

Title: Validation IA: Access to Intermediary Services by Descendants and Relatives of Adopted People IA No: Lead department or agency: Department for Education Other departments or agencies: None	Impact Assessment (IA)			
	Date: 23/07/2014			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
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Summary: Intervention and Options			RPC Opinion: GREEN	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as Zero Net Cost
-	-	£0	Yes

What is the problem under consideration? Why is government intervention necessary?

There is an anomaly in current legislation about who may access 'intermediary services.' An intermediary service currently enables adults who were adopted before 30 December 2005 to obtain information about their adoption, and can facilitate contact between them and their birth relatives. However, direct descendants (i.e. children and grandchildren) of an adopted person cannot use an intermediary service to facilitate contact with the birth relatives of that adopted person. Likewise, other persons such as spouses and adoptive siblings of the adoptee are also denied the service. Intervention is required in order to extend the number of people who can use this service.

What are the policy objectives and the intended effects?

The objective is to correct the anomaly in legislation which currently leaves a number of people in the dark about their family history, and will allow a wider category of relatives to apply to an intermediary service. This will allow direct descendants (i.e. children and grandchildren) and 'prescribed persons' (such as spouses and adoptive siblings) to access an intermediary service for the purpose of facilitating contact with birth relatives of an adopted person. This means that prescribed persons, who may have good reasons for wishing to make contact with the adopted person's birth relatives, will have the right to apply to an intermediary service.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

To enable direct descendants and other persons with a prescribed relationship (such as spouses and adoptive siblings) to have access to intermediary services for adoptions that took place before 30 December 2005.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 12/2018					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ **Dat e:** Edward Timpson
7th October 2014

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)			
			Low:	High:	Best Estimate:	
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate						
Description and scale of key monetised costs by 'main affected groups'						
○						
Other key non-monetised costs by 'main affected groups'						
None						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate						
Description and scale of key monetised benefits by 'main affected groups'						
Other key non-monetised benefits by 'main affected groups'						
Key assumptions/sensitivities/risks					Discount rate (%)	3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes	Zero net cost

Supporting evidence

This Validation Stage Impact Assessment follows a Regulatory Triage Assessment (RTA) with reference RPC14-FT-DfE-2042. The RTA was confirmed as a low cost regulatory proposal.

A consultation on the proposal ran from 10 April 2014 to 29 May 2014.¹

Background

Under current law, as it applies to adoptions that took place before 30 December 2005, both an adopted person and their birth relatives are able to make use of an intermediary service to facilitate contact between them.² For example, if an adopted person (once they turn 18) wishes to find out about their birth mother they can approach an intermediary service to assist in facilitating contact.

Currently, however, for such adoptions, the right to apply to an intermediary service is **not** available to the direct descendants (i.e. children and grandchildren) of adopted people. Current regulation, for example, prohibits an intermediary service from facilitating contact between a child of an adopted person and that adopted person's birth relatives. Other persons with a prescribed relationship to the adoptive person, such as spouses and adoptive siblings of the adoptee, are also denied the service.

This anomaly leaves a number of people in the dark about their family history.

There are a number of reasons why access to intermediary services should be widened. These include:

- Personal reasons. The right for children of an adopted person, for example, to know about the background/history of the adopted person's birth family.
- Health reasons. To find out about a hereditary medical condition or health issue.
- Equality. The principle that prescribed people should have equal rights and the same access as birth relatives.

Policy option considered

The consultation sought views on which groups of people should be granted access to intermediary services. It also explored which safeguards should be put in place to balance the desire of relatives to access such services against the right to privacy of people who were adopted.

The final proposed measure looks to enable 'persons with a prescribed relationship' (defined as a wide category of relatives of the adopted person, including, but not limited to, an adopted person's children and grandchildren) to access intermediary services and enable professionals in intermediary agencies to make decisions based on the individual circumstance of each case.

OITO classification

Intermediary services are provided by intermediary agencies. There are three types of intermediary agency:

- Local Authority-run adoption agencies.
- Voluntary adoption agencies (voluntary sector organisations).
- Adoption support agencies (private sector and voluntary sector organisations).

This measure is therefore in scope of One-in, Two-out (OITO) because it concerns the regulation of business and does not fall in any of the out-of-scope categories detailed in the Better Regulation

¹ <https://www.gov.uk/government/consultations/intermediary-services-for-relatives-of-adopted-people>

² This change does **not** apply to adoptions that took place under the Adoption and Children Act 2002, which came into force on 30 December 2005. This provides a legal framework for managing and disclosing information relating to adoptions after that date. Under that framework the only distinction drawn is between adopted persons and any other person. There is no distinction made between birth relatives, descendants or other relations and therefore there is no need for the post-2005 framework to be amended.

The measure is categorised as permissive regulation (see paragraph 1.9.21 in the Better Regulation Framework Manual). This is because it **allows** businesses (e.g. voluntary adoption agencies and adoption support agencies) to supply intermediary services to a wider range of people. It does not **force** these businesses to supply this service to these people. These agencies will have discretion to supply the service and they will also have discretion to charge a fee for the service at a level they see fit.

It is therefore reasonable to assume that the benefits to business of the measure will at least equal the costs.

The benefit to business will relate both to the additional fee receipts they will receive and also to the value they attach to being able to further their fundamental underlying objectives around the provision of adoption services to people.

The costs relate to the value of the resources devoted to supplying the intermediary service.

Evidence supports the hypothesis that the benefits to business are at least equal to the costs because agencies have noted discontent with the current restriction.⁴

“We are advised by our legal advisor that we are unable under the terms of the current adoption legislation to provide any service to the descendants of adopted people so reluctantly are unable to provide a service or to refer on to other agencies - e.g. we would also be unable to provide information to other agencies. We are not happy with this situation and would like to see the law amended.” (Adoption agency)

Evidence gathered from the consultation also lends support. All the agencies that responded to the consultation were in support of the proposal to extend access to intermediary services to the children and grandchildren of adopted people. A high proportion of agencies agreed that others should also have access to intermediary services, and that the professional judgement and discretion of intermediary agencies should be paramount to enable them to make decisions based on the circumstances of the individual case.

We classify this measure as Zero Net Cost and assume equality between the costs and benefits of the measure to business when monetising impacts. We have not placed a monetary value on the benefit that voluntary adoption agencies and adoption support agencies derive from being able to further their underlying objectives. To do this would require the use of stated preference valuation methods and is not a proportional use of resources for this appraisal.

Analysis of business costs and benefits

In this section we present an indicative estimate of the additional resource cost incurred by business in supplying Intermediary services.

Expected level of demand

There are 37 adoption support agencies and 22 voluntary adoption agencies in England.⁵

Research evidence shows that most agencies provide an intermediary service, though there is variation in the client groups served.⁶

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211981/bis-13-1038-better-regulation-framework-manual-guidance-for-officials.pdf

⁴ <http://www.adoptionsearchreunion.org.uk/NR/rdonlyres/611914E8-13AC-4AB2-995B-4EB9AB422FAA/44/SurveyReportPostAdoptionServicesToAdoptedAdultsAnd.pdf>

⁵ <http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-providers-and-places>; <http://www.cvaa.org.uk/news/stats13/CVAASectorPerformanceReportENGLAND2012-13.pdf>

⁶ <http://www.adoptionsearchreunion.org.uk/NR/rdonlyres/611914E8-13AC-4AB2-995B-4EB9AB422FAA/44/SurveyReportPostAdoptionServicesToAdoptedAdultsAnd.pdf>

Around 80 per cent of agencies supply the service to adoptive people and around 70 per cent supply to birth relatives.

Agencies typically signpost enquirers to another agency if they do not provide an intermediary service themselves. The majority of agencies report that they refer to After Adoption or Caritas.

Evidence shows that the demand from direct descendants and other persons with a prescribed relationship to the adoptive person is small. The current legal anomaly impinges on a relatively small group of people.

For example, the Descendants of Deceased Adopted Persons (DAP) group campaigns to highlight the problems experienced by descendants who want to access birth information about deceased adopted relatives. There were only 103 descendants on this group's mailing list in November 2013.⁷ Consistent with this, one of the agencies typically signposted to for intermediary services reported that they received only 50 enquiries from descendants of adopted people in 2013.

Prior to the consultation, a large voluntary adoption agency reported that they have worked on only seven cases over the last five years or more where the descendent of an adopted adult has requested their parent's information. Another adoption agency reported that *"We only offer limited intermediary services for birth relatives. We have not been asked about descendants of adopted people but would consider the service."*⁸

Over the course of the consultation we engaged with another three voluntary adoption agencies to gain additional insight into potential demand. We asked these agencies for the number of intermediary service cases they have dealt with in the last year and how many more cases they think they would supply each year if the service were opened to children, grandchildren and other relatives. The responses are summarised below.

Agency	Number of intermediary service cases last year	Potential increase in cases if service is opened to children, grandchildren, and other relatives
A	35	<i>"almost impossible to estimate, and really depends on how much publicity there is....If the widening of the services is actively promoted then it could generate a lot of enquiries, a proportion of which will go on to seek an intermediary service. If the publicity is limited, then the response is likely to be also."</i>
B	64	<i>"we had at least three enquiries from children born to adopted adults last year to who we could not offer the service to... The numbers and increased enquiries to the services will depend on whom the service is extended to perhaps 10-15 percent."</i>
C	64	<i>"It is difficult to know how many relatives of adopted adults (or another prescribed person) would access the service once it was available. We imagine that initially this would be limited but would possibly increase with time."</i>

These agencies struggled to forecast the potential increase, noting that it depends on levels of publicity following the change. One agency predicted a potential increase of between 10 per cent and 15 per cent in cases from a baseline of 64 cases per year.

Resource implications of supplying intermediary services

Evidence shows that the cost of an intermediary service case is variable. However in the majority of cases it appears relatively small.

The activities involved in the service are information gathering, searching, and acting as an intermediary (e.g. establishing contact, exchanging letters between parties, counselling). Approximately 70 per cent of agencies surveyed in 2013 made no charge for the service, implying it requires only a low level of

⁷ <http://www.adoptionsearchreunion.org.uk/search/dap/dapcampaign.htm>

⁸ <http://www.adoptionsearchreunion.org.uk/NR/rdonlyres/611914E8-13AC-4AB2-995B-4EB9AB422FAA/44/SurveyReportPostAdoptionServicesToAdoptedAdultsAnd.pdf>

resource. Approximately 10 per cent charged 'up to £200'; 8 per cent charged 'between £200 and £400'; around 4% per cent charged over £400, and; the remainder didn't know.⁹ It appears that some agencies charge higher costs for cases that require more in depth information gathering, for example where files are missing or the applicant has minimal information.

Summarised cost calculations

As noted above, we are classing this measure as Zero Net Cost under OITO. Given this, the Equivalent Annual Net Cost to Business (EANCB) is £0.

We have undertaken primary research, utilised the consultation, and referred to existing studies in order to gain insight into the OITO assessment and also the gross costs and benefits to business.

This evidence shows a low resource cost per case and a relatively low additional demand for the service. As a lower bound, we estimate a gross cost per year of £32,400. As an upper bound we estimate a gross cost per year of £152,400. The mid-point estimate is £92,400. The estimated benefits to business (consisting of fee receipts and value derived from being able to further their fundamental objectives) are assumed to be equal to these costs. The calculations are laid out in table 1 below. The notes section of the table highlights the sources of the assumptions.

Table 1. Indicative Gross Cost to Business Estimates

	Lower bound	Upper bound
Total number of adoption support agencies and voluntary adoption agencies in England ¹	59	59
Total number of agencies that will supply to direct descendants and other persons with a prescribed relationship ²	30	47
Total current number of intermediary service cases per year for those agencies ³	1,620	2,538
Total number of additional cases ⁴	162	381
Resource cost per case	£200	£400
Total gross cost to business per year	£32,400	£152,400

¹ 37 adoption support agencies and 22 voluntary adoption agencies

² 50% of all agencies as a lower bound and 80% of all agencies as an upper bound. 80% of current agencies supply the service to adoptive people. Research evidence shows that around 50 % of existing agencies supply some services to descendants of adopted people.

<http://www.adoptionsearchreunion.org.uk/NR/rdonlyres/611914E8-13AC-4AB2-995B-4EB9AB422FAA/44/SurveyReportPostAdoptionServicesToAdoptedAdultsAnd.pdf>

³ The expected number of cases per agency is 54 (given by the average of 35, 64, and 64).

⁴ 10 percent increase as a lower bound and 15 percent increase as an upper bound based on a forecasted increase in cases by an adoption agency

⁹ <http://www.adoptionsearchreunion.org.uk/NR/rdonlyres/611914E8-13AC-4AB2-995B-4EB9AB422FAA/44/SurveyReportPostAdoptionServicesToAdoptedAdultsAnd.pdf>