issues.

7 applications were not accepted. This was for the following reasons:

- The applications were outside the regulatory time scales for making an application to the IRM
- The applicants had already resigned
- The applicant had only reached stage 1 and already made representations to their fostering service
- Insufficient information to progress the application.

9 applications were withdrawn for a variety of reasons as set out below. This number is a decrease from the preceding year in which 31 applications were withdrawn.

- The applicant decided to pursue court processes instead of fostering (Connected Person (CP))
- The applicants personal circumstances changed (CP)
- The applicant did not sign the IRM agreement form so the application could not progress as the IRM had no agreement to access documents
- The FSP withdrew the QD as they were undertaking a new assessment of applicants (CP)
- One applicant gave no reason for withdrawing (CP)
- The applicants wished to resign as they were being assessed by another agency
- In a joint application one of the applicants died⁸. The applicants resigned
- The applicants had the children placed with them by the court (CP)

Types of application:

- 3 were following a full assessment of suitability to foster.
- 62 were consideration of ongoing suitability to foster.
- 44 were from connected persons in relation to specific children.

There were no applications following brief reports in fostering this year.

Of the 102 applications that were accepted, 70 (69%) were from Local Authorities and 32 (31%) were from independent fostering providers (IFPs) (figure does not include those accepted in the next year or those not accepted). Children's Trusts come within the Local authority designation for these purposes. This is a slight increase in the percentage of applications involving IFPs from 30% of the preceding year.

IRM panels and outcomes

The constitution of panels is set out in the IRM 2009 regulations (as amended), which specifies 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 3, again plus a panel adviser and panel secretary.

On average, each panel consisted of 7 members in 2022/23 with one panel member acting as “host” for virtual panels to manage the technical and admission aspects of those panels.

IRM panels heard 105 fostering cases in the year to March 31, 2023, the majority of these concerning the on-going suitability of mainstream foster carers.

Of the 105 fostering cases reviewed, the majority of applicants were from Local Authorities (73%) with the remaining 27% of cases coming from IFPs.

The IRM has recorded full outcomes for 110 fostering applications within the reporting period (22/23). IRM panels upheld the QD in 88 cases, including agreeing with the ADM in a terms of approval application.

The cases with outcomes were:

- 2 full assessments of suitability to foster
- 1 brief assessment of suitability to foster
- 1 change in terms of approval

- 71 ongoing suitability to foster
- 35 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 IRM disagreed with the ADM in relations to 22 cases. Based on the recommendation from IRM, the ADM overturned their decision in 15 of these cases. This consisted of overturning the QD in applications related to 2 full assessments, 4 ongoing suitability, and 6 connected persons. There were 3 cases where the ADM asked for further assessments (2 in connected person's applications and 1 for a mainstream foster carer) and there were 3 cases where the ADM did not accept the IRM panel recommendation, all of which related to mainstream foster carers.

The proportion of positive recommendations from IRM panels (that is where they disagreed with the QD) has again increased slightly from the last reporting year when IRM panels upheld the QD in 71 cases and disagreed in 14 when they recommended suitable. These ratios will continue to be monitored for further changes in future years.

Demographics

The IRM identifies applicant and agency geographical locations for reporting purposes all other information is given voluntarily by applicants who chose whether or not to provide it.

Geographical Locations

In addition to the important support service the IRM offers to applicants and providers, they can provide insight into those that access the service. 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 | 10 |
| South West | 9 |
| North West | 17 |
| North East | 18 |
| Central | 32 |
| South East | 13 |
| London | 8 |
| Wales | 0 |
| Not included | 2 |

The majority of applicants are located within the same area as the agency. A small number of connected persons are located in different areas to their agencies.

Relationships (applications)

From the information received for accepted applications:

| | |
|--------------------------------|----|
| Married couples | 42 |
| Couples in a civil partnership | 16 |
| Single female applicant | 23 |
| Single male applicant | 3 |
| Divorced person | 0 |
| Widow | 3 |
| Widower | 1 |
| Separated | 0 |
| Joint relatives | 0 |
| Joint applicants (friends) | 1 |

Sexuality (as defined by applicants)

| | |
|--------------|----|
| Heterosexual | 77 |
| Lesbian | 1 |
| Gay | 0 |
| Other | 3 |

Ages

Ages ranged from 18 to 79 with the majority being the in 55-59 age bracket and is broken down as follows:

| | |
|-------------------|---|
| Age Range 18 – 24 | 1 |
|-------------------|---|

| | |
|-------------------|----|
| Age Range 25 – 29 | 4 |
| Age Range 30 – 34 | 3 |
| Age Range 35 – 39 | 8 |
| Age Range 40 – 44 | 13 |
| Age Range 40 – 44 | 15 |
| Age Range 50 – 54 | 19 |
| Age Range 55 – 59 | 28 |
| Age Range 60 – 64 | 18 |
| Age Range 65 – 69 | 13 |
| Age Range 70 – 74 | 4 |
| Age Range 75 – 79 | 2 |
| Age Range 80+ | 0 |

Ethnicity

In this reporting year, the majority of applicants were White British with the next highest groups identifying as Asian British – Pakistani, which is a change in groups from the last reporting year³. The National Statistics for [Fostering in England 1 April 2021 to 31 March 2022](https://www.gov.uk/government/statistics/fostering-in-england-1-april-2021-to-31-march-2022) indicate that 29% of foster carers are from non-White ethnicities - the number of

³ <https://www.gov.uk/government/statistics/fostering-in-england-1-april-2021-to-31-march-2022>

applications to the IRM from non-White foster carers who have provided this information is lower at 20%, 1% higher than last year.

| | |
|-------------------------------------|----|
| White British | 73 |
| White – Irish | 1 |
| White – Other | 3 |
| Asian / Asian British – Indian | 2 |
| Asian / Asian British – Pakistani | 5 |
| Asian / Asian British – Bangladeshi | 0 |
| Asian / Asian British – Other | 2 |
| Black / Black British – Caribbean | 2 |
| Black/Black British - African | 2 |
| Black / Black British – Other | 2 |
| Chinese | 0 |
| Mixed - White & Black Caribbean | 2 |
| Mixed - White & Black African | 3 |
| Mixed - White & Asian | 0 |
| Mixed – Other | 0 |
| Other | 0 |

Religion

| | |
|-------------|----|
| No religion | 21 |
| Christian | 44 |
| Islam | 5 |
| Hindu | 1 |
| Judaism | 0 |
| Buddhism | 1 |
| Other | 3 |

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 2022-2023

Activity in adoption consisted of 8 applications this year, with all 8 of these being accepted in the reporting year. The IRM responded to a further 8 enquiries, mainly from potential applicants.

Of the 8 accepted cases, 7 were from Local Authorities/RAAs and 1 from a Voluntary Adoption agency. No applications were refused.

IRM panels and outcomes in adoption

IRM panels heard 8 adoption cases in the year - 5 were full assessments, 2 were ongoing suitability to adopt and 1 was a child specific application. The IRM received the outcome from 9 applications during the year. The IRM panel agreed with the QD in 4 cases (2 full assessments and 2 ongoing suitability) and made a not suitable recommendation. In 5 of the applications, the IRM panel disagreed with the QD and made positive recommendations. In the 9 outcomes received, the decision makers upheld the IRM panel recommendations in 7 cases, (4 where the IRM panel agreed with the QD and 3 where it did not). In 5 of the positive recommendations where the IRM panel disagreed with the QD it was overturned by the decision maker in 3. In 2 of the cases the decision makers disagreed with the IRM panel, one case was a full assessment and the other a child specific application.

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.

| | 2022/23 | | 2021/2022 | | 2020/2021 | |
|-----------|-----------|----------|-----------|----------|-----------|----------|
| | Fostering | Adoption | Fostering | Adoption | Fostering | Adoption |
| April | 5 | 1 | 15 | 3 | 10 | 1 |
| May | 10 | 2 | 12 | 0 | 9 | 0 |
| June | 12 | 0 | 12 | 1 | 11 | 1 |
| July | 5 | 0 | 13 | 0 | 12 | 0 |
| August | 6 | 3 | 17 | 0 | 7 | A/D* 1 |
| September | 9 | 0 | 9 | 1 | 19 | 1 |
| October | 6 | 0 | 10 | 1 | 12 | 0 |
| November | 18 | 2 | 13 | 0 | 17 | 0 |
| December | 10 | 0 | 10 | 1 | 21 | 0 |
| January | 7 | 0 | 11 | 0 | 12 | 0 |
| February | 12 | 0 | 8 | 0 | 5 | 0 |
| March | 10 | 0 | 11 | 0 | 16 | 1 |
| Totals | 109 | 8 | 141 | 7 | 151 | 4 A/D* 1 |

*A/D = Adoption Disclosure Application

Common Themes

Applications to the IRM feature many and varied situations though there are some ongoing and persistent issues which feature regularly.

There continue to be challenges through the variable quality of QD and final decision letters and what they should contain. A number of agencies fail to provide copies of final decisions (despite it being a regulatory requirement) which results in this having to be followed up sometimes over several months to ensure that process has been followed and the outcome recorded. We have adopted the practice of sending out the guidance information about these with the minutes to assist, but it is crucial that the liaison within the agency passes these onto the decision maker. However, overall, there has been a noticeable improvement in the practice of some agencies who now provide clear reasons for both the QD and the final decision. 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.

One reason that is often given in QDs for foster carers no longer being suitable to foster can be summarised as a breakdown of professional relationships. This is reflected in a breakdown of communication and trust which in effect means that the applicants and agency can no longer work together. These are complex and difficult situations that may have grown out of incidents that have occurred and not been appropriately resolved which then impact on the safety and well-being of any children who are placed in them. Such situations can go on for many years and eventually reach a point where trust has been lost and working relationships are no longer viable.

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 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.

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 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. Some of this may be due in part to the constraints within medical services but it is also a reflection of the lack of a consistent approach to updating medical information through formal review by medical professionals in fostering. The fact that there continues to be no regulatory requirement regarding the frequency for medical reviews leads to considerable variations in practice from agency to agency.

Practice in response to allegations continues to be variable with the time taken for investigations to be completed varying considerably as does the standard of investigation. Agency practice on concerns can vary with allegations or concerns being considered as single entities rather than looking at emerging patterns over time. This can be particularly important if applicants change agencies or an agency is taken over, sometimes more than once, as without vigorous review of foster carers' history, patterns of concerns / allegations can be overlooked. 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.

In this reporting year there have been applications that have involved domestic abuse and mental ill health, which have not been specifically identified before, although emotional and mental wellbeing are often considered in many applications. These will be areas to monitor for the future.

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 QD. 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.

The number of connected persons applications has fallen in the last year, although noting that this is in the context of applications falling generally. The time restrictions for connected persons assessment can impact on their quality if there are delays with checks or references or if the applicants are dealing with trauma in children and themselves, they are unable to prioritise assessments.

There continues to be some variation in IT skills in foster carers, but this has been less of an issue with mainstream foster carers this year. It is vital for anyone caring for children to have sufficient knowledge to be able to safeguard them in the digital world. Training is vital for all foster carers if they are to provide the necessary safeguards for children.

Sharing learning

The IRM has undertaken work 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 in applications. The Contract Manager has had virtual meetings with decision makers, panel members, agency managers, Fostertalk and Fosterline staff to facilitate this, as well as speaking at 2 webinars, one with CoramBAAF and the other with Adoption UK both of which were well attended.

The IRM met with Ofsted twice in the year and now participates in the Fostering and Adoption group which is hosted by Ofsted to bring together key representatives of the sector.

The IRM continues to hold 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 continue to engage with stakeholders to take this work further.

Complaints, Concerns and Compliments

Two applicants raised concerns within the reporting year in relation to the panel reasoning and final recommendation. However, given these concerns were not in relation to the IRM's level of service, the review panel's behaviour or a caseworker's behaviour, they fell outside the scope of the IRM's complaint procedure. To avoid future confusion, the IRM's complaints procedure was revised to make its parameters clearer for the future. It has been highlighted that the IRM's role is to review the recommendation made by the fostering service provider or adoption agency, but that the final decision rests with that body and it is not obliged to accept the IRM's recommendation.

The IRM received 1 formal complaint during the period which was in relation to the contract manager who had refused to accept a complaint which was about the panel recommendation. As this was not within the IRM complaints procedure, this complaint was not upheld. The IRM dealt with this complaint within the timescales, responding to concerns as quickly as possible. Where applicants are not happy with the IRM panel recommendation they are able to challenge this decision through judicial review.

Three ADMs have raised issues following IRM panels. These were discussed with panel members before responses were given by the contract manager.

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.

The IRM has updated the way feedback about the service is collected and now uses an online link which is provided to applicants, agency representatives and supporters.

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

"I felt that the panel were very welcoming and explaining how the meeting would be chaired and the number of questions asked"

"I felt the process was explained very clear by the Panel Chair. Panel members were clear and helpful in rewording any questions that weren't understood"

Everyone has been very supportive and helpful"

"The staff at the IRM were very helpful from the start they listened to us and spoke with empathy if that is possible. "

"They were all very polite and put us at ease straight away"

"It was comprehensive and informative"

"The panel was lovely and supportive and non-judgement on people"

"I think the IRM being an independent panel should have greater jurisdiction"

Professional and efficient"

"All contact was extremely positive and professional via both email and verbal correspondence. "

"Friendly and responded quickly to email queries and confirmed information had been received"

"All information was informative, clear and precise, especially as this was my first time with IRM."

"All written correspondence was clear and assisted me in collating all the information from the agency to present. "

"Information about timings and who was attending received in advance"

Much of the feedback that the IRM receives continues to be 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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