

## ***Intermediary Services for Relatives of Adopted People who were adopted before 30 December 2005 – What does this mean for Adopted People?***

### **Introduction**

On 9 December 2013 the Government tabled an amendment to the Children and Families Bill 2013 to add a new clause which amended section 98 of the Adoption and Children Act 2002 to enable regulations to be made for the provision of facilitating contact between persons with a prescribed relationship (including descendants) and adopted persons. The regulations came into force on 31 October 2014.

The following 'Questions and Answers' has been prepared for adopted people to explain what rights their birth relatives and other relatives with a prescribed relationship have in relation to applying for an intermediary service under these new provisions, and how the new law affects adopted people. It aims to provide answers to some commonly asked questions about the recent change in the law. If you have any comments or further questions about the Q&A then please email these to [julia.feast@corambaaf.org.uk](mailto:julia.feast@corambaaf.org.uk)

### **Questions and Answers**

#### **Q1. What do the new rules mean?**

**A.** The Government has amended The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 (the 2005 Regulations) to extend the provision of intermediary services to facilitate contact between 'persons with a prescribed relationship' and the birth relatives of a person adopted before 30 December 2005. This will allow a wide range of relatives to apply to an intermediary agency to help facilitate contact with their biological and non-biological relatives. Previously only the adopted person and the birth family could use an intermediary service. Under the new rules, a wide range of relatives (including descendants, spouses or adoptive relatives) can now apply to an intermediary agency for help tracing relatives of the adopted person.

#### **Q2. Who is included in the definition of a 'person with a prescribed relationship'?**

**A.** Under the Regulations, a relative is defined as a person who, if the person had not been adopted, would have been related to them by blood or by marriage/civil partnership, but who is no longer legally related to the adopted person because the adoption ended the legal relationship between them. When the Regulations were extended to allow descendants and other specified people to apply for an intermediary service, these people could not be described as 'relatives' because 'relatives' already has a specific meaning for the purposes of the Regulations. Descendants and others are described as 'persons with a prescribed relationship', which means people who are related to the adopted person by blood, marriage or civil partnership, and who also still have a legal relationship with the adopted person because their legal relationship has not been affected by the adoption (so not a birth relative) or they are related to the adopted person by virtue of his adoption. This will include a wide range of relatives of the adopted person, including but not limited to the children, grandchildren and great grandchildren of adopted persons.

### **Q3. So what is an intermediary service/agency?**

**A.** Intermediary services are delivered by specialised adoption agencies (intermediary agency) that help trace and facilitate contact and (in some circumstances) disclosure of information between adopted adults, their birth relatives and now 'persons with a prescribed relationship', as well as provide counselling, support and advice.

Intermediary services may be provided by local authorities, adoption agencies and adoption support agencies. If the service you require is not available from the agency you approach, they should be able to advise you how to take your enquiries forward and sign post you to an agency that can help.

### **Q4. Who can apply for an intermediary service?**

**A.** Adopted adults, birth relatives of adopted people and a person with a prescribed relationship with an adopted adult can apply to an intermediary agency if they are 18 years and over, and if the adoption took place before 30 December 2005.

These new provisions and the 2005 Regulations do not apply in relation to any adoption that took place after to the 30 December 2005.

### **Q5. What if I do not want contact with my birth relatives or do not want my family to contact my birth relatives?**

#### **Application from a birth relative**

**A.** If you are an adopted adult and do not want birth relatives to contact you, you may give your adoption agency a written notice to that effect. This notice can either say that you want no contact, or that you want contact only in certain circumstances (for instance you may want to be told if there are genetic medical conditions, or an inheritance). This is known as a veto, and if a veto is in place, an intermediary agency cannot contact you if approached by a birth relative, and cannot proceed with an application by a birth relative for contact with a person with a prescribed relationship as they cannot contact you to ask for your consent.

If you have already put a veto in place, this will continue to apply in respect of all applications by birth relatives under the new regulations and you do not need to write to your agency again.

#### **Application from relatives with a prescribed relationship**

If a descendant or other person with a prescribed relationship applies to an agency for contact with a birth relative of yours, the agency must first seek your views. . If you do not consent, the intermediary agency must not proceed with the application. If the intermediary agency has taken all reasonable steps to find you, but has been unable to do so, or if they found you but you were incapable of giving informed consent, it would be for the intermediary agency to decide whether it was appropriate to proceed with the application.

However, the intermediary agency would have discretion to proceed with an application from a spouse, child, grandchild or great grandchild in order to share information about the medical history of your birth relatives, if this can be done without disclosing identifying information.

**Q6. What is meant by an absolute and qualified veto?**

**A.** If an absolute veto has been registered then the intermediary agency must not proceed with the application from a birth relative to make contact with the adopted person or with their prescribed relatives, under any circumstances. This means that they cannot make contact with you or your prescribed relatives.

You can register a qualified veto, which will set out the circumstances in which your veto would not apply. This can include restrictions on which birth relatives you would want to be able to apply for contact. For instance, you may be happy for your children to have contact with your birth sibling, but not want them to make contact with your birth mother.

If you have registered a qualified veto then this will inform the agency in what circumstances an application can proceed and whether you do / do not object to your birth relative making contact with prescribed relatives.

**Q7. Where can I register a Veto?**

**A.** To register a veto you must give written notice to the adoption agency that arranged your adoption, as this will be the agency that the intermediary agency will contact when approached for a service. If the agency no longer exists, you should give notice to whichever agency took over the files of your adoption agency. This may be a local authority or another independent adoption agency, and can be found on the Adoption Search Reunion website. If you were adopted privately, the local authority for the area in which your adopters were living will have been given notice of your adoption. That local authority will hold your adoption files and you should register your veto with them.

**Q8. How much does it cost to register a Veto?**

**A.** There is no charge to register a veto.

**Q9. Do I have to produce evidence to confirm my identity?**

**A.** The adoption agency or local authority where you register the veto will need to verify your identity. They may ask to see documentation such as photographic identification, such as a passport. If you have changed your name from that given to you on your adoption, they will need to see evidence of change of name, such as a copy of your marriage or civil partnership certificate. The adoption agency will also need to ensure that you understand the full implications of registering either an absolute or qualified veto.

**Q10. Are there any circumstances where an intermediary service could be offered when the adopted person is still alive and doesn't consent?**

**A.** If a person with a prescribed relationship makes an application and the intermediary agency cannot find the adopted person, after taking reasonable steps to do so, the agency may proceed with the application. If the adopted person is found but is incapable of giving informed consent to the application, the agency may proceed with the application. In considering whether to provide information or arrange contact, the agency must decide whether it is appropriate to proceed with the application which includes considering the welfare of the adopted person.

If a birth relative makes an application and the intermediary agency establishes that the adopted person is incapable of giving informed consent or has died, they may proceed with the application. In any situation, the intermediary agency can provide non-identifying background information to the applicant if they think it appropriate to do so.

**Q11. What happens when a prescribed person applies for contact with a person who has died?**

**A.** The Regulations allow an intermediary agency the discretion to disclose information, including identifying information, if the subject has died or is unable to give consent. The agency must decide on what information it is appropriate to disclose.

**Q12. Why can't descendants and prescribed relatives of people who were adopted on or after 30th December 2005 apply for an intermediary service?**

**A.** In relation to adoptions that took place on or after the 30 December 2005, any person may apply for information from the agency that arranged the adoption. The adoption agency has discretion whether to release information and has to take various factors into account when deciding whether it will be appropriate to do so. The Adoption and Children Act 2002 and The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 established a new system of retaining and disclosing information relating to adoption for adoptions that took place on or after the 30 December 2005.