

Annex D: Independent Review Mechanism (IRM) – Suitability to adopt a child

1. The IRM is a review process which prospective adopters can use when they have been given a qualifying determination by their adoption agency with which they are not content, and when they do not wish to make representations to the agency. The review process is conducted by a review panel independent of adoption agencies.
2. A qualifying determination made under **AAR 27.4** is a determination made by the agency's decision maker when he/she does not propose to approve a prospective adopter as suitable to adopt a child. A qualifying determination may be given in respect of an application to adopt a child from the UK or from outside the British Islands after either:
 - a. a brief or full prospective adopter's report has been prepared and considered by the adoption panel and agency, or
 - b. where the agency decides to change an earlier decision to approve the prospective adopter and that too has been considered by the adoption panel and agency.
3. The word "panel" is used throughout this Annex to mean "review panel". Where the word "panel" could be confused with an "adoption panel", the words "review panel" are used.

FUNCTION OF THE REVIEW PANEL

4. The IRM is not an appeal process and the review panel is not a higher appellate authority. The function of the panel is to consider a case anew and to give the agency a fresh recommendation on the prospective adopter's suitability to adopt a child. It is then for the agency's decision-maker to consider both the original adoption panel's recommendation and the review panel's recommendation before coming to a decision on the prospective adopter's suitability to adopt a child. Where the panel makes a recommendation to the adoption agency on or after 1 April 2009 that the prospective adopter is suitable to adopt a child, the panel may consider and give advice to the adoption agency about the number of children the prospective adopter may be suitable to adopt, their age range, sex, likely needs and background. This change brings the review panels in line with adoption panels.
5. The review panel does not have the legal power to consider any aspect of a matching case. Where the suitability of a prospective adopter to adopt a specific child was considered and a qualifying determination made, the review panel will be able to consider and make a recommendation only on the prospective adopter's suitability to adopt *a child* and not the *specific child* in mind. The review panel cannot consider complaints about the adoption agency; these should be considered through the agency's complaints procedure.

CONSTITUTION AND MEMBERSHIP OF REVIEW PANELS

6. The constitution and membership of a review panel is similar to that of an adoption panel. The review panel consists of no more than ten members including a chair, two social workers, a registered medical practitioner and at least four other people. The chair and vice chair of the panel will be experienced in chairing a panel. Two panel members will be social workers each with at least three years' relevant post qualifying experience and with experience of working in adoption. Some of the other members will have personal experience of adoption through being adopted or an adopter, while others will have specific

knowledge or experience relevant to adoption, for example, a child psychologist, a children's guardian, a teacher or a former social worker.

7. To demonstrate the independence of the panel, a panel member will be disqualified from being appointed to a panel if particular circumstances are met, for example, the member was involved in the making of the qualifying determination; is or was employed in the past year by the agency which made the qualifying determination; knows, in a personal or professional capacity, the person making the application or was approved as a prospective adopter by the agency which made the qualifying determination.
8. The review panel may proceed provided at least five of its members, including the chair (or vice chair) and a social worker, are present.

OPERATING THE IRM

9. Following contract negotiations, it is the DCSF's intention to enter into a contract with the British Association for Adoption and Fostering (BAAF) to operate the IRM for adoption and fostering on behalf of the Secretary of State for Children, Schools and Families from 1 April 2009.
10. To avoid a delay in the consideration of applications for review, all correspondence must be sent to the IRM's head office only and not to the Secretary of State for Children, Schools and Families or to any other office. The contact details for the IRM's head office are:

Until 1 April 2009: The IRM Contract Manager
Dolphin House
54 Coventry Road
Birmingham
B10 0RX
Tel: 0121 766 8086
Fax: 0121 766 8557
Email: irm@baaf.org.uk
Website: <http://www.irm-adoption.org.uk/>

From 1 April 2009: The IRM Contract Manager
Unit 4, Pavilion Business Park
Royds Hall Road
Wortley
Leeds
LS12 6AJ
Email: irm@baaf.org.uk
Website: <http://www.irm-adoption.org.uk/>

11. It would be helpful to the review panel administrator (administrator) if agencies appoint a Liaison Officer to serve as the main contact between the agency and the IRM. The role of the Liaison Officer is to send to the administrator all the appropriate documentation, ensure swift action is taken when the panel needs more information or assistance. The panel has wide powers and may ask the agency to provide, without charge, specific information or to provide assistance to the panel. For example, the panel may need a specialist medical report. In such cases, the administrator will pass the request to the Liaison Officer who arranges for the agency's medical adviser to liaise with the panel's medical practitioner. When legal advice is required, the review panel will not approach the agency but will seek its own legal advice.

COST OF A REVIEW

12. There is no cost to the prospective adopter applying to the IRM but the agency will be required to pay a contribution towards the cost of the review. The cost of a review is not subject to VAT.

PROCESSING THE APPLICATION FOR A REVIEW

13. Prospective adopters have 40 working days from the date the qualifying determination was sent in which to apply to the IRM. Applications must be in writing and include the grounds upon which it is made.
14. On receipt of a written application for review, the administrator will send to the Liaison Officer a copy of the application and

advise of the date, time and venue of the panel meeting. The Liaison Officer must:

- a. note the prospective adopter's case records to ensure that the case is not sent to the agency's decision-maker for a final decision before the panel has made its recommendation, and
 - b. send to the administrator the documents as set out in the **AAR**. The minutes of the adoption panel should not be sent to the administrator. This is so the review panel can consider the case without being influenced by the thinking behind the original adoption panel's recommendation.
15. The administrator will send to the prospective adopter a written acknowledgement and advise:
- a. that the agency has been notified and sent a copy of the application
 - b. of the date, time and venue of the review panel meeting; and
 - c. that further written details of the application may be provided up to three weeks before the meeting and that the grounds may be expanded upon at the panel meeting.
16. The administrator will seek the prospective adopter's consent to the disclosure of all papers including medical information. The consent will be sent direct from the prospective adopter to the Liaison Officer.
17. Before the panel meets, the administrator will send to the prospective adopter a copy of the papers presented to the adoption panel, any additional information provided by the agency and a list of the panel members who will review the qualifying determination. The exception to this is confidential third-party information which cannot be shared with the prospective adopter. The administrator will send to the agency

before the panel meets any additional information provided by the prospective adopter and a list of the panel members.

ATTENDING THE REVIEW PANEL MEETING

18. The administrator will invite the prospective adopter to attend the review panel meeting and advise that a friend may attend to give him/her moral support, but not to speak on his/her behalf or to act as an advocate. The prospective adopter will be able to ask the panel questions and to respond to questions posed by the panel.
19. Where the prospective adopter has a physical, sensory or learning impairment or where English is not his/her first language, he/she may bring an interpreter or helper with him/her in addition to a friend.
20. The administrator will invite the agency to send up to two representatives to the review panel meeting. It will of course be for the agency to decide who should attend, but experience has shown that the person most likely to be of assistance to the panel will be the original assessing social worker. This is because the panel's questioning is likely to focus on information obtained during the assessment. A second representative could be the team manager although some agencies may choose to send a senior manager or the decision-maker. Whoever the agency decides to send, that person must have a sound knowledge of the case and bring the file with them. It is important that the independence of the review panel is not affected by any discussion of the decision-making of the original adoption panel or agency.
21. No expenses will be paid by the review panel to prospective adopters, their friend/interpreter or to the agency's representatives who attends the review panel meeting.

REVIEW PANEL'S RECOMMENDATION

22. When reviewing a qualifying determination, the panel will consider and take into account:

- a. The agency's determination and reasons, and if the adoption panel's recommendation is different to the agency's determination
 - b. information that was before the adoption panel
 - c. any relevant information that arrived after that hearing.
 - d. the prospective adopter's grounds for review, and
 - e. any extra information submitted by the prospective adopter.
23. The panel will make a written recommendation about the prospective adopter's suitability to adopt a child. The administrator will send to the prospective adopter a copy of the panel's recommendation and its reasons. The administrator will send to the Liaison Officer a copy of the panel's recommendation, its reasons and a copy of the panel's minutes. No copies of the documents submitted to the IRM by the agency will be retained but will be returned to the agency via the Liaison Officer.

AGENCY'S DECISION

24. The Liaison Officer must send to the administrator a copy of the agency's decision on the prospective adopter's suitability to adopt a child.

The contents of this letter must be used to notify all prospective adopters of the adoption agency's qualifying determination and must include the reasons for the qualifying determination. Additional text may be included in the letter.

Name and Address of prospective adopter

Dear

I am writing to tell you that having considered your application to become an adoptive parent and the recommendation of the adoption panel, this agency does not propose to approve you as suitable to be an adoptive parent. This is because ***[insert the decision maker's reasons. Include a copy of the adoption panel's recommendation if different]*** (this is referred to in this letter as "the determination").

I know this will be disappointing news for you but before a final decision is made, you may:

- a. accept the determination; or
- b. make written representations to this agency; or
- c. apply for the determination to be reviewed by an independent review panel.

Option 1 – Accept the determination

It would be helpful if you could advise me, within 40 working days from the date this letter was sent, if this is your preferred option. The determination will be confirmed and a formal decision will be sent to you.

Option 2 - Representations to the agency

If you choose to make representations to this agency, they must be in writing and be received at this office within 40 working days from the date this letter was sent. On receipt, your case and written representations may be referred to an adoption panel to consider and to make a fresh recommendation. The adoption panel's recommendation will be taken into account when the final decision is

made by this agency. You will be invited to attend the hearing to answer any questions the adoption panel may have.

Option 3 – Application to an independent review panel for a review

I attach a leaflet which explains the role of the independent review panel. If you wish to apply to the independent review panel to review this agency's determination, your written application and your reasons for the application must be received by the independent review panel Administrator within 40 working days from the date this letter was sent. A copy of the review panel's recommendation will be sent to this agency and will be taken into account with the original adoption panel's recommendation when the final decision is made by this agency on your suitability to be an adoptive parent.

If I have not heard from either you or the independent review panel's administrator after the period of 40 working days has expired, a decision will be made on your suitability to adopt a child. You will be notified of that decision.

Yours sincerely