

**CHRISTIAN CONCERN FOR OUR NATION
RESPONSE TO THE
INDEPENDENT REVIEW MECHANISM (IRM) FOR
FOSTERING CONSULTATION
DECEMBER 2008**



*Changing Society to put the
Hope of Christ at its Centre*

Andrea Minichiello Williams
Director
Christian Concern for our Nation
020 7467 5427
07712 591164
<http://www.ccfon.org>

Consultation

Launch Date 25 November 2008

Respond by 24 December 2008

Ref: Department for Children, Schools and Families

Independent Review Mechanism (Fostering)

This consultation seeks views on proposals for the introduction of an independent review mechanism (IRM) relating to the approval of foster carers (i.e. local authority foster parents) in England. The IRM is available to all foster carers who are being assessed, or have been approved, as a foster carer by a local authority or an independent fostering agency. The consultation will run for four weeks. This timescale will allow regulations to be laid in time for the IRM to be implemented from 1 April 2009.

department for
children, schools and families

Independent Review Mechanism (Fostering)

A Consultation

- To** Local Authorities, Independent Fostering Providers,
Prospective/Current Foster Carers
- Issued** 25 November 2008
- Enquiries To** If your enquiry is related to the policy content of the
consultation you can contact Shelli Fong on:
e-mail: shelli.fong@dcfs.gov.uk

Contact Details

Contact Details

If your enquiry is related to the policy content of the consultation, you can contact Shelli Fong by e-mail: shelli.fong@dcfs.gov.uk.

If your enquiry is related to the DCSF e-consultation website or the consultation process in general, you can contact the Consultation Unit by e-mail: consultation.unit@dcfs.gov.uk or by telephone: 0870 000 2288.

1 Executive Summary

1.1 Independent Review Mechanism (fostering)

This consultation seeks views on proposals for the introduction of an independent review mechanism (IRM) relating to the approval of foster carers (i.e. local authority foster parents) in England. The IRM is available to all foster carers who are being assessed, or have been approved, as a foster carer by a local authority or an independent fostering agency. The consultation will run for four weeks. This timescale will allow regulations to be laid in time for the IRM to be implemented from 1 April 2009.

2 Background and Context

- 2.1 The White Paper, Care Matters: Time for Change, sets out the Government's plan for improving training and support for foster carers. The IRM was announced in the White Paper, as part of a wider package of measures to improve the approvals process for foster carers and to encourage more people to come forward to foster. It brings fostering in line with adoption, where there has been an IRM since April 2004.

- 2.2 The IRM will give prospective and current foster carers the option of having their case reviewed by an independent panel where their fostering service provider proposes to turn down their application to be a foster carer, or to revoke or amend the terms of their existing approval.
- 2.3 It is our intention that the provisions for an IRM for fostering should replicate as closely as possible the existing provisions in respect of the IRM for adoption, as set out in the Independent Review of Determinations (Adoptions) Regulations 2005 (S.I. 2005/3332), whilst remaining consistent with the current provisions in the Fostering Services Regulations 2002 (S.I. 2002/57) concerning fostering panels.
- 2.4 Regulations introducing the IRM for fostering will be made under the Children and Young Persons Act 2008, and consequential amendments will be made to the Fostering Services Regulations 2002. The provisions in the Act confer functions in respect of the IRM (in relation to England) on the Secretary of State; the Act also permits the Secretary of State to arrange for an organisation to discharge those functions on his behalf. It is intended that the IRM for fostering will become operational from 1 April 2009.

3 The Proposals

3.1 **How will it work?**

To ensure that children are placed with suitable foster carers, the fostering service provider is required to recruit and assess the suitability of applicants to act as a foster carer; the fostering service provider also decides which approved foster carer is suitable to meet the needs of a particular child.

- 3.2 Fostering panels established by the fostering service provider are responsible for making recommendations to the fostering service provider's decision-maker on:
- the suitability of a prospective foster carer to be approved;
 - where the panel considers a prospective foster carer as suitable to be approved, the terms on which the approval is to be given; and
 - whether a person who is currently approved as a foster carer remains suitable to act as such, and whether or not the terms of their approval remain appropriate.
- 3.3 Where the fostering service provider proposes not to approve the applicant as suitable to be a foster carer, or where they propose to remove approval from an existing foster carer or change the terms of their approval, the fostering service provider must notify the person of this fact in writing. This will become a "qualifying determination" for the

purposes of an independent review.

- 3.4 At present, the fostering service provider must provide reasons for its proposal regarding the foster carer and a copy of the fostering panel's recommendation. The fostering service provider's letter must advise the prospective or current foster carer that they may submit representations to the provider within 28 calendar days of the date of the provider's letter; if representations are received, the case is referred back to the provider's panel.
- 3.5 With the introduction of the IRM fostering, it is proposed that the fostering service provider's letter will also have to advise the person of an additional option - that they may apply direct to the Secretary of State for a review by an independent review panel of the provider's determination. This application will also have to be made in writing within 28 calendar days of the date of the provider's letter.
- 3.6 If the fostering service provider does not receive any representations and the foster carer does not apply to the Secretary of State within 28 days, the decision may then be taken not to approve the person as a foster carer or to terminate or amend the terms of a foster carer's approval.
- 3.7 When a prospective/current foster carer applies to the Secretary of State to have the qualifying determination reviewed by the independent review panel, the fostering service provider will receive a notification from the Secretary of State of this. The fostering service provider will then have a duty to provide to the Secretary of State all of the documents and information which were passed to the original fostering panel within 10 working days of the notification. Currently, if submissions are made to the fostering service provider, the provider would make the papers available to their own panel.
- 3.8 Following an application to the independent review mechanism, the Secretary of State will constitute a panel that will meet to review the qualifying determination. The applicant may attend the panel meeting, if they wish. They will receive a letter from the Secretary of State informing them that they may, if they wish, provide the panel with further details of the grounds of their application. They may do this in writing up to two weeks before the review meeting and/or orally at the review meeting. The fostering provider may also send representatives, who would generally be the assessing social worker and their line manager. It is intended that the panel will operate in a similar way to current fostering panels, where the panel can put questions to the applicant and to the representatives of the fostering service provider. The independent review panel will make a recommendation, not a decision, on whether the applicant is suitable to be a foster carer and the terms of the approval. The recommendation, the reasons for it and whether or not it was a unanimous decision will then be immediately

recorded and signed by the chair. A copy of this document will be sent to the applicant and the fostering service provider.

3.9 As at present, it will be for the fostering service provider to make the final decision whether or not a person should be approved as a foster carer and as to the terms of the approval. However, the fostering service provider will have to take the independent review panel's recommendation into account, as well as that of their own panel, when making the decision.

3.10 The fostering service provider will be required to send notification to the foster carer, with a copy sent to the Secretary of State, of the decision:

- that the foster parent continues to be suitable, and that the terms of the approval continue to be appropriate; or
- that the approval is terminated from a specified date, and the reasons for the termination; or
- as to the revised terms of approval, and the reasons for the revision.

3.11 **Constitution of the independent review panel**

It is proposed that the constitution of the independent review panel will be based closely on the constitution of the provider's fostering panel. There will be a central list maintained by the Secretary of State (or by an organisation on his behalf) from which panel members will be drawn. The maximum number of persons who will sit on a panel will be 10 and the minimum 5 (including the chair and/or the vice-chair), and all IRM panels will have to include:

- two social workers one with child care expertise and the other with expertise in the provision of a fostering service;
- four persons considered by the Secretary of State to be suitable as members including, where reasonably practicable, at least 2 persons with personal experience of fostering.

3.12 It is proposed that the Regulations will allow for the Secretary of State to pay panel members a fee.

3.13 A person will be disqualified from sitting as a panel member on an independent review panel if:

- they are a member of the fostering panel of the organisation that made the qualifying determination;
- where the organisation which made the qualifying determination is a local authority, they have been, in the year prior to the date on which the qualifying determination was made, employed by that authority in their children and family social services or a member of that authority;
- where the organisation which made the qualifying determination is not a local authority, they have been in the year prior to the date on

which the qualifying determination was made, an employee, director or a trustee of that agency;

- they are a relative of any person mentioned above;
- they have had a child placed with them for fostering or adoption by the organisation which made the qualifying determination;
- they have been adopted or fostered, and the organisation which made the qualifying determination was the organisation which arranged that adoption or fostering;
- they have been approved as a prospective adopter or as a foster carer by the organisation which made the qualifying determination; or
- they know the applicant in a personal or professional capacity.

3.14 **Charges to be made to fostering service providers**

The Regulations will impose a duty on the fostering service provider to make a payment to the Secretary of State to cover the cost of the review. It is intended that a standard fixed sum will be payable, as is currently the case for reviews by the IRM for adoption. We do not know what the amount will be at this stage, because this will be decided in negotiation with the contractor who will operate the IRM on behalf of the Secretary of State (we are in the process of tendering the contract). However, it is likely that the contribution will be similar to that currently made with respect to the adoption IRM, which is £2,227 per review.

- 3.15 Because the IRM for fostering will be demand-led, it is difficult to quantify the exact number of applicants likely to apply to the IRM for a review. However, based on the numbers of applications that have been made to the adoption IRM, and a small survey of fostering service providers, it is estimated that the number of applications to the fostering IRM per fostering service provider per year will be small – on average less than one.

4 How To Respond

4.1 **How To Respond**

Consultation responses can be completed online at www.dcsf.gov.uk/consultations by emailing (carematters.consultation@dcsf.gsi.gov.uk) or by downloading a response form which should be completed and sent to:

Shelli Fong, First Floor, Children in Care Division, Department for Children, Schools and Families, Sanctuary Buildings, Great Smith Street, London SW1P 3BT

5 Additional Copies

5.1 **Additional Copies**

Additional copies are available electronically and can be downloaded from the Department for Children, Schools and Families e-consultation website at:

<https://www.dcsf.gov.uk/consultations>

6 Plans for making results public

6.1 **Plans for making results public**

We will take into account the responses from the consultation when drafting the independent review mechanism (fostering) regulations. These will be available in early 2009.

Independent Review Mechanism (Fostering)

Consultation Response Form

**The closing date for this consultation is:
24 December 2008**

Your comments must reach us by that date.

department for
children, schools and families

THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online or offline response facility available on the Department for Children, Schools and Families e-consultation website (<http://www.dcsf.gov.uk/consultations>).

The information you provide in your response will be subject to the Freedom of Information Act 2000 and Environmental Information Regulations, which allow public access to information held by the Department. This does not necessarily mean that your response can be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies. You may request confidentiality by ticking the box provided, but you should note that neither this, nor an automatically-generated e-mail confidentiality statement, will necessarily exclude the public right of access.

Please tick if you want us to keep your response confidential.

Name Andrea Minichiello Williams, Barrister and Director
Organisation (if applicable) Christian Concern for Our Nation
Address: PO Box 655
Hayward Heath
West Sussex
RH16 9AT
Tel: 020 7467 5427
07712 591164
<http://www.ccfon.org>

If your enquiry is related to the policy content of the consultation you can contact Shelli Fong on:

e-mail: shelli.fong@dcsf.gsi.gov.uk

If you have a query relating to the consultation process you can contact the Consultation Unit on:

Telephone: 0870 000 2288

Please select one box that best describes you as a respondent

<input type="checkbox"/> Local authority	<input type="checkbox"/> Independent Fostering Provider	<input type="checkbox"/> Existing foster carer
<input type="checkbox"/> Prospective foster carer	<input checked="" type="checkbox"/> Other	

Please Specify:

Christian Concern for our Nation (CCFON) is a policy and legal resource centre that identifies changes in policy and law that will affect Christians. The team of lawyers at CCFON research and campaign on legislation affecting Christian Freedoms. CCFON serves a mailing list of 25,000 supporters.

<http://www.ccfon.org>

It is linked to a sister and separate organisation, the Christian Legal Centre, which takes up cases affecting Christian freedoms including fostering cases.

<http://www.christianlegalcentre.com>

Executive Summary of our Response

1. The consultation proposes to replicate as closely as possible for all foster carers, the Independent Review Mechanism (IRM) panels that are available to adoptive parents so that there is an additional option of independent review for them also. In our opinion, this provides a suitable opportunity not only to replicate but to amend and improve upon the current regulations for both adoption and fostering. The National Minimum Standards (NMS) for fostering are also due to be revised to take account of the development and training proposals in the White Paper entitled "Care Matters: Time for Change". The proposed revision to the NMS also provides a suitable opportunity to make improvements to the NMS.
2. In our opinion, legislative changes are needed to the adoption and fostering regulations and to the NMS on fostering to improve matters. We are particularly concerned that cases are arising that demonstrate that the current system is causing difficulties for suitable foster carers or adopters who hold traditional Christian views on smacking or who may be asked to promote homosexuality in violation of their Christian beliefs. Our response to this consultation suggests some ways in which the current regulations and the NMS could be changed to help resolve such issues.
3. The NMS and the regulations for fostering should remove the anomaly which prevents parents fostering if they practice mild smacking within section 58 of the Children Act 2004 and both the fostering and adoption regulations should

explicitly align themselves with section 58.

4. In our view standard 7 of the NMS for fostering on valuing diversity urgently needs to be amended to clarify that it is the pool of carers themselves that requires diversity rather than the views of individual carers, to avoid discrimination against individual carers with traditional orthodox religious beliefs who do not wish to promote homosexuality.
5. We believe the decisions of IRM panels should be legally binding on all the adoption and foster service providers including local authorities. This would prevent local authorities ignoring decisions they disagree with. At present the only remedy open to aggrieved prospective/current foster parents who wish to challenge the final decision of the original service provider is judicial review which is a lengthy and expensive process which can only force reconsideration and not a specific outcome upon offending service providers.
6. It is vitally important that the recruitment of prospective suitable foster carers or adopters with Christian religious beliefs is encouraged rather than discouraged, as they are likely to make a positive contribution to providing a child with a much-needed loving and stable family home. The White paper recognises the positive contribution made in community organisations by faith groups.
7. In summary, we believe that the current difficulties being faced by prospective/current suitable foster carers or adopters who hold traditional Christian beliefs, are due to a failure to take account that the child's welfare is of paramount importance, so that the outcome of providing a suitable, loving and stable home has been lost in the myriad of NMS and fostering or adoption regulations, which have themselves lost that much-needed central outcome focus. In our opinion, this primary objective needs to be restored and underlined as an outcome of central importance for all revisions to the NMS and the regulations, and a determining factor in panel decision-making, to ensure that the overall assessment does not unreasonably allow irrelevant considerations to be given a prominent place. Such irrelevant considerations would detract from the satisfactory outcome of providing suitable foster carers or adopters to meet the needs of children in care who desperately require a home that provides love, care and stability when they are growing up.

1 Do you agree with the general approach to the independent review mechanism for fostering?

x Agree

Disagree

Not sure

Comments:

We agree with the principle that it is helpful to have an independent review mechanism for fostering. This is so that fostering service provider “qualifying determinations” on the suitability of foster carers can be examined externally by an independent body, which can make recommendations for reconsideration by the existing foster service provider.

However, in order to improve upon the current system, it is important not just to mirror or replicate the existing provisions for adoption, but to add improvements in order to deal with the current difficulties that may result in prospective/current suitable foster or adoption carers being rejected due to unreasonable decision-making by adoption or foster service provider panels. We have examples of ways in which the current adoption system and local authority fostering applications are currently causing unreasonable difficulties for suitable foster carers in view of the carer’s traditional Christian beliefs (please see our answer to question 5). We note that in point 2.3 it is stated that:

It is our intention that the provisions for an IRM for fostering should replicate as closely as possible the existing provisions in respect of the IRM for adoption, as set out in the Independent Review of Determinations (Adoptions) Regulations 2005 (S.I. 2005/3332), whilst remaining consistent with the current provisions in the Fostering Services Regulations 2002 (S.I. 2002/57) concerning fostering panels.

Currently, the timescale within which a representation can be made differs between fostering and adoption. A person seeking a review of a decision relating to adoption has 40 working days to make a representation, beginning with the date on which the notification was sent. In contrast, the Fostering Services Regulations 2002 state that a person seeking a review of a decision relating to fostering has 28 calendar days from the date of the notification.

We would be grateful for your views on whether or not the timescale for applying to the Secretary of State for an independent review of a fostering qualifying determination should be the same as that for adoption at 40 working days. If so, please also indicate whether you think the 40 day limit should also apply where a person is seeking review by the fostering panel (rather than by an independent review panel).

2 Do you think that the current 28 calendar day limit for prospective/current foster carers to apply to the Secretary of State to have their case reviewed should be extended to 40 working days?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We agree that extra time would be extremely helpful and that in this case it is worthwhile replicating the current approach to adoption. A review of the IRM for adoption has found that the extra time of 40 working days was appreciated.¹

We note that you describe the current system for representations for further consideration by the foster service providers' panel as follows:

At present, the fostering service provider must provide reasons for its proposal regarding the foster carer and a copy of the fostering panel's recommendation. The fostering service provider's letter must advise the prospective or current foster carer that they may submit representations to the provider within 28 calendar days of the date of the provider's letter; if representations are received, the case is referred back to the provider's panel.

The proposed change to the system being as follows, at 3.5:

With the introduction of the IRM fostering, it is proposed that the fostering service provider's letter will also have to advise the person of an additional option - that they may apply direct to the Secretary of State for a review by an independent review panel of the provider's determination. This application will also have to be made in writing within 28 calendar days of the date of the provider's letter.

It would be helpful if the time given to apply for review to the original fostering service provider panel could also be extended from 28 calendar days to 40 working days, so that there will be the same time to make an application to either the original foster service provider panel or for review by the independent review panel.

There is currently no requirement for a medical practitioner to be present on a provider's fostering panel. This differs from an adoption panel and an adoption IRM panel, which must include a medical practitioner who is professionally qualified and appropriately trained to work with children and young people, their families and adoptive parents, have a good understanding of adoption and understand the medical issues inherent in adoption.

We would be grateful for your views on whether a relevantly qualified and experienced medical practitioner should be required to sit on the fostering IRM panel; and, if you believe that they should, whether such a medical practitioner should also be required to sit on a fostering service provider's fostering panel.

3 a) Do you think it would be helpful to require a medical practitioner to sit on the independent review panel for fostering?

Yes

No

Not Sure

Comments:

We agree that it would be helpful to do so in order to consider any medical issues in relation to fostering. However, fostering placements are usually of shorter duration than is the adoption of a child, and this needs to be borne in mind when medical issues are considered. Section 23(8) of the Children Act 1989 does indicate the need for a local authority to ensure that accommodation is not unsuitable to his or her needs if the child to be looked after is disabled.²

It is also important that prospective/current foster carers who may themselves have some medical disability are fairly assessed. In some cases, this may be a positive advantage, for example if a deaf carer fosters a deaf child, which would facilitate coping strategies for the child as well as the improved development of sign language. However, it would also be important to ensure that the child was adequately integrated into the hearing community to cope with the world in adult life.

It would be helpful to have a medical professional person on the panel.

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3 b) **Do you think it would be helpful to require a medical practitioner to sit on the on the provider's fostering panel?**

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments: This would be helpful for the same reasons as outlined in our answer to question 3a).
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Currently, a fostering service provider's panel reviewing a decision bases their recommendation on the information that was provided to the original panel, the recommendations made by that panel and the decision reached by the provider. The Fostering Services Regulations 2002 do not explicitly state that the panel may seek additional information or legal advice. This is in contrast to the Independent Review of Determinations (Adoption) Regulations 2005, which do state that the adoption IRM panel may seek additional information or legal advice.

The absence of such a reference in the Fostering Services Regulations 2002 does not bar members of a fostering panel from seeking additional information, however, its inclusion would set up an expectation that the panel consider whether additional information or legal advice is required.

On this basis, we would be grateful for your views about whether there should be an explicit reference in the legislation to (1) the fostering IRM panel and (2) the fostering service provider's panel being able to request additional information or assistance from the provider, and to seek legal advice.

4 a) **Do you think it would be helpful for regulations to state that the independent review panel should be able to seek additional information?**

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We consider that there should be an explicit reference in the legislation to being able to request additional information and such information should be made available to the prospective/current foster carers. In relation to Legal Advice being available to the IRM panel, we feel that such a measure if adopted should be balanced by the prospective/current foster carer or adopter also having access to legal advice and representation. However, we consider that it is vitally important that the legislation ensures that such advice is properly independent and that the Legal Advisers have no links with the same local authority or the same foster service provider so as to ensure impartial and independent advice. The same need for independent legal advice should be stressed if the legal advice includes written legal advice as well as giving legal advice through a Legal Adviser on the panel.

We understand that the current IRM procedure as explained on the website for adoption³ states that:

All the paperwork is reviewed by a legal adviser and a medical adviser who will also be available to the panel at the panel meeting. The medical adviser may also seek additional information to assist them with their report. All the information will then be considered by the review panel.

The review panel will have a written report on your case from its Legal Adviser, and there will be someone - a professional adviser - who will be able to provide advice on legislation, guidance and research to ensure that all relevant issues are considered and the correct proceedings followed. A Panel Secretary will be present to take minutes of the meeting. The Panel Secretary, the Professional Adviser and the Legal Adviser will not take part in the Panel discussions or in the making of the review panel's recommendation.

It appears that in the current situation, the prospective adopter attends the hearing and can bring a friend for moral support but the friend cannot speak or act on their behalf as an advocate, and the adoption agency can send a representative.

In the case of the adoption IRM, the applicants cannot be represented by a lawyer at the review panel. The reason for this is stated to be that it is not a court or tribunal. There is no further appeal if the applicant is not satisfied with the review panel's recommendation and it is the adoption agency that makes the final decision. There is stated to be the possibility of judicial review if the legal grounds exist.⁴

It appears to be unfair that the prospective adopter to the independent review panel has no opportunity to have legal representation when the IRM panels themselves have access to professional legal advice.

In view of the low number of cases that are estimated to go through the IRM procedure for both fostering and adoption, (being on average less than one per year per foster service provider) it would be reasonable if the fee paid by the foster service provider could also include a sum to allow the prospective/current foster or prospective adoption carer to be reimbursed for the reasonable costs of obtaining their own legal representation at the IRM panels and if of low income, travel reimbursement to attend. The prospective/current carer should be allowed to attend with legal representation as well as a friend for moral support. This could be added to the global fee paid for the IRM, which is expected to be £2,227 per review and the figure presumably includes a contribution towards the IRM panel's legal advice. It would be reasonable to also allow for a sum for the foster carers or adopters legal advice.

4 b) Do you think it would be helpful for regulations to state that the provider’s fostering panel should be able to seek legal advice?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

Please see our answer to question 4a) above.

In our opinion, the regulations should ensure that the prospective adopter or prospective/current foster carer is also provided with the reasonable costs incurred in procuring access to legal representation at the panels as well as being allowed to attend with a friend for moral support in any of the following circumstances:

1. If they have to apply again to the foster service provider panel for reconsideration;
2. If they apply to an IRM; or
3. If there is a further hearing at which the original foster or adoption service provider makes a final decision taking account of the IRM’s recommendations.

5 Do you have any other comments you wish to make?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Comments:

We welcome the importance placed upon faith groups in the White Paper entitled “Care Matters: Time for Change”, which in the community context are seen as providing a connection to positive organisations for the child.⁵ In view of this positive recognition, it would be helpful if the foster or adoption service providers could actively encourage those with religious beliefs to become carers, rather than in any way discourage them.

We are particularly concerned that on some occasions, the lack of a reasonable and sensible policy approach to smacking or to equality issues shown by some local authorities, fostering or adoption service providers, may be creating unnecessary barriers for thoroughly suitable adopters or foster carers who hold traditional or orthodox Christian beliefs and who could provide a loving and stable home, much desired and needed by such children.

The primary need of a child for a loving, stable family home, is where the focus should

be in determining carer suitability and this is confirmed in the foreword to the White Paper, which states that:

Every child requires love, care and stability when they are growing up, but not all children are fortunate enough to have a loving family which is capable of providing this support. Children in care are frequently in greater need but paradoxically less likely to receive the help they require.⁶

It is useful to consider the cases which demonstrate this problem, firstly, regarding smacking and secondly, concerning equality issues.

Smacking and Fostering

The case of a Taunton couple was brought to the Christian Legal Centre's (the CLC) attention and partially described on the CLC website as follows:

A TAUNTON couple is being prevented from fostering children because they, along with the vast majority of parents in the UK, believe in occasionally smacking their 'birth-child' as a last resort, if judged in the best interest of the child.

David and Heather Bowen who have been married for 11 years, have a nine-year-old daughter. A second child, Jonathan, died with a rare condition called Thanatophoric Dysplasia three years ago, shortly after birth. Despite trying to conceive further children, the couple have been unsuccessful and decided to apply to foster.

Their application initially proceeded very well and they were approved by the social worker and her line manager, it was only when it came before the fostering panel in December '07 that the Council decided that it had a big problem with the use of physical chastisement. To David and Heather's surprise the social worker's line manager then changed her mind and issued a further report to the panel not recommending the Bowens and ultimately the panel rejected their application.

David, a Chartered Surveyor said: "We began an application to become foster carers which lasted 14 months and were recommended by our social worker and her line manager in November 2007 – but the panel deferred making a recommendation and told the social worker to meet with us again. Within six weeks of this recommendation the social worker's line manager overturned her previous decision.

"I am a parent Governor at a local school, my wife works for the school PTA, has been a special needs careers advisor and now works in the school and we both assist with children's work at our local Church – based upon the evidence presented to the Council, we cannot understand why we are unsuitable and it seems that we have been excluded on the basis that we physically chastise our birth child, in accordance with our beliefs and UK law".

The issue at stake was the Bowen's view of physical chastisement. David added: "To put this in perspective, our birth daughter is only chastised physically as a last resort amongst a whole range of other forms of behaviour management strategies which include rewards and sanctions. We have been made by the Council to feel that we are bad parents and yet we do nothing that hundreds of thousands of parents across the UK do as loving and responsible parents." On March 6 the panel met again and refused to accept the Bowens as Foster Carers.⁷

In addition, a further case on the issue of smacking has been reported in the national media that prevented an adoption in the case of Mr and Mrs A. The original decision to stop the couple adopting the half-sister of a boy they had been raising for five years was based on the fact that the father once smacked another child for swearing. This was described by the Judge as "bizarre" and an unreasonable decision made "in dangerous territory". Social workers cited the adoptive father's "attitude to corporal punishment" as the reason for the rejection. However, despite this ruling by the court that the decision should be reconsidered, Newham Council turned the couple down even though the couple were described as "strong, caring, sensitive, supportive and resourceful" in a review panel report.⁸

In this case, the independent review is reported to have "said it was 'convinced' that their views on smacking—which is still legal—were not unreasonable, but the local authority refused to accept its findings."⁹

This case illustrates the weakness of an independent review mechanism if the service provider subsequently fails properly to take account of the recommendations not only of the IRM, but of the High Court. This indicates that simply replicating the current IRM provisions relating to adoption in the case of fostering, as suggested in this consultation, will not be effective. The recommendations from the IRM need to be legally binding to avoid unreasonable decision-making by foster or adoption service providers.

The decisions on smacking for foster or adoption carers appear to be out of line with the legal situation for parents. Recently, the Rt Hon Beverley Hughes MP, Minister for Children, Young People and Families, has provided a statement on the issue of parental smacking stating that:

If we put a ban on smacking into legislation it would mean in practice that a mother who gives her child a mild smack on the hand when they refuse to put back sweets picked up at the supermarket checkout could end up facing criminal charges.

When we reviewed this issue, as recently as last year, and surveyed parents, we found that while fewer and fewer of them are using smacking as a form of discipline, the majority said they wouldn't support a ban. This reflects the common-sense view that while smacking isn't a good thing, it should not be a crime.

That is why we do not accept any amendment to ban smacking tabled to the Children and Young Persons Bill now going through Parliament.¹⁰

Yet on a common sense view, parents who might potentially foster children would be penalised just like the Bowens if they follow the example of the mother in the supermarket; having smacked a child of their own, they will face difficulties should they later wish to foster or adopt a child.

The current legislative approach to parental smacking is found in section 58 of the Children Act 2004, which states that the defence of reasonable punishment is not available for any injury to a child caused by a parent or person acting *in loco parentis* which amounts to more than a temporary reddening of the skin, and where the injury is more than transient and trifling.¹¹

A government review of section 58 of the Children Act 2004 in October 2007 revealed that:

59% of parents agree that the law should allow parents to smack their children, and 67% disagree that there should be a complete ban on smacking their children. So even though only 24% of parents use or have used smacking, a much larger proportion believe the law should not prevent them from doing so. And again, this is correlated with age: the older the parent, the more likely they are to support the law allowing smacking.¹²

The Government response to the review was that they would retain this law in its current form in the absence of evidence that it is not working satisfactorily.¹³ This provision means in effect that smacking for parents is not banned as long as it does not amount to more than a temporary reddening of the skin, and where the injury is no more than transient and trifling, so that it does not leave a mark.

It is unreasonable to have legislation for parents that does not ban smacking and yet to have different rules for foster caring and for adoption that do ban smacking. In terms of criminal law, the same section 58 of the Children Act 2004 applies both to parents and to those who act *in loco parentis* such as foster carers. It is therefore unreasonable to apply criteria to the fostering or adoption situation that prevent corporal punishment or that refuse a couple the opportunity to adopt or foster on the basis of a mild smack administered to their own child in the past, which is not an offence under the criminal law in England and Wales. In our opinion it would be reasonable for such criteria for fostering and adoption to be brought in line with section 58, so that there was no longer a discrepancy between parents and foster or adoptive parents.

The Government's own review revealed how most parents agreed that they would not support a complete ban on smacking, yet that is the unreasonable criteria being used for fostering or adoption. This does not mean that prospective carers could not use other methods of behaviour control and of course this should only be mild

chastisement. However, to ban smacking totally—even for mild smacks—or to argue that a parent should not be allowed to adopt just because he or she smacked a child in the past, seems bizarre or unreasonable as the High court has recently found, particularly as the Government’s own survey reveals that about a quarter of parents use or have used smacking. To apply such rules means that a quarter of potential parent adopters or fosterers are unreasonably ruled out. Of more concern is that such rules encourage foster carers to be dishonest about whether or not they have smacked their own children, and Christians who wish to conform to the virtues of honesty and integrity will be more likely to be penalised by such unreasonable criteria.

It is recognised that care needs to be taken, as children who come into care may have been physically abused, but the White paper makes it clear that children in care want to be treated in a normal way and not wrapped in cotton wool.¹⁴ A clear and sensible distinction needs to be drawn between violent abuse by a parent or carer and the occasional mild smack.

The IRM was established to help to build public confidence in the adoption service, particularly in the adopter assessment process.¹⁵ We do not believe that such confidence can be built when unreasonable decisions are being made by the original service providers and the IRM recommendations are not legally binding on the service providers. It should be obvious in an assessment whether or not prospective carers are likely to discipline using anything more than mild chastisement, or whether they are likely to abuse.

The IRM overview report of the working of the independent review adoption panels from 2004 to 2008 found that:

*In some applications a lack of agency policy or a lack of knowledge from the social workers about their agency’s policies on such areas as smoking, **smacking** and the **use of contraception**, raised concerns about how these issues were addressed with applicants during their assessment.*¹⁶ (emphasis added).

This illustrates that different providers may have different policies in the area of smacking and sex and relationship matters, yet applicants should not be subjected to a “postcode lottery”.

Fostering comes under section 23 of the Children Act 1989,¹⁷ which covers the provision of accommodation and maintenance by local authorities for children whom they are looking after. The Fostering Services Regulations 2002¹⁸ provide a framework for foster care, which encompasses the requirements of the National Minimum Standards (NMS). The NMS for fostering services¹⁹ are issued by the Secretary of State under sections 23 and 49 of the Care Standards Act 2000²⁰ and can be revised by the Secretary of State.

We believe that changes should be made to address these concerns by revising the NMS, which are already subject to change as a result of training and development matters.²¹ In addition, the fostering and adoption regulations that are being considered here could be revised. These revisions are needed in order to place the correct emphasis upon the Children Act 1989 (which states that the welfare of the child is of paramount importance and a child's welfare can best be met by providing a stable and loving home). The over-emphasis by some foster service providers on smacking or a misinterpretation of equality issues may lead to the failure to provide a reasonable overall assessment concerning the paramount importance of the welfare of the child and as a result prevent loving, stable and suitable homes being provided for potential foster children or children seeking adoption.

In particular, we suggest that the regulations and the NMS need to be revised and examined in great detail in order to remove unreasonable provisions such as a total ban on corporal punishment. For example, some of the provisions we have identified are as follows:

The Fostering Services Regulations 2002 need to be amended to remove regulation 13(2)(a), where it states:

(2) The fostering service provider shall take all reasonable steps to ensure that—

(a) no form of corporal punishment is used on any child placed with a foster parent;

(b) no child placed with foster parents is subject to any measure of control, restraint or discipline which is excessive or unreasonable; and

(c) physical restraint is used on a child only where it is necessary to prevent likely injury to the child or other persons or likely serious damage to property.

This would leave regulation 13(2)(b), which prevents measures of control from being excessive or unreasonable.

The regulations contain provisions on what must be included in fostering agreements, including an agreement by the foster carers not to use corporal punishment. They would therefore need revisions to omit point 8 of Schedule 5 of the Fostering Service Regulations 2002, which concerns the topic of the fostering agreement and includes a provision:

Not to administer corporal punishment to any child placed with him

This needs to be amended in line with regulation 13(2)(b) above.

It is of interest to note that Schedule 5, point 11 of the regulations for the foster care

agreement also says that a foster parent should:

...care for any child placed with him as if the child were a member of the foster parent's family and ...promote his welfare having regard to the long and short-term plans for the child.

Yet the decision-making on smacking says that the foster carer is supposed to treat the child in a way different from the normal way the family may have raised their own children. This cannot be right and in all cases mild smacking should be allowed as one method of discipline for both a birth child and a foster child.

In addition, the NMS need to be revised to omit standard 9.4 and to replace it with wording along the lines of regulation 13(2)(b) of the Fostering Service Regulations 2002. Standard 9.4 states that:

*The fostering service makes clear to the foster carers that corporal punishment is not acceptable and that this includes smacking, slapping, shaking and all other humiliating forms of treatment or punishment. This is set out clearly in written information for foster carers.*²²

It is unrealistic to ban corporal punishment completely in parenting for foster parents or adopters. It also needs to be borne in mind that there may be occasions when it is necessary to smack. For example, a smack on the hand of a young child holding a knife or potentially causing some other form of injury or damage may be the only practical means of preventing harm to the child or to others.

The Equality Issues and Religious Discrimination

There are two fostering cases reported by the CLC that have caused foster carers difficulties as a result of their orthodox Christian beliefs on sexual ethics.

The case of foster carers Vince and Pauline Matherick has been widely reported in the national media.²³ Vince and Pauline Matherick, who had an unblemished record of caring for almost 30 vulnerable children, initially had their 11-year-old foster child taken away because they refused to sign an equality policy which required them to promote homosexuality. The Mathericks believed that the homosexual lifestyle was contrary to, and offended, their religious beliefs. However, following representation from a solicitor, the Mathericks were later able to sign the policy safe in the knowledge that their beliefs would be respected. The couple met with Social Services on 31st October 2007 and secured an agreement so that they would not be expected to promote a homosexual lifestyle. Since late May 2008, the Mathericks have been fully reinstated as foster parents by Somerset County Council.²⁴

In addition, the case of Committed Christian couple Eunice and Owen Johns have had

their initial foster care application reinstated by Derby City Council. The couple, who have fostered in the past and have raised four children, were initially told that their views on homosexuality were out of line with diversity standards, and had their application withdrawn. Throughout interviews with social services and meetings with the fostering panel, the Johns maintained their biblical approach to sexual ethics and said that they would love any child regardless of the child's sexual orientation. Despite the fact that social services have agreed to reinstate the couple's application²⁵ the Johns are still awaiting a decision on whether or not they will be approved as foster carers.

It must be an inappropriate interpretation of a diversity or equality policy that foster carers are being asked to promote homosexuality either in relation to the Sexual Orientation Regulations or otherwise. Traditional orthodox Christian beliefs require Christians to show love to all regardless of sexual orientation, but do not allow the promotion of the practice of homosexuality—an orthodox religious belief recognised by many religions.²⁶ This is not an unreasonable viewpoint, particularly as the current DfES Sex and Relationships Education Guidance SRE (2000) for schools recommends that homosexuality should not be promoted.²⁷ The circular reads:

What is sex and relationship education?

*9. It is lifelong learning about physical, moral and emotional development. It is about the understanding of the importance of marriage for family life, stable and loving relationships, respect, love and care. It is also about the teaching of sex, sexuality, and sexual health. **It is not about the promotion of sexual orientation or sexual activity—this would be inappropriate teaching** (emphasis added).*

The White Paper deals with this subject in a sensible way without reference to the promotion of sexual orientation by stating:

3.35 We will also provide foster carers with guidance on providing high quality sex and relationships education to the young people in their care. This will focus on helping children and young people develop the confidence to resist pressure to have early sex and the knowledge and skills to prevent pregnancy....²⁸

The White Paper also supports the SRE 2000 DfES guidance and goes on to state that:

5.26 School is a key source of SRE for young people and all schools should provide all pupils with a comprehensive programme of SRE within Personal Social and Health Education (PSHE). This should: reflect the Sex and Relationships Guidance, DfES (2000).

Section 52 of the Equality Act 2006²⁹ makes it clear that it is unlawful for a public authority exercising a function to do any act which constitutes religious discrimination. The Government guidance on the Equality Act (Sexual Orientation) Regulations 2007 also makes it clear that:

The Regulations will have no effect on the legal framework for adoption and fostering, nor the criteria against which decisions are taken about the placement of children with prospective adopters/foster carers:

It goes onto say in relation to fostering that:

An authority's duty is to find and approve the most suitable foster parents for children who need family placement. Fostering decisions must centre on the interests of the child and whether the individuals concerned are able to provide a suitable environment for the care and nurture of a child.³⁰

The National Minimum standards correctly align themselves with section 22 of the Children's Act 1989 by taking account of the child's religious persuasion, racial origin and cultural and linguistic background. Standard 8 of the NMS considers that:

Placement decisions consider the child's assessed racial, ethnic, religious, cultural and linguistic needs and match these as closely as possible with the ethnic origin, race, religion, culture and language of the foster family.

This means that it is important that there are sufficient foster carers with a religious background to meet this statutory duty. Unreasonably ruling out foster carers who do not wish to promote homosexuality would affect not just Christians, but Muslims and those of other faiths. It is always necessary to consult parents and children (if old enough) in relation to religious issues in order to ascertain their wishes and to show respect. However, unless the parents are of a non-Christian religion, they are likely to have sympathy with the idea of Christians being foster carers or adopters. This can be demonstrated by the fact that the 2001 Census found that 72% of the population identified their religion as Christian, even if not all are practising Christians. Even in 2007, 40 percent of the population went to a carol service of some sort or another at Christmas which shows a positive attitude of many people towards Christianity.³¹

We suggest that the NMS need to be revised and examined in great detail to remove unreasonable provisions on equality issues which may be misinterpreted. For example, one of the provisions we have identified is as follows:

The NMS standard 7 on valuing diversity may be subject to misinterpretation on equality issues for fostering services. It states that:

7.1 The fostering service ensures that children and young people, and their families, are provided with foster care services which value diversity and promote equality.

7.2 Each child and her/his family have access to foster care services which recognise and address her/his needs in terms of gender, religion, ethnic origin, language, culture, disability and sexuality. If a foster placement has to be made in an emergency and no suitable placement is available in terms of the above, then steps are taken to achieve the above within 6 weeks.³²

In our view, the combined above standard statements are correctly interpreted where the foster service providers consider it their duty to ensure that foster carers are recruited from all backgrounds in order to provide a pool of foster carers to meet the diverse and different needs of the children and young people and to enhance placement choice. For example, the Direct Gov website says: You can be a foster carer...

- whether you have your own children or not
- if you are single, married or living with a partner
- if you are in or out of work
- whether you live in your own home or rent
- whatever your race, religion or sexuality.³³

The interpretation given above would help in meeting the statutory requirement to match and take account of the child's religious persuasion, racial origin and cultural and linguistic background. In our opinion, an incorrect interpretation would be to say that this rules out those who do not wish to promote homosexuality; as such an interpretation would also rule out many foster carers with a religious background and prevent foster service providers from meeting the statutory requirement to take account of a child's religious persuasion. In view of the potential misinterpretation of NMS standard 7.1 and 7.2, it is essential for this to be revised or omitted as soon as possible.

This interpretation of the NMS requiring diversity in terms of a pool of carers rather than in terms of individual carer's views is supported by the example of a local authority Statement of Purpose as required by the NMS. The Statement of Purpose does not specifically refer to NMS standard 7 but indicates it has been prepared in accordance with the requirements of the Standards and Regulations. This provides a Foster Service Commitment to:

*The recruitment of carers from all backgrounds, in order to meet the diverse needs of the children and young people and to enhance placement choice.*³⁴

In general, the NMS (as illustrated in standard 7 above) appears to have lost sight of the primary objective of the child's welfare. The NMS mentions that the Children Act is the primary legislation,³⁵ but fails to stress that this is the primary, overriding statutory obligation of the NMS.

More specifically, the primary objective in section 1 of the Children Act 1989 is that when a court determines any question with respect to the upbringing of the child, the child's welfare shall be the court's paramount consideration. Section 22 of the

Children Act 1989 also provides that the general duty of a local authority in relation to children looked after by it is to safeguard and promote the child's welfare. This also provides that as far as reasonably practicable, the wishes and feelings of the child (taking account of their age and understanding), the parents and any other relevant person, are ascertained and account is taken of them, along with the child's religious persuasion, racial origin and cultural and linguistic background. Section 1(2) of the Adoption and Children Act 2002 reinforces this message by stating that: "The paramount consideration of the court or adoption agency must be the child's welfare, throughout his life."

In our opinion, the National Minimum Standards (NMS), the Statement of Purpose by local authorities based on the NMS and the regulations themselves, seem to have lost sight of this reasonable, primary, overall objective in a myriad of regulations, which have highlighted and given undue regard to a multitude of other matters. This primary objective is that in determining any question of suitability of potential carers with respect to the upbringing of the child for fostering or adoption, the child's welfare shall be the paramount consideration. This paramount consideration for a potential child's welfare should be based upon a reasonable overall assessment of suitability as a foster carer or adopter that does not place an undue emphasis upon irrelevant considerations in that overall assessment.

Concluding Comment

In summary, this primary objective (the child's welfare being of paramount importance in the assessment of the suitability of prospective/current foster carers or adopters to provide a loving home) needs to be restated in all legislative instruments and guidance as a central principle. This includes the NMS when they are revised, the Statement of Purpose of local authorities or independent fostering agencies and amendments to all regulations covering fostering and adoption, including the adoption or fostering service provider panel, the independent review adoption panel and the independent review fostering panel.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply X

Here at the Department for Children, Schools and Families we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

X Yes

 No

The 4 week timescale for consultation on the independent review mechanism for fostering (IRM) will allow the Department to make and lay regulations in time for the IRM to be implemented from 1 April 2009. We already have in place an adoption IRM and this will enable the Department to issue a joint contract for managing the fostering IRM alongside that existing adoption IRM (the current contract for the adoption IRM expires on 31 March 2009). The decision to have a joint contract was made in the interests of efficiency and value for money. The start date of the consultation has been driven by the need for Parliament to agree an amendment to the Children and Young Persons Bill enabling the Regulations to be made to come into force on 1st April 2009. The start date of this consultation has therefore been affected by that date. Only a small proportion of the public will be affected by the IRM. To ensure that all key stakeholders have sufficient time to respond we will be emailing these parties directly to make them aware of the consultation, and we will be informing local authorities (LAs) via the LA newsletter. The introduction of the IRM was set out in the Care Matters White Paper and there was opportunity to comment during the passage of the Bill. The IRM responds to concerns from stakeholders about the independence of the approval process for foster carers and has been positively received.

If you have any comments on how DCSF consultations are conducted, please contact Phil Turner, DCSF Consultation Co-ordinator, tel: 01928 794304 / email: phil.turner@dcsf.gsi.gov.uk.

Please see continuation sheet for end notes

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 24 December 2008

Send by post to:

Department for Children, Schools and Families,
First Floor,
Children in Care Division,
Sanctuary Buildings,
Great Smith Street,
London SW1P 3BT

Send by e-mail to: carematters.consultation@dcsf.gsi.gov.uk

End Notes

¹ See the Overview Report pages 4 and 5:

<http://www.everychildmatters.gov.uk/files/IRM%204%20year%20report%20-%20Final%20PDF%20version%20-%20160908.pdf>.

In addition, the AAR 2005 increased the timescales in which a prospective adopter could apply for a review or make representations to their adoption agency from 28 calendar days to 40 working days. The increase in time recognised that some people need time to reflect and consider their agency's determination before deciding what action is right for them. The last 2 years have shown that prospective adopters have made use of this additional time.

AAR 2005= Adoption Agencies Regulations 2005

² See section 23 of the Children Act 1989:

http://www.opsi.gov.uk/acts/acts1989/ukpga_19890041_en_4#pt3-pb3-l1g23.

³ See: <http://www.irm-adoption.org.uk/couldyou.html> under: 'How will the process work?' and 'So who will consider my case?' respectively.

⁴ See: <http://www.irm-adoption.org.uk/faq.html#lawyer>.

⁵ See page 19 at: <http://publications.dcsf.gov.uk/eOrderingDownload/Cm%207137.pdf>.

⁶ See foreword at: <http://publications.dcsf.gov.uk/eOrderingDownload/Cm%207137.pdf>.

⁷ See: <http://www.christianlegalcentre.com/view.php?id=271>.

⁸ See: <http://www.dailymail.co.uk/news/article-1085511/Council-defies-judge-ban-family-AGAIN-adoption-father-smacked-child-swearing.html> and

<http://www.telegraph.co.uk/news/uknews/3379229/Smacking-couple-win-High-Court-adoption-case.html>.

⁹ See: <http://www.telegraph.co.uk/news/uknews/3379229/Smacking-couple-win-High-Court-adoption-case.html>.

¹⁰ See: <http://www.everychildmatters.gov.uk/?asset=News&id=116299>.

¹¹ See paragraph 11 at:

<http://publications.dcsf.gov.uk/eOrderingDownload/S58ReviewReport.pdf>.

¹² See paragraph 31 at:

<http://publications.dcsf.gov.uk/eOrderingDownload/S58ReviewReport.pdf>.

¹³ See paragraph 5a at:

<http://publications.dcsf.gov.uk/eOrderingDownload/S58ReviewReport.pdf>.

¹⁴ See point 3.11, p. 47 at: <http://publications.dcsf.gov.uk/eOrderingDownload/Cm%207137.pdf>.

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- ¹⁵ See: <http://www.everychildmatters.gov.uk/socialcare/childrenincare/adoption/irm>.
- ¹⁶ See: <http://www.everychildmatters.gov.uk/files/IRM%204%20year%20report%20-%20Final%20PDF%20version%20-%20160908.pdf>.
- ¹⁷ See section 23 at:
http://www.opsi.gov.uk/acts/acts1989/ukpga_19890041_en_4#pt3-pb3-1lg23.
- ¹⁸ See: <http://www.opsi.gov.uk/si/si2002/20020057.htm>.
- ¹⁹ See:
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005551.
- ²⁰ See: http://www.opsi.gov.uk/acts/acts2000/ukpga_20000014_en_1.
- ²¹ See paragraph 3.30, p. 51, which refers to a planned revision of the National Minimum Standards of Fostering being used to establish a link with the new training and development standards.
<http://publications.dcsf.gov.uk/eOrderingDownload/Cm%207137.pdf>.
- ²² See:
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005551.
- ²³ See: <http://www.dailymail.co.uk/news/article-489285/Foster-child-taken-away-Christian-couple-refuse-teach-homosexuality.html>,
<http://www.telegraph.co.uk/news/uknews/1567160/Christian-foster-parents-condemn-%27gay-laws%27.html> and
<http://www.christianlegalcentre.com/mediacentre.php?avid=87&avap=1> (video link).
- ²⁴ See: <http://www.christianlegalcentre.com/view.php?id=182>.
- ²⁵ See: <http://www.christianlegalcentre.com/view.php?id=264>.
- ²⁶ See the case of *Re the Christian Institute & Ors* [2007] NIQB 66 at:
<http://www.bailii.org/cgibin/markup.cgi?doc=/nie/cases/NIHC/QB/2007/66.html>. The relevant quotation from the Northern Irish *Christian Institute* case can be found at para. 50:
“The belief in question is the orthodox Christian belief that the practice of homosexuality is sinful. The manifestation in question is by teaching, practice and observance to maintain the choice not to accept, endorse or encourage homosexuality. Whether the belief is to be accepted or rejected is not the issue. The belief is a long-established part of the belief system of the world's major religions. This is not a belief that is unworthy of recognition. I am satisfied that Article 9 is engaged in the present case. The extent to which the manifestation of the belief may be limited is a different issue.”
- ²⁷ See point 9 at: <http://www.dfes.gov.uk/sreguidance/sexeducation.pdf>.
- ²⁸ See: <http://publications.dcsf.gov.uk/eOrderingDownload/Cm%207137.pdf>.
- ²⁹ See section 52 at: http://www.opsi.gov.uk/Acts/acts2006/ukpga_20060003_en_5#pt2-pb2-1lg52.
- ³⁰ See page 21 at: <http://www.communities.gov.uk/publications/communities/guidanceneew>.
- ³¹ See Column 1133 at: <http://www.publications.parliament.uk/pa/ld200708/ldhansrd/text/80305-0007.htm>.
- ³² See:
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005551.
- ³³ See
http://www.direct.gov.uk/en/Parents/Adoptionfosteringandchildrenicare/Fostering/DG_10027534
- ³⁴ See Statement of Purpose page 5 on what the Fostering service is committed to -
<http://www2.halton.gov.uk/pdfs/socialcareandhealth/cyp/cypolsprocs/fosteringpolsprocs/ss2008fos01>
This link is provided just to demonstrate the need for diversity to be measured in terms of a pool of foster carers as opposed to the views of individual carers and makes no other comment or judgment upon the Statement of Purpose itself.
- ³⁵ See the bottom of page viii:
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005551.