

IRM Cymru

Annual Report

2010-2011

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Executive summary

- The Independent Review Mechanism for Adoption and Fostering in Wales, IRM Cymru, came into force on 2nd April 2010 and is operated by BAAF Cymru on behalf of the Welsh Ministers.
- In Wales, the contract to operate the IRM stipulates that a representative of the Administrative Justice and Tribunals Council must be invited as observers to all hearings. Their role is to help make administrative justice and tribunals increasingly fair and effective. They have the authority to raise issues directly with decision makers.
- The IRM Cymru accepted 9 applications from 2nd April 2010 to 31st March 2011. These were all from prospective or existing foster carers.
- Eight applications progressed to an Independent Review Panel hearing.
- There were no applications from prospective or existing adoptive parents.
- The fostering cases included applications relating to suitability to foster and to changes to the terms of approval.
- Six of the applications were in relation to kinship carers.
- All recommendations by the Independent Review Panel were unanimous.
- Of the 5 cases heard concerning suitability of applicants, the Independent Review Panel recommendation concurred with the Fostering Service Provider recommendation in 2 instances.
- Of the 3 cases where the Independent Review Panel recommended suitability, the final decision of the Fostering Service Provider was to approve the applicant in 1 instance.
- The Independent Review Panel agreed with the proposed changes to the terms of approval in 1 of the 3 cases.
- There was evidence of some very good practice; however, the Independent Review Panel also identified and fed back to Fostering Service Providers some concerns about practice and indicated improvements on practice and procedures.

Introduction

The IRM for fostering is part of a wider package of measures planned by the Welsh Government to improve the approvals process for foster carers and to encourage more people to consider fostering. It responded to concerns from stakeholders that the approval process, as it stood, was insufficiently independent and brought fostering into line with adoption, which had an Independent Review system in place since December 2005. Provisions under the Children and Young Persons Act 2008 allowed the Welsh Government to extend the remit of the IRM to include fostering.

In April 2010 the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 and The Fostering Services (Amendment) Wales Regulations 2010 came into force. The 'Mechanism' is the service which co-ordinates the work of the Independent Review Panels. The Independent Review Mechanism (hereafter referred to as the IRM) was previously operated in Wales by the Welsh Government. BAAF Cymru was awarded the contract to operate the IRM Cymru on behalf of the Welsh Ministers until March 2013.

The IRM is neither an appeal process nor a higher appellate authority. The function of the Panel, in relation to fostering cases, is to review all the information relating to a "qualifying determination" and make a recommendation to the Fostering Service Provider on a person's suitability to act as a "local authority foster parent" (which includes foster carers approved by independent fostering providers), and/or a recommendation about the terms of approval. The final decision about the individual's approval or terms of approval rests with the Fostering Service Provider.

Prior to April 2010, if a Fostering Service Provider was minded not to approve a prospective foster carer, or to reapprove an existing foster carer or to change the terms of approval, the options for the prospective/existing foster carers were to accept the proposed decision or to make recommendations to the Fostering Service Provider's own fostering panel. The Welsh Government, through the introduction of a third option for foster carers, aimed to increase public confidence in the transparency of the approvals process and to encourage more people to come forward to foster some of the most vulnerable children in Wales.

Those eligible to apply for an independent review are:

- Prospective adopters/foster carers where, upon completion of their assessment, the Adoption Agency/Fostering Service Provider is minded not to approve them and approved adoptive parents/foster carers where, when reviewed, the agency proposes that they are no longer suitable to adopt/foster.

- Current foster carers where the Fostering Service Provider is proposing to change their terms of approval.
- Adopted adults who were adopted on or after 30th December 2005, or a birth relative of someone adopted on or after that date, where an Adoption Agency proposes either (a) that it will not proceed with an application for the disclosure of protected information or (b) that it will disclose the information against the will of the subject of the information.

In Wales there is no eligibility for prospective adopters to apply in cases where the panel has considered a 'brief report'. An adoption or fostering panel can consider a brief or preliminary report at an early stage and give advice as to whether or not a full assessment should be completed; however, the panel can only make a 'recommendation' where the full assessment has been completed.

IRM Cymru is grateful to the Welsh Government and to the IRM in England for their advice and support in setting up the Independent Review service in Wales.

Scope of the report

This is the first annual report to be produced in Wales concerning the work of the IRM since its introduction in December 2005 and its remit extended to cover fostering in April 2010. It covers the period from 2nd April 2010 to 31st March 2011 and provides information about:

- Development of the IRM Cymru service
- Statistical information and analysis of the applications received during 2010-2011 and outcomes of the applications heard during this period
- Reasons for the qualifying determinations being made and for the Independent Review Panel's recommendations
- Feedback on the IRM Cymru process from applicants, providers and panel members
- Recommendations for Fostering Service Providers

Developments to date

These have included:

- Setting up a dedicated website for IRM Cymru.
- Informing all Adoption Agencies and Fostering Service Providers in Wales of the new Independent Review of Determinations Regulations and their associated responsibilities. Each agency then nominated a liaison person to coordinate communication with the IRM Cymru.
- Establishment of a 'central list' of Independent Review Panel members and advisers and secretaries was established by formalising contracts for those on the former Welsh Government central list who wished to continue to offer their services and by a formal recruitment and appointment process for new members. Induction was provided for all those on the central list, with additional specific training for the Review Panel secretaries.
- Information sessions on the IRM Cymru were provided at relevant forums including the North & the South Wales Local Authority Fostering Managers Group, the North & South Wales Independent Fostering Providers Managers Group, Fostering Services across Wales, South Wales Adoption and Fostering Forum, South Wales Panel Chairs group, BAAF Legal Group, and the All Wales Adoption and Support Services Advisers Group. Information was also provided during BAAF training events for adoption and fostering panels and services.
- Publicising the IRM Cymru via the BAAF newsletter and legal bulletins as well as website links to other adoption and fostering organisations.

Statistics

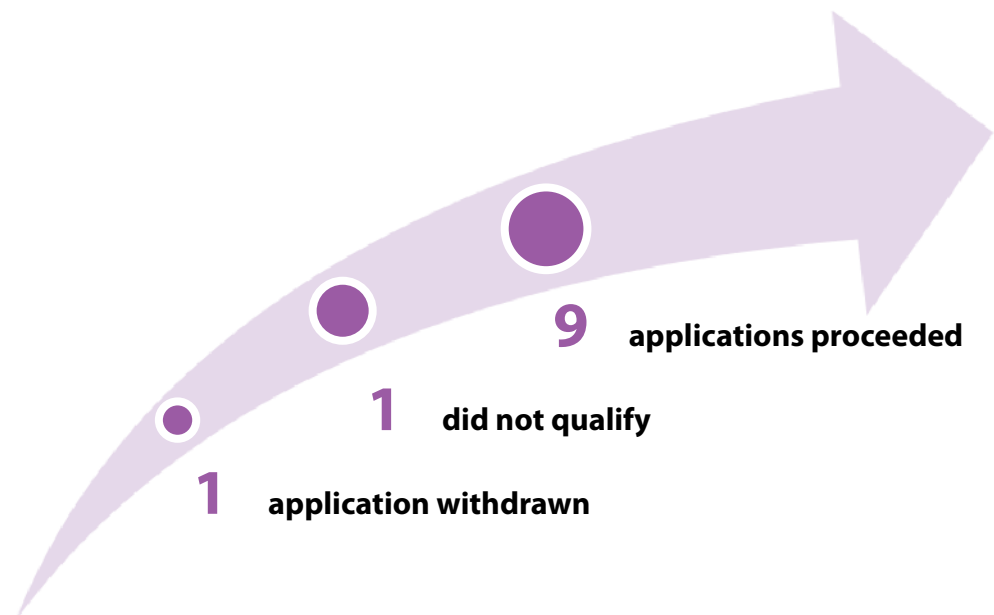
Applications received and accepted by the IRM Cymru since April 2010

Between 2nd April 2010 and 31st March 2011 there were

- 11 applications to the IRM Cymru

All applications related to fostering

- No applications in the first four months



Of the 9 applications which proceeded:

- 6 kinship applications (all grandparents)**
Qualifying Determination related to their suitability to foster
- 3 mainstream fostering applications**
Qualifying Determination related to change to terms of approval
- 8 cases Fostering Service Provider was a Local Authority**
- 1 case Fostering Service Provider was an Independent Fostering Provider**
- 8 applications progressed to a hearing**
- 3 applications made via applicant's solicitor**

Status of applicants



Ethnicity of applicants (as described in the documentation supplied by the Fostering Service Provider)



Specific needs

The IRM Cymru checks beforehand about any disability or impairment in relation to the applicants and agency representatives and takes into account access to venue and need for a hearing loop. We received no requests for disability or impairment to be taken into account.

There were no requests for applications to be heard in Welsh.

Timescales

In all cases the Independent Review panels were arranged to review the applications within the agreed timescales of two and a half months, however:

(a) One had to be postponed for a month at the request of the court to await completion of an independent assessment, commissioned as part of the ongoing care proceedings.

(b) In one case the Independent Review Panel considered the case within the timescale and then had to adjourn and reconvene several more times due to insufficient information.

(The IRD Reg15 allows for adjournment where there is insufficient information on which to make a recommendation or where the panel wishes to request further information. Where this happens, panel must be reconvened as soon as reasonably practicable when the outstanding information is available, but in any event no later than 28 calendar days from date of adjourned panel.)

(c) In one case the panel was arranged within the timescale and then had to be adjourned shortly before the scheduled date at the request of the court and Local Authority due to the ongoing care proceedings. The care plan for the children changed and the application was subsequently withdrawn as the applicant was subsequently approved by the Local Authority's own panel in line with the revised care plan.

Where Adoption Agencies and Fostering Service Providers anticipate that their prospective or existing adopters/foster carers may apply to the IRM Cymru upon receipt of a qualifying determination notice, they are welcome to check with the IRM Cymru staff if an application has been made before making their final decision. This helps ensure that premature final decisions have not been taken, as some applications have been received by the IRM Cymru on the 28th day (the eligibility deadline for fostering applications).

All applicants had their applications acknowledged within 5 working days and the Fostering Service Providers were notified in writing within 10 working days (although the Fostering Service Providers were also informally notified as soon as possible before that).

Both applicants and Fostering Service Providers were generally very good at responding promptly to requests from the IRM Cymru for information and providing documentation as soon as it became available.

All Independent Review recommendations were posted to the Fostering Service Provider within 10 days. Where requested, the recommendation was made informally available before then.

Geographical spread of applicants in accepted cases



Geographical spread of Fostering Service Providers



Attendance of applicants and supporters

Of the 8 cases heard:

In 7 instances all the applicants attended except that in one case only one of the couple attended.

Reasons given for non-attendance were childcare arrangements and medical issues.

In 3 cases the applicants brought supporters. These included a friend or a representative from the Fostering Network.

Fostering service representatives at Independent Review Panel

The Statutory Guidance permits agencies to send up to 2 representatives. The IRM advises that usually the most appropriate representatives are the Social Worker who undertook the assessment or review of the applicant and the fostering/adoption team manager with responsibility for overseeing that assessment/review.

The range of representatives in the cases heard has included Fostering Team Manager, Head of Service, Service Manager, assessing or supervising Social Worker, and previous or current Social Worker for the child.

Documents considered by Independent Review Panel

The Independent Review Panel should receive all the documentation presented to the original panel as well as any other relevant information taken into account by the decision maker. It should also receive a copy of the application and the notice of Qualifying Determination.

Applications must be in writing and include the grounds for making the application. Applicants are also invited to supply, within a set period, any additional reports, references or written information supporting their application.

In all cases the Review Panel is provided with a written report by an IRM Cymru Legal Adviser and has access to legal advice at the hearing. Where relevant, the Review Panel is also provided with a report from an IRM Cymru Medical Adviser and if necessary medical advice at the hearing.

A range of BAAF Form F formats used by Local Authority and independent assessors were provided for the Review Panel as well as addenda. Different formats were also used for the Fostering Service Provider review of foster carers.

There was variation as to whether supplementary reports, such as psychological reports or independent assessments undertaken as part of the court proceedings, were available to either the original panel or the Independent Review Panel.

Other reports considered have included school reports, child's statutory review, Fostering Service Provider's kinship care policy and pre-disruption meeting minutes.

Supporting documents from applicants have included additional references, letters from medical professionals working with the child, photographs and supporting statements or reports relating to health and safety matters.

Reasons for Fostering Service Provider (FSP) making Qualifying Determination

In some cases no reasons were given and had to be inferred by reference to the Fostering Service Provider's panel recommendation. Where reasons were given, there were in each case a number of reasons.

The most common reasons for the Qualifying Determination included:

- Withholding information from assessment (including full extent and range of criminal offences)
- Lack of openness and honesty with the Fostering Service Provider
- Concerns around safe care of the children and of the general standard of care which would be provided
- Failure to acknowledge or act on concerns regarding the parenting of the child by a family member
- History of parenting own children
- Inability to provide adequate boundaries
- Concerns around partnership working
- Ongoing relationship with former partner
- Relationship with son/daughter (i.e. the child's parent)
- Parenting capacity not evidenced
- Medical issues
- Lack of suitable long-term accommodation
- Lifestyle issues – smoking was a frequent concern
- Failure to acknowledge or appreciate impact of problematic relationships or disruption within the wider family

Outcome of applications

All recommendations by the Independent Review Panel were unanimous.

Of the 5 applications where the Qualifying Determination was in respect of suitability to act as a foster parent, the Independent Review Panel recommendation concurred with the proposed decision of the Fostering Service Provider, in 2 cases. In one instance, however, this was because there was insufficient information on which to make a recommendation and a complete reassessment would have been necessary and impractical in the circumstances.

The final decisions of the Fostering Service Providers in the 3 cases where the Independent Review Panel recommended that the applicants were suitable to act as foster parents were as follows:

- Decision made to approve (applicant to be closely monitored and supervised, training to be offered and approval to be reviewed within six months)
- Decision not to approve
- Decision to terminate approval

Of the 3 cases where the qualifying determination related to a change to the terms of approval of the foster carers, the Independent Review Panel recommendation concurred with the proposed decision of the Fostering Service Provider in 1 case.

The final decisions of the Fostering Service Provider in the 2 cases where the Review Panel did not uphold the proposed change to the terms of approval were as follows:

- Decision not to change the terms of approval (annual review to take place without delay specifically considering parameters of any future placement)
- Decision to terminate approval (in this case the Review Panel had not supported the proposed change to the terms of approval because the Review Panel considered that the applicants were not suitable to act as foster parents)

Reasons for Independent Review Panel supporting the proposed decision of the Fostering Service Provider to recommend unsuitable to act as foster parent or to change of approval included:

- The wider family relationships and the applicant's lack of understanding of the impact of all the issues and lack of evidence that they had changed or reflected

- Insufficient evidence to show that the applicants could manage child's needs in certain areas
- Limited capacity for change
- Inability of foster carer to recognise the importance of personal development
- Unrealistic expectations of support on the part of the foster carer
- Lack of understanding of child's needs either generally or in specific areas
- Restricting terms of approval would give the Fostering Service Provider the capacity to manage the placements
- Concerns that kinship carer may not be able to manage contact arrangements

Reasons for Independent Review Panel not supporting the proposed decision of the FSP:

- In several of the kinship care cases, the existing placement with a grandparent/s was considered to be stable or the placement if made was considered to be likely to be in the child's best interests taking into account:
 - (a) Positive messages from research into placements with kinship carers, particularly grandparents and the benefits of remaining within the extended family
 - (b) Evidenced commitment of the grandparent/s
- The evidence for not recommending approval was in some cases unclear and largely uncorroborated in relation to safeguarding concerns
- In some cases, the Independent Review Panel considered that the applicants had not received sufficient support from the Local Authority, for example, to enable understanding of the responsibilities of a kinship carer or the reasons for partnership working or to assist with accommodation
- Relevant and accessible training opportunities were not always available to the kinship carer
- There was a lack of sufficient evidence in some cases to justify the variation to the terms of approval
- The carers were already successfully fostering a looked after child

Good practice identified

Good practice was identified in relation to the following areas:

1. Placement of child

Children had either been placed within the extended family or the Local Authority had explored placing the child with connected people

2. Fostering Service Provider procedures

- Some Fostering Service Providers had already recognised and addressed issues with their protocols by the time of the Independent Review Panel hearing. Examples of this were reviewing the information given to kinship carers and review of team structure
- Prompt commencement of assessment of kinship carer after the placement of the children
- Child's Social Worker attending the Local Authority's fostering panel
- Clarity of written reports
- Independent support for the carers funded by the Local Authority
- Fostering Service Provider having generally dealt with matters appropriately and professionally

3. Relationship between the Fostering Service Provider and the applicants or foster carers

- The applicant had found the assessment process positive or there was a positive relationship between the applicant and the Fostering Service Provider
- Regular contact between the Local Authority and the foster carers
- The Local Authority had clearly taken a decision that it felt was in the interest of the foster carers
- The Fostering Social Worker was clearly working in the best interest of the foster carer

4. Presentation of Fostering Service Provider representatives

- In most cases the Fostering Service Provider representatives at the Independent Review Panel meeting presented as open and helpful and provided a balanced representation. It was evident that some were better prepared than others.

Recommendations for Fostering Service Providers

A number of recommendations can be drawn from the applications considered so far. These are noted in relation to the following areas:

Statutory Guidance to the Independent Review of Determinations Regulations

From the cases dealt with to date and from enquiries received by BAAF Cymru generally, it has been evident that not all relevant staff in the Fostering Services (both Local Authority and Independent Fostering Provider) were aware of the Statutory Guidance issued by the Welsh Assembly Government in February 2010 relating to the Independent Review of Determination Regulations nor of the model letter in the appendix to the Statutory Guidance.

Recommendation 1

All relevant staff in the Fostering Service should be familiar with the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 and associated Welsh Government Guidance

Qualifying Determination notice

The time lapse between the original recommendation and the issue of the Qualifying Determination notice varied with a significant gap of several months in a few cases.

Some Qualifying Determination notices did not identify themselves as such, some were undated and some did not include the reasons.

Recommendation 2

2(a) Fostering Service Providers should ensure that prospective/existing carers are notified in a timely manner of the proposed decision

2(b) Qualifying Determination notices must be dated to ensure applications to the IRM Cymru can be made within the regulatory 28 days

2(c) Qualifying Determination notices should include reasons and a copy of the panel's recommendation as required by Regulation 28(6)

2(d) The Qualifying Determination notice needs to clearly identify itself as such. The Welsh Government Statutory Guidance 2010 to the IRD Regulations includes a 'model letter'

Assessments

The quality of the assessments varied and some reports were confusing to read.

The Independent Review Panels highlighted specific issues in relation to the quality and level of supervision of assessments undertaken by independent assessors.

Recommendation 3

3(a) All those who undertake assessments of prospective foster carers should have access to high quality training and supervision relevant to the task

3(b) Fostering services and panels need to ensure they have robust quality assurance mechanisms

3(c) There should be clear contracts with those providing independent assessments, including agreement about responsibility of the assessor once assessment completed and clarity regarding who is responsible for undertaking checks

3(d) Assessments need to incorporate rigorous analysis and include clear and corroborated evidence. In some cases the analysis was not broad or deep enough and in some cases the negative analysis only became apparent towards the end of the reports.

There was over-reliance on verbal reporting in some assessment reports.

3(e) All CRB concerns should be addressed and embedded in the assessment

3(f) in kinship care assessments, it is paramount that the needs of the child are established and documented in the assessment, including details of how carers can meet those needs, which should involve training and support

3(g) Childcare teams ensure that information about the child is robustly communicated to the assessor and assessors should be aware of the care plan for the child. Assessments of carers for specific children should not be undertaken in a vacuum. The Independent Review Panel also felt in a number of cases that the fostering team should have been engaged vigorously with the placement from the beginning of the assessment.

3(h) Multi-agency involvement needs to be documented in the assessment, especially information relating to contact with the school and/or health visitor

Panel and decision making process

Recommendation 4

4(a) The Fostering Service Provider panel and decision making process needs to be clear

4(b) Where there is written information that goes to the original panel, it should also be sent to the IRM Cymru where an application has been made

4(c) Fostering Service Provider panels need to ensure that recommendations are not made until full information, as set out in the Fostering Services (Wales) Regulations 2003, is available. This includes medical reports, CRB checks on all relevant adults, references and interviews with former partners. It could be helpful to use a report format that provides details of which checks have been received. *In some cases it was noted that the failure to complete all relevant checks had been due to compliance with court timetables.* Local Authorities reported being under pressure from the courts to make recommendations and decisions before all checks were complete. This was then passed on to the Independent Review Panel who have the dilemma of working within tight timescales whilst the Local Authorities still have to progress with plans for the child.

4(d) CRBs and medicals need to be chased up earlier in the process

4(e) Reports or information on applicants being presented to panel must have been seen by the applicant prior to the panel (save for third party information) and there should be evidence in writing confirming that this has happened

4(f) All relevant information available from a previous Local Authority where available should be included in the assessment report

4(g) Consideration should be given to applying to the court for leave to disclose specialist reports so that they could be available for panel to inform their making of a recommendation

4(h) Fostering Service Provider panel recommendations that fostering approvals are brought back to their own panel within a specified period for monitoring should be implemented

4(i) The use of carers outside of their approval status should be regularly reviewed

There has been variation in the length of time taken for Fostering Service Providers to reach their final decision following receipt of the Independent Review Panel's recommendation. In some cases the delay has been at least in part due to further enquiries or assessment having been undertaken by the Fostering Service Provider.

4(j) Although the Regulations do not specify a time, it is implicit that the final decision should be taken within a reasonable timescale

Where child has already been placed

Recommendation 5

5(a) The Local Authority should ensure against delays in undertaking basic safeguarding and health and safety checks

5(b) Assessments of prospective kinship carers should be commenced within a timescale commensurate with the child's need. In some cases the child had already been in placement for a significant length of time.

5(c) Local Authorities should carefully consider the impact on both child and carers where placements end abruptly and how best this can be managed

5(d) Local Authorities should consider the management of the balance between the individual needs of the child in placement and the importance of family contact

5(e) It is important to ensure that childcare Social Workers have the necessary skills to support placements with complex needs

Training and support

Recommendation 6

6(a) Kinship carers need to receive pre- and post-approval training and support. This is an essential part of building understanding and partnership. The training needs to be relevant and accessible. The fostering service needs to be involved at the outset in providing support for kinship carers.

6(b) Prospective kinship carers should have information about the process of having a child placed with them including the need for paced introductions

6(c) It needs to be borne in mind that continuity of workers supporting a fostering household can reduce the risk of a pattern of unsuitable care

Terms of approval

Recommendation 7

Short-term and respite placements must be well defined and with a planned ending

Feedback on the IRM Cymru

The IRM Cymru received no complaints during 2010/11. Applicants and Fostering Service Providers have expressed their gratitude for the advice given and prompt responses.

All Independent Review Panel members and attendees at panel are provided with questionnaires to complete on the service provided by the IRM Cymru and the experience at the Review Panel.

From completed questionnaires and direct contact with service users and panel members, the following feedback has been collated:

- Representatives reported that they had been treated fairly and with respect at panel and had the opportunity to give their account.
- Attendees found it helpful to be provided with profiles of the panel members before entering the meeting.
- The feedback from Fostering Service Providers has been positive. They have commented on the fact that although the IRM Cymru operates on a part-time basis, calls are returned in a timely manner and that organisation of the service has been good. They were satisfied with information about the role and process of the Independent Review Panels although some would like further training in this respect.
- In particular, Fostering Service Providers would welcome clearer guidance about what information can be provided to the Independent Review Panel.
- Panel members have fed back positively on the planning and administration of panels and accessibility of IRM Cymru personnel.
- The feedback from the Administrative Justice and Tribunals Council representatives, both informally at the end of meetings and in the written reports provided, has been very useful in helping the Review Panels learn and develop.
- The AJTC representatives involved to date have spoken very positively about the way in which the service operates and the quality of the documentation provided for the panel. They have considered the hearing process to be clear and efficient with questions being put to attendees in an objective and fair way.
- The role of the professional adviser at the Review Panel meetings has been highly rated by the Review Panel members particularly in helping keep the panel focused on the relevant issues. The AJTC also highlighted this role as crucial in keeping the panel on track.

Issues identified for the IRM Cymru

- Meeting tight timescales in the case of kinship care applications, taking into account the delays associated with ongoing care proceedings.
- The lack of a rigorous agreed format for the assessment of kinship carers has been a hindrance.
- There are particular challenges in providing the service in Wales due to the geography of the country, the uncertainty of where applications will come from and the establishment of independent panels in each case.
- The Regulations do not allow for the Independent Review Panel to recommend unsuitability where terms of approval are being considered. This led in one case to the Independent Review Panel having to agree that the terms of approval should be changed but not for the reasons given by the original panel, rather that the applicants were not considered overall suitable to be approved.
- The Independent Review Panels are not entitled to receive the minutes of the Fostering Service Panel's panel; however, under the Adoption Regulations in Wales these must be made available to the Review Panel in adoption cases.

Concluding comments

- IRM Cymru is still in the early stages of development. As expected, it has taken time for all relevant agencies and the public to get to know about the service and for processes to be understood.
- The rate of applications was slow to begin with and then became steady, although was less than anticipated in the first year of operation. The number of applications has risen in the first few months of the second year in comparison to the same period the previous year.
- The number of applications so far has been too low for statistically significant conclusions to be drawn. Nonetheless, there are already emerging issues and themes particularly in relation to kinship care and the interrelationship with care planning and the court process and related assessments.
- Useful lessons learned have been gathered in relation to practice and procedural issues.
- The members and advisers of the Review Panels have demonstrated a high level of commitment to their role and to providing a fair and professional service.
- The Fostering Service Providers have worked in cooperation with the IRM Cymru and responded promptly to requests for information.
- There is still much developmental work to be undertaken and there will be ongoing learning and improvements to the service.

Any Fostering Service Providers or Adoption Agencies which would like the Contract Manager to visit their teams or panels to share information about the IRM in Wales are invited to contact the IRM Cymru at irm@irmcymru.org.uk.

Information about the IRM Cymru is available at www.irmcymru.org.uk or contact the IRM Cymru office at irm@irmcymru.org.uk or telephone 0845 8731305.

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