

# *Intercountry Adoption Guide – Practice and Procedures*

*April 2001  
Adoption and Permanence Team  
Department of Health*

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## SUMMARY

### *Introduction*

1. This guidance is designed for councils with social services responsibilities and approved voluntary adoption agencies (VAAs). However, this summary may also be used as an introduction to intercountry adoption for those less familiar with the adoption system.

### *Context*

2. Councils have a duty to provide an adoption service. This service must include both domestic and intercountry adoption. Councils may arrange for the provision of an intercountry adoption service in their area by a VAA working to jointly agreed policies and standards of professional practice. Councils may also employ independent social workers to carry out an assessment so long as they supervise this work. Four agencies work independently on intercountry adoption in England. These are listed together with contact details in annex G.
3. Councils and voluntary adoption agencies which undertake intercountry adoption work carry out a number of functions in relation to intercountry adoption. They:
  - Provide information about overseas adoption procedures
  - Offer counselling to those wishing to adopt a child from overseas and to people adopted from overseas
  - Assess applicants' suitability to be adoptive parents (to the same standards as for domestic adoptions)
  - Arrange post placement/ post adoption services.
4. The Adoption (Intercountry Aspects) Act 1999 provides for the first time a statutory basis for the regulation of intercountry adoption in England, Wales and Scotland. When fully enacted the 1999 Act, together with similar legislation in Northern Ireland, will enable the United Kingdom to ratify the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. This aims to:
  - Establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law and without any profit being made from the process.
  - Establish a system of co-operation amongst those who have ratified the Hague Convention to ensure that those safeguards are respected and thereby prevent the abduction of, the sale of, or traffic in children.
  - Secure recognition of adoption orders between convention countries.

5. The Government intends to bring the remaining provisions of the 1999 Act (as regards England and Wales) into force after a public consultation. This will be in time to ratify the Hague Convention by 1 January 2002.
6. The Government has already brought into force some provisions in the 1999 Act for England and Wales. These are:
  - *Section 9* – Inserts a new subsection (3A) into Section 1 of the Adoption Act 1976 to make it clear that throughout the Act the description of adoption service includes intercountry adoption. This means that councils have a duty to establish and maintain a service that covers both domestic and intercountry adoption. This was commenced on 30 April 2001.
  - *Part of Section 13* – Inserts a new subsection (3A) into Section 72 of the Adoption Act 1976 to make it clear that references in the Act to “making arrangements for the adoption of a child” includes arrangements for an assessment to indicate whether a person is suitable to adopt a child or not. By virtue of Section 11 of the 1976 Act this means that only councils and approved voluntary adoption agencies may undertake an assessment of a person’s suitability as an adopter. This was commenced on 31 January 2000.
  - *Section 14* – Inserts a new section (Section 56A) into the Adoption Act 1976 to make it an offence for anyone habitually resident in the British Islands to bring a child into the UK for the purpose of adoption (other than adoption by a parent, guardian or relative) unless they meet the requirements prescribed in Regulations. This was commenced on 30 April 2001.
7. The Adoption of Children from Overseas Regulations 2001 are made under Sections 9 and 56A of the 1976 Act. They came into force on 30 April 2001 and:
  - Set out for England and Wales that a prospective overseas adopter will be guilty of an offence unless he has been assessed and approved as a prospective adopter by a council or voluntary adoption agency and the Secretary of State for Health has indicated to him that he is prepared to issue a certificate of eligibility before bringing a child into the UK for the purposes of adoption.
  - Make clear that if the prospective adopter does not go through the proper procedures before bringing a child into the UK with the intention of adopting them, they will be guilty of an offence under Section 56A of the 1976 Act (inserted by Section 14 of the 1999 Act). An offence under that section will also be committed if the prospective adopter does not, within 14 days of entering the UK with the child, give notice to his local council of his intention either to adopt or his intention not to give the child a home. These offences are punishable by up to three months in prison and/ or a fine of up to £5,000.
  - Specify the requirements placed on councils in England when they receive an application for intercountry adoption and on voluntary adoption agencies in England which agree to deal with such an application. They must carry out the appropriate checks, provide suitable preparation classes and complete procedures on applicants. The full set of papers must then be referred to an

adoption panel, which will make a recommendation as to whether an adoptive applicant should be approved as an adoptive parent. The agency will then make a decision taking account of the adoption panel's recommendation and notify the adoptive applicant of this decision. If they decide to approve the applicant, the agency is required to notify the Secretary of State and provide him with all the information required to allow him to determine whether to endorse the application. Equivalent requirements have been specified in Wales in the Adoption of Children from Overseas (Wales) Regulations 2001 which also came into force on 30 April 2001. These require agencies to notify the National Assembly for Wales of approvals and provide the Assembly with all necessary supporting information.

### *The process*

8. Councils and approved voluntary adoption agencies which agree to process an application in respect of intercountry adoption should:
  - Provide information, advice and counselling for people considering adopting from overseas.
  - Make a written assessment on the suitability of adoptive applicants to adopt a child from overseas.
  - Supervise placements, prepare reports and make recommendations to the courts where appropriate.
  - Arrange post placement and post adoption services.
9. The usual process is:

#### A. Information

- People interested in overseas adoption who are domiciled in the UK should approach either their local council or one of the voluntary adoption agencies who carry out assessments for intercountry adoption.
- The council or voluntary adoption agency should provide information about the process and the cost of this, plus offer preparation classes, advice and counselling.
- Preparation classes take place (as for domestic adoptions but also covering intercountry adoption processes and specific post-adoption issues).

#### B. Assessment

- Adoptive applicants submit a written application (either before or after preparation classes).
- Police and medical checks completed and home study assessment undertaken.

- Report on home study and checks submitted to Adoption Panel.
- Adoption Panel considers report and makes a recommendation.
- Agency decision maker (eg. Assistant Director of Children's Services) makes a decision based on the papers provided to Panel and the Panel's recommendation.
- Where adoptive applicants are judged to be suitable to adopt, their papers are submitted to either the Department of Health in England or the National Assembly for Wales in Wales.
- Department of Health/ National Assembly for Wales checks and endorses decision.
- In the case of approvals by agencies in Wales, the National Assembly for Wales (after endorsement) passes papers to the Department of Health.
- After ensuring that all the papers are in order and that all the evidence required by the country being applied to is included, the Secretary of State for Health issues a certificate of eligibility and informs applicants. This states that the prospective adopters have been assessed as being suitable to adopt and that a child adopted by the couple will be granted leave to enter the UK subject to entry clearance and the making of an adoption order.

### C. Post-assessment

- Papers notarised/ legalised as required.
- Papers passed to the relevant overseas authority.
- Overseas authority considers application and if the application is approved, identifies a child to be matched with the prospective adopters.
- Prospective adopter(s) decide(s) to accept the proposed match.
- Prospective adopter(s) travel to meet the child and adopt the child overseas.
- Prospective adopter(s) seek clearance for the child to enter the UK from the nearest British Embassy, Consulate or High Commission.
- Entry Clearance Officer checks papers and, in the case of non-designated countries, once satisfied with the immigration aspects refers the application to the Department of Health/ National Assembly for Wales for advice on whether a British Court is likely to grant an adoption order.
- Department of Health/ National Assembly for Wales provide advice to Entry Clearance Officer.

- Entry Clearance Officer decides whether to issue entry clearance.
- In the case of children adopted from non-designated countries, within 14 days of returning to the UK adopter(s) should notify their local council of their intention to adopt the child under UK law (or of their intention not to offer the child a home).
- Where returning with a child on an interim adoption order from a designated country, the adopters must notify the local council that the child is staying with them as soon as possible after their arrival in the UK.

#### D. Post-placement/post-adoption

- Where a child has been adopted from a non-designated country the council will monitor the placement under Sections 32 to 37 of the 1976 Act.
- Carry out the council's duties under Section 22(2) and (3) of the 1976 Act i.e. duty to investigate in particular whether the child was placed with the applicant in contravention of Adoption Act 1976 Section 11.
- Once the prospective adopters have made an application to a UK Court for an adoption order the council will be asked to produce a Schedule 2 report by the court. This report will comment on the suitability of the adopters and be used to inform the Court when making a decision on the making of an adoption order.
- The local authority should notify the Home Office of the application for an adoption order if the child did not receive entry clearance (so that the Home Secretary can consider whether to ask to be made a party to the proceedings).
- The local authority will keep the Home Office informed of the progress of the application as the child is subject to immigration control until the adoption order has been granted.
- When an adoption order is made in a UK Court the child automatically receives British nationality on the date of the order, where one or both of the prospective adoptive parents was a British Citizen at the time the order was made.
- Where an interim adoption order has been made for a child from a designated country the council should treat the child as a privately fostered child under Sections 66 and 67 of the Children Act 1989 and carry out regular welfare visits until the full adoption order has been made.
- An adoption order from a designated country (see annex B) is recognised in the UK. However, the adopters will need to make an application to the Home Secretary if they wish the child to receive British Citizenship.

- Most countries will require regular post placement reports to be made on the progress of the adopted child. Adopters have a duty to make arrangements for these to be provided. They may agree with a council or a voluntary adoption agency involved in intercountry adoption that they should prepare these for them.
- Councils must provide, or make arrangements for, post-adoption support services for adopters and adopted people. Those requiring assistance should usually seek it from their local council in the first instance.

### ***Fees and charges***

10. Councils and voluntary adoption agencies may charge prospective adopters “reasonable fees and expenses” under Section 57 of the 1976 Act. The fees must only meet the costs of the agency in providing information, carrying out the preparation, obtaining medical and police checks, completing the assessment and preparing post-placement/ post-adoption reports.

### ***Uncovering suspected offences***

11. Where councils and voluntary adoption agencies identify a child who they suspect has been brought into the UK for the purposes of adoption without the proper processes being complied with they should notify the appropriate law enforcement agencies of this and co-operate with the investigation. They should move promptly to notify the relevant law enforcement agencies as the offence must be prosecuted within six months of the offence coming to the adoption agency’s notice and within three years of the offence taking place.

## **CHAPTER ONE: INTRODUCTION**

- 1.1 Councils with social services responsibilities have a duty to establish and maintain an adoption service under Section 1 of the Adoption Act 1976 as amended by Section 9 of the Adoption (Intercountry Aspects) Act 1999. This service must now include intercountry adoption as well as domestic adoption. Councils may employ an independent social worker to undertake an assessment of adoptive applicants and may commission approved voluntary adoption agencies to provide an intercountry adoption service in their area if they choose to do so and supervise their work. Four agencies also work independently to undertake intercountry adoption services in England.
- 1.2 This Guide is designed to provide advice and information on intercountry adoption to councils and approved voluntary adoption agencies in England and Wales to assist them in their work in intercountry adoption. It includes background on the policy and legal context, advice on the roles and responsibilities of the key players, information on the procedures which should be followed during the adoption process and a glossary of useful terms.
- 1.3 Taking account of policy and legal developments, plus good practice experience of recent years, this document replaces the previous Guide to Intercountry Adoption published in May 1997, CI(90)14, CI(91)17, CI(92)12 and paragraphs 1 (a)-(b), 2-4 of CI(93)15, plus the equivalent CI letters issued in Wales on 2/10/90; 9/7/91, 21/4/92 and 5/4/93. It also brings together and updates other guidance previously issued by the Home Office and the Department of Health. It should be read in conjunction with: LAC(84)3 (WO3/84); LAC(87)8 (WO35/87); CI(90)2; CI(96)4 CI/96/1 Wales); LAC(97)13 (WOC 33/97); LAC(97)17 (WOC 55/97) and LAC(98)20 (NAFWC 6/99).
- 1.4 This Guide will be kept up to date through regular amendments. It is next planned to update the guidance in Autumn/ Winter 2001 to take account of the full implementation of the Adoption (Intercountry Aspects) Act 1999. The Department of Health has also commissioned the production of National Standards for Intercountry adoption which it is planned to publish for consultation by Spring 2002.
- 1.5 Additional information will be posted on the Department of Health's website at [www.doh.gov.uk/adoption](http://www.doh.gov.uk/adoption). This site contains information on both domestic and intercountry adoption. Further information may also be obtained from the Department of Health Helpline on 020 7972 4014.
- 1.6 Advice and guidance to councils, Boards and approved voluntary adoption agencies in Wales, Scotland and Northern Ireland is provided by the National Assembly for Wales, the Scottish Executive, and the Department of Health, Social Services and Public Safety in Northern Ireland.

## CHAPTER TWO: CONTEXT

### *Background*

2.1 The UK is party to a number of international agreements which provide a framework for the operation of intercountry adoption that keeps the interest of the child central to the process and any decisions that are made. In particular, they provide that:

- Intercountry adoption may be considered as an alternative means of providing a family for a child who cannot be cared for in a suitable manner in his or her own country.
- Intercountry adoptions should take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law.
- Safeguards and standards equivalent to those which apply in domestic adoption should be applied in intercountry adoption to protect the welfare of the child.
- Profit should not be made from the process.

2.2 The UK is a signatory to the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The Convention aims to establish safeguards to protect the best interests of the child and put in place a system of co-operation between countries to prevent the abduction of, the sale of, or traffic in children. Key requirements are:

- The child's home country must ensure that the child has been freely given up for adoption and that this has not been induced by payment or compensation of any kind.
- Attempts must be made to place the child in a family in their home country. If this is not possible, it must be confirmed that intercountry adoption is in the child's best interests.
- An adoption can only take place if the adopters have been approved as suitable to become adopters in the receiving state (i.e. in their home country) and the receiving country confirms that the child will be allowed to reside permanently in that country.
- All appropriate measures must be taken by the states to prevent improper financial or other gain in connection with adoption and to deter all practices contrary to the objects of the convention.
- The state must accredit bodies to work as adoption agencies. These bodies must be non-profit making, and be directed and staffed as specified in the Adoption Agencies Regulations 1983.

- Adoptions made in countries which have ratified the Convention must be recognised by other countries which have ratified the Convention.

2.3 The Adoption (Intercountry Aspects) Act 1999 provides for the regulation of intercountry adoption in England, Wales and Scotland. The main provisions of the 1999 Act:

- Enable the United Kingdom to ratify the Hague Convention (subject to similar legislation being passed in Northern Ireland).
- Place a duty on councils with social services responsibilities to provide, or arrange to provide, an intercountry adoption service.
- Provide for voluntary adoption agencies to apply to operate an intercountry adoption service.
- Enable children who are the subject of a Convention adoption to receive British nationality automatically.
- Make it an offence for a person habitually resident in England or Wales to bring children to the United Kingdom without meeting certain requirements set out in regulations.

2.4 The Act will be implemented in full in time to allow the ratification of the Hague Convention by 1 January 2002. Before implementing the Act there will be a public consultation on the content of the Regulations to be made under the Act and the guidance to accompany it.

### ***Current legal position***

2.5 When an application is made to adopt a child from overseas, the intercountry adoption process should take account of the legal requirements of both countries. The requirements in England and Wales are set out in a range of legislation and guidance, outlined in the Home Office leaflet Intercountry Adoption on [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk), and the requirements for individual countries are summarised in fact sheets issued by the Department of Health (see annex C). Information can be found at [www.doh.gov.uk/adoption](http://www.doh.gov.uk/adoption). Fact sheets about countries not found on the website may be obtained from the Department of Health Helpline on 020 7972 4014.

2.6 In summary, the law in England and Wales requires that the same adoption practice and standards be applied to intercountry and domestic adoptions. From 30 April 2001, Section 1 of the Adoption Act 1976 as amended by section 9 of the Adoption (Intercountry Aspects) Act 1999, clarifies that councils with social services responsibilities are required to establish and maintain an adoption service that includes intercountry adoption. The intercountry adoption service should include:

- Providing information about overseas adoption procedures.

- Offering counselling to those wishing to adopt a child from overseas and to people adopted from overseas.
- Assessing applicants' suitability to be adoptive parents (to the same standards as for domestic adoptions).

2.7 By virtue of Section 11 of the Adoption Act 1976, only councils and voluntary adoption agencies may “make arrangements” for adoption. Section 72 of the 1976 Act, as amended by Section 13 of the Adoption (Intercountry Aspects) Act 1999 makes it clear that any arrangement for the assessment of a person’s suitability to adopt a child is considered to be “making arrangements for adoption”. That amendment came into force on 31 January 2000. This means that home study assessments, updates to home study assessments or any report commenting on the suitability of a person to be an adoptive parent may only be arranged and produced by a council or voluntary adoption agency approved by the Secretary of State.

2.8 The Adoption of Children from Overseas Regulations 2001 came into force on 30 April 2001. They require that in England and Wales, those wishing to bring a child into the UK for the purposes of adoption must be assessed and approved as a prospective adopter by a council or voluntary adoption agency and have their approval endorsed by the Secretary of State. The child must also be in possession of a valid entry clearance for this purpose. If the prospective adopter fails to do this and brings a child into the UK with the intention of adopting them they are guilty of an offence under Section 56A of the 1976 Act (inserted by Section 14 of the 1999 Act). An offence under that section will also be committed if the prospective adopter does not, within 14 days of entering the UK with the child, give notice to his local council of his intention either to adopt or his intention not to give the child a home. These offences are punishable by up to three months in prison and/ or a fine of up to £5,000.

2.9 The Regulations also set out the process that must be followed by councils and voluntary adoption agencies that undertake intercountry adoption work in England when they receive an application for intercountry adoption. These include the agency carrying out the appropriate checks, undertaking assessment, providing suitable preparation classes, referring the case to an adoption panel, taking account of the panel’s recommendation, making a decision and notifying the adoptive applicants accordingly. Where the applicant has been approved, agencies are also required to notify the Secretary of State of the decision that has been made and provide him with all the information required to allow him to determine whether to endorse the application (see Chapter four). The Adoption of Children from Overseas (Wales) Regulations 2001 require councils and VAAs in Wales to follow similar procedures and notify the National Assembly for Wales where a decision is taken to approve an applicant.

### ***Roles and responsibilities***

2.10 Annex A sets out the process applicants and adoption agencies follow from the initial contact through to the adoption order being made. The key actions for each of the main parties in the process is outlined below.

### Prospective adopters

- Obtain information, advice and counselling.
- Decide which country to adopt from and, where appropriate, the age and gender of the child that they wish to adopt.
- Make an application, attend preparation classes and comply with requests for information during the assessment process.
- Comply with the requirements of the country to which an application has been made.
- Decide whether to accept the child matched with them by the overseas authorities.
- If they do accept the child, travel overseas to meet them and go through the relevant legal adoption processes overseas.
- Apply for entry clearance and submit all the required adoption documents.
- Within 14 days of entering the country with the child for the purposes of adoption, notify their local council of their intention to adopt or their intention not to provide a home to the child.
- Co-operate with the council's monitoring of the placement.
- Apply to the Court for an adoption order and notify the Home Office of the application.
- Co-operate with the council's preparation of a Schedule 2 report for the Court.
- Where required, commission the production of post-adoption reports for the child's country of origin.

### Councils

- Duty to establish and maintain an intercountry adoption service.
- Provide advice and information on overseas adoption.
- Offer counselling to those wishing to adopt a child from overseas.
- Provide suitable preparation classes on intercountry adoption.
- Assess applicants' suitability to be adoptive parents.
- Make a decision on the suitability of applicants' to be adoptive parents.

- In the case of approval, pass papers to the relevant Health Department.
- Provide advice where required on the proposed match made by the relevant overseas authority.
- Monitor placements where children are brought into the country for the purposes of adoption.
- Arrange post placement/ post adoption support.
- Produce a post placement/ adoption report if agreed by the council.

*Voluntary Adoption Agencies involved in intercountry adoption work*

- Provide advice and information on overseas adoption.
- Offer counselling to those wishing to adopt a child from overseas.
- Provide suitable preparation classes on intercountry adoption.
- Assess applicants' suitability to be adoptive parents.
- Provide advice where required to the prospective adopters on the proposed matching by an overseas authority.
- Make a decision on the suitability of applicants' to be adoptive parents.
- In the case of approval, pass papers to the relevant Health Department.
- Arrange post placement/ post adoption support.
- Produce a post placement/ adoption report if agreed by the VAA concerned.

*Department of Health*

- Ensure applications meet the criteria of the specified country and are presented in a form acceptable to that country.
- Provide advice and assistance on the intercountry adoption procedure.
- Consider reports and decisions supplied by councils and VAAs and, if necessary, contact the authors for further clarification or discussion before endorsing applications on behalf of the Secretary of State.
- Issue certificates of eligibility on behalf of the Secretary of State where applications are endorsed.

- Ensure all the required documents are submitted and arrange for documents to be notarised and legalised according to the country's requirements.
- Forward complete adoption application to the relevant overseas authority.
- Pass on details about the child matched with applicants by the overseas authorities to the council/ VAA that assessed the prospective adopters and to prospective adopters simultaneously.
- Inform overseas authority of the prospective adopters decision on proposed matching.
- Provide advice to Entry Clearance Officers and the Home Office on whether a court in the UK would be likely to make an adoption order.
- Produce free of charge fact sheets on how to adopt from particular countries (see annex C for a list). These can be viewed on the Department of Health's adoption website at [www.doh.gov.uk/adoption](http://www.doh.gov.uk/adoption) or obtained by contacting the Department of Health on 020 7972 4014.
- From time to time may advise prospective adopters against adopting from certain countries. This could be due to a public policy decision, the result of diplomatic relations being severed or because the country will not accept applications from UK residents.

#### National Assembly for Wales

- Provide advice and assistance on the intercountry adoption procedure.
- Consider reports and decisions supplied by councils and VAAs and, if necessary, contact the authors for further clarification or discussion before endorsing applications.
- Pass papers to the Department of Health once applications have been endorsed.
- Provide advice to Entry Clearance officers and the Home Office on whether a court in the UK would be likely to make an adoption order.

#### Home Office/Joint Entry Clearance Unit/ Entry Clearance Officers abroad

- Decide whether to grant entry clearance to allow a child to settle in the UK for the purposes of adoption or to live with his adoptive parents.
- Produce free of charge leaflet about entry clearance procedures.
- Provide advice to applicants where there are, or may be, difficulties.

- Once sure that there are no immigration reasons for refusing entry clearance, seek advice from the relevant Health Department on whether an adoption order is likely to be granted to the prospective adopter(s).
- Provide information on changes to overseas countries adoption laws and procedures.

#### Foreign and Commonwealth Office

- Legalise all papers required by the adoption authorities abroad. This entails the issue of a legalisation certificate and the embossing of all related and securely attached papers. This currently costs £12 per document.
- Provide the Department of Health with information and advice concerning changes of law, governments *etc* abroad where these might have an impact on intercountry adoption.

#### Embassy/ Consulate/ High Commission of the child's Country of Origin in the UK

- Process intercountry adoption applications, although the extent varies between countries.
- Offer advice, where appropriate, on their respective country's law and requirements.
- Confirm, where appropriate, the legality of the FCO certificate for which a charge is levied.
- Arrange for the translation of documents, where required.
- Forward applications direct to their home country on the applicants' behalf, where necessary.

#### Overseas authority

- Decide whether the child is eligible to be considered for overseas adoption.
- Decide whether to accept the application to adopt the child.
- Confirm that the application meets their laws and criteria.
- Carry out the matching of the prospective adopters with a child.
- Ensure that the prospective adopters go through the relevant legal adoption process.

## **CHAPTER THREE: INFORMING ADOPTERS**

### ***Responding to requests for information***

3.1 Councils and voluntary adoption agencies involved in intercountry adoption should respond promptly and courteously to requests for information about all types of adoption. When approached about intercountry adoption they should provide information on both domestic and intercountry adoption to give the adoptive applicants enough background to allow them to make an informed choice about their preferred route. In addition to providing written information, councils and VAAs may find it useful to offer adoptive applicants the opportunity to have an informal discussion about the options so that their initial questions can be answered.

3.2 Councils and VAAs should:

- Provide a picture of what intercountry adoption involves, including the children who may be available for adoption.
- Provide information summarising the legal position, making clear that only councils and VAAs may assess the suitability of adoptive applicants and that anyone circumventing the usual procedures may be guilty of an offence.
- Offer preparation classes and give an indication of when the next courses will be available.
- Cover all aspects of the assessment process, including an indication of the likely timescales involved and a breakdown of the fees charged.
- Make clear that once the agency has approved the prospective adopters, this application must be endorsed by the Secretary of State for Health or, in Wales, the National Assembly for Wales.
- Set out how the matching process will take place.
- Explain the entry clearance process.
- Ensure prospective adopters are aware of the need to notify the council of their intention to adopt within 14 days of their arrival in the UK.
- Give details of contact points (including websites) for additional information.
- Provide information about council/ VAA complaints procedures.

### ***Preparing prospective adopters***

3.3 It is essential that prospective intercountry adoption applicants obtain written information about the adoption laws and regulations in respect of the country from which they intend to adopt. However, this does not mean that applications should

be prevented before the adoptive applicants attend a preparation class. People should be able to apply to adopt at any time.

3.4 The preparation classes should be similar to that for domestic adoptions but with extra elements covering the particular challenges of adopting a child from overseas. Where specific individual issues arise, adoptive applicants should be given the opportunity to avail themselves of sound professional advice and counselling. Applicants should be:

- Provided with information on the law.
- Made aware of the roles and responsibilities of all the key players in the adoption process.
- Advised that they must decide whether to pursue either the domestic or the intercountry adoption process.
- Informed what they will need to do if during the assessment process they decide to change from an intercountry to a domestic application or *vice versa*.
- Informed about all stages of the adoption process and made aware of likely timescales.
- Made aware that they may have to make decisions about whether they wish to adopt a particular child having little or no information about the child's social background or medical history.
- Made aware of the importance of discussing proposed matches with the agency before agreeing to the match, so that they have the opportunity to consider whether the child is right for them.
- Made aware that in some circumstances matching details may be sent directly to them by the overseas authority and that in such circumstances they should notify the agency and Department of Health.
- Told that they will both have to travel to meet the child and make a joint commitment before bringing the child back to the UK.
- Given the opportunity to consider what it means for a child to be adopted by a person from another country, having a different culture and possibly a different racial and religious background.
- Encouraged to think about and discuss what adopting a child from overseas will mean for them, in both the short and longer term, particularly a child who shares few or none of the racial, cultural or linguistic inheritance of the family and who may have suffered considerable early disadvantage.
- Encouraged to consider and discuss what, if any, post adoption support they may need.
- Encouraged to adopt from countries whose arrangements for the protection of both children and applicants are regulated and controlled. This includes the importance of adopting through approved adoption agencies/ charitable organisations overseas and not using unauthorised intermediaries (which can lead to legal and immigration difficulties about the adoption).

## **CHAPTER FOUR: ASSESSING ADOPTERS**

### *Completing the assessment*

4.1 Councils have a duty to make arrangements for the assessment of those who wish to adopt from overseas. Where a council does not wish to deliver an intercountry adoption service directly it may contract out that work to a VAA or employ an independent social worker to undertake the assessments so long as it supervises the work and makes the final approval decision. VAAs working independently on intercountry adoption work may also undertake the assessment process in their own right when requested to do so by an adoptive applicant.

4.2 Assessments should begin after counselling and discussion with professionals. Applicants should also have formed an intention of adopting from a particular country, should understand the requirements of that country, and be clear about the age range and, where applicable, the gender of the child they wish to adopt.

### *The report*

4.3 Councils and VAAs are recommended to use BAAF Form F3 as a basis for preparing the report. The content of the report and associated council, police and health checks and interviews with referees should follow the pattern established by good practice in respect of any other adoption. The law requires that the assessment is carried out in the same way as for a domestic adoption. Adoption agencies should avoid using abbreviations where it may cause confusion overseas. For example instead of writing "AID by donor" write "Artificial Insemination by Donor" as authorities overseas have been known to interpret this to mean "Acquired Immune Deficiency".

4.4 The home study is very important as it is the only opportunity for councils and VAAs to influence the type of child to be matched to the applicants. The report should include an assessment of the applicants' suitability to adopt a child from another country. The principles set in CI(90)2 - Issues of Race and Culture in the Family Placement of Children and LAC(98)20 (NAFWC 6/99) - Adoption Achieving the Right Balance are helpful, bearing in mind that intercountry adoption arrangements are made because no other suitable form of care is available for the child.

### *Age of applicants*

4.5 Arbitrary rules regarding the age of adopters should not be applied. Adoption agencies are referred to the draft National Adoption Standards, paragraphs 6 and 7 of CI(96)4 (CI/96/1 Wales) and paragraphs 43-45 of LAC(98)20 (NAFWC 6/99). However, some sending countries do apply age restrictions and this may be a relevant factor for some applicants as they consider their options.

### Health considerations

- 4.6 The agency medical adviser plays an important role in the assessment process both in considering medical reports on individual applicants and in advising and contributing to the work of the adoption panel. A medical report received in the Department of Health or the National Assembly for Wales which has not been completed by the agency medical adviser will be returned to the adoption agency for comment and signature.
- 4.7 Investigation of each adoptive applicant's health and consideration of any health risks, including those associated with lifestyle, should follow domestic adoption practice. Involvement of the medical adviser is essential, both in considering individual medical reports and in contributing to panel discussions on the completed home study report. Medical advisers should feel free, if they wish, to discuss any particular case of difficulty at an early stage with a Senior Medical Officer in the relevant home health department.

### Financial status

- 4.8 The financial status of an applicant should be established and referred to in the report. This should cover both current financial status and likely status after placement if there is likely to be a change. Some countries require applicants to provide documentary evidence of income, savings and property value. It should be remembered that one of the immigration conditions is that the prospective adoptive child will be maintained and accommodated adequately without recourse to public funds by the adoptive parents. Therefore applicants in receipt of public funds can only be considered for overseas adoption if they will not have to rely on further additional public funds to support their child. See annex D for a definition of 'public funds'.

### Adoption of more than one child

- 4.9 Adoptive applicants should be assessed for their suitability to adopt more than one child if this is what they have applied for. It is normally expected that they would be recommended for placement of one child only, unless they have been assessed as suitable to adopt siblings.
- 4.10 Some couples have sought to adopt more than one unrelated child from overseas at the same time. However, this should only take place in exceptional circumstances and where it can be shown to be in the best interests of the children concerned. This may be the case, for example, where the children have been brought up in the same institution or home and have developed close bonds, and where one recognises the importance and significance of the other. Such children are sometimes referred to as 'social siblings'. This is only likely to be relevant to older children who have an understanding and recognition of each other.

### Subsequent adoptions

- 4.11 Where applicants wish to adopt a second or third child they will need to be reassessed. Good practice suggests that reassessment should not commence until the adoption order of the first child has been made in the UK, convention or designated country and until approximately 12 months has elapsed since the child began to live with the adopters.

### Disclosure of social worker's assessment

- 4.12 It is important that only a copy of the social worker's assessment of the applicants is given to them and not those sections of the report which include references, police checks and medical reports. Each page of the copy of the social worker's assessment should be clearly marked 'Draft/Copy - not to be used for the purposes of adoption'. Original documents should not be given to the prospective adopters, as these might be used to persuade an overseas court to grant an adoption order without the adopters having gone through the proper approval procedures in the UK.

### Relative Adoption

- 4.13 Under UK law, there is no need for a home study report for relative adoptions. There is provision in the Immigration Rules for a child to join a parent or other relative in the UK. A home study is only required if a country specifically requests it (eg. Philippines, China, Vietnam). Councils and VAAs should contact the Department of Health/ National Assembly for Wales before embarking on a home study for a relative adoption.

### ***Making a decision***

- 4.14 The council or VAA's adoption panel is required to consider the suitability of adoptive applicants and to make a recommendation to the agency decision maker in the same way as for domestic adoptions. The panel should have an understanding of both domestic and intercountry adoptions and should consider the suitability of adopters in the same way regardless of the type of adoption being considered. Recommendations must specify the number of children and the age range, gender and characteristics (health and social) of the child/ren which the adoptive applicants might be suitable to adopt, as well as the country from which they wish to adopt.
- 4.15 The agency decision maker should be someone who has not been involved in the direct management or assessment of any applicant involved nor a member of the adoption panel. The decision maker should understand the intercountry adoption process and have sufficient standing in the agency to endorse or challenge a panel's recommendation.
- 4.16 Once a decision has been made, the agency decision maker should write to the applicants to inform them of the decision. Where the applicants are successful this letter should specify the number of children and the age range, gender and characteristics (health and social) of the child/ren which the couple might be

suitable to adopt, as well as the country from which they wish to adopt. It is also important to indicate the length of time for which the report is valid, this would normally be for a period of no more than two years. The letter should also make clear that the decision is subject to endorsement by the Secretary of State for Health or, in Wales, the National Assembly for Wales and that it does not guarantee that a child will be considered suitable for them by the overseas authorities.

4.17 Unsuccessful applicants should be offered support, counselling and advice.

***Providing papers to the relevant Health Department***

4.18 Where the council or VAA approves the applicants they are required to send all the papers sent to the Adoption Panel to the relevant Health Department. This must include the home study, two references from non-family members, completed medical reports, original police check forms, the agency decision maker's written recommendation and a copy of the panel minutes. In Wales please send to:

Adoption Administrator  
National Assembly for Wales  
Children and Families Division  
Cathays Park  
Cardiff  
CF10 3NQ

and in England to:

Adoption Administrator  
The Department of Health  
Adoption and Permanence Team  
Room 122, Wellington House  
133-155 Waterloo Road  
London, SE1 8UG.

4.19 Councils and VAAs will wish to send the documents by first class recorded delivery or guaranteed next day delivery.

## **CHAPTER FIVE: POST ASSESSMENT**

### ***Handling of Welsh applications by the Department of Health***

- 5.1 Once the National Assembly for Wales is able to endorse the application they will notify the council and will arrange for the applicants to provide the necessary supporting documents and fees. Once all the documentation and fees have been received, the National Assembly for Wales will forward the application, supporting documents and fees to the Department of Health.
- 5.2 The Department of Health will issue a Certificate of Eligibility on behalf of the National Assembly for Wales, will notify the applicants in writing of this and will liaise with the applicants over any necessary notarisation and legalisation of the documents and the sending of the documents to the country concerned. The Department of Health will keep the National Assembly for Wales informed of progress of the application. Should the Department of Health require additional information from the adoption agency it will request that information via the National Assembly for Wales.

### ***Handling of English applications by the Department of Health***

- 5.3 On receipt of an intercountry adoption application the adoption administrator and the Social Services Inspector will check the following:
- The home study report has been completed and has been signed as appropriate by the applicants, social worker, team manager and the agency's decision maker;
  - The medical report on each applicant is attached and has been seen and signed by the agency medical adviser;
  - The original police check form on each applicant is attached;
  - A second opinion visit, where made, has been reported upon;
  - Applications have taken account of Home Office immigration requirements;
  - References have been obtained from two non-family members and the referees visited;
  - The adoption panel recommendation is recorded and the panel minutes attached;
  - The agency decision maker's decision is recorded;
  - Medical advice on medical and psycho-social issues have been addressed in the report and considered by the adoption panel;

- The report confirms that the policies and likely placements of the applicant's country of choice have been addressed, that the applicants' expectations concerning the age of the child, disabilities, contact arrangements *etc* are realistic and have been discussed with them;
- The report addresses reasons for wanting to adopt, issues on culture, parenting capacity, relationships, disability, and age of applicants in relation to that of the child to be adopted, preparation for placement, post placement, care and alternate care arrangements *etc*;
- Where a specific child has already been identified, that parental consent or abandonment has been confirmed.

5.4 This list is not exhaustive and will vary between applications.

5.5 If the Secretary of State is content to endorse the application a Certificate of Eligibility is issued on his behalf by the Department of Health and the applicants are notified in writing. The Department of Health will then arrange for any additional supporting documents and fees to be supplied to them by the applicants and advise of the need for notarisation and legalisation of the documents.

5.6 Once the papers have been notarised/ legalised as required, the Department of Health will forward them to the relevant authority/ agency in the specified country.

### ***Matching***

5.7 The authorities in the country concerned will consider the application and if the application is approved, the applicants will be added to the waiting list of approved overseas adopters until the authorities can match them with a child. Although the process varies according to the country involved the preferred next step is for the papers to be supplied to the Department of Health by the country concerned. On receipt of the papers the Department of Health supplies the information simultaneously to the adoption agency and prospective adopters. The adoption agency should offer to discuss the information with the prospective adopters before they accept the child with which they have been matched or make arrangements to travel. It is important that the agency explain the importance of considering the child and their circumstances carefully to ensure that the applicants are likely to be able to meet the needs of the particular child under consideration.

5.8 In those circumstances where the country supplies the details direct to the prospective adopters the adopters should have been encouraged during the assessment process to share the information with the council or VAA that carried out the assessment and with the relevant home health department to assist with their monitoring of individual cases and their duties to provide advice to entry clearance officers.

5.9 The prospective adopters will be required to advise whether they wish to accept the child. When they do accept the child they will be expected to travel to the relevant country and continue the adoption process there.

### ***Bringing a child to the UK***

5.10 When bringing a child to live in the UK, adopters must seek entry clearance for the child.

5.11 If an adoption order has been made in one of the countries or territories known as designated countries (see glossary for explanation and annex B for list) the adoption order is recognised under UK law.

5.11 Where adopters have an adoption order that is recognised in the UK, the Entry Clearance Officer (ECO) will consider the application and if he is satisfied that the immigration requirements have been met then a visa for indefinite leave to remain will be granted. The requirements are set out in the Home Office leaflet on intercountry adoption. Occasionally the ECO will refer the case to the Joint Entry Clearance Unit in London for advice.

5.12 When the UK does not recognise an adoption order made for a child under the law of their home country (non-designated countries), the ECO will consider the application. If he is satisfied that the immigration requirements have been met he will ask the lead Home Department for advice as to the likelihood of a court in England and Wales granting an adoption order.

5.13 Before the Department of Health or National Assembly for Wales can give any advice it must see:

- The child's original birth certificate (if available) and new certificate.
- A medical report on the child. It is recommended that a British Agencies for Adoption and Fostering (BAAF) intercountry adoption medical form is used. This can be obtained from BAAF (their address can be found in the useful addresses section at the end of this booklet).
- A parental consent form. This is only valid if it is given when the child is 6 weeks old or over. It must also be notarised in the birth parents' own country. If a child is an orphan, proof of their parents' death is required. If the child is abandoned, a certificate of abandonment is required.
- An adoption/ guardianship order
- Confirmation from the relevant authorities of the country concerned that they are content for the child to leave the country for the purpose of adoption.
- A report from the overseas authority detailing the child's parentage and history, the degree of contact with the birth parents, the date and reasons for the child's entry into an institution or foster placement and when, how and why the child came to be offered to the prospective adoptive parents.

- If the child is seven years of age or over, a report of an interview with the child, in which his/her view and understanding of the proposed adoption is clearly stated.
- 5.14 This information should be provided by the overseas authorities and the applicants to the ECO who will send it to the lead department. If all the documents are satisfactory, the ECO will issue a visa for the child which gives leave to enter the UK for 12 months for the purpose of adoption.
- 5.15 Full details of the Department of Health's entry clearance procedure can be found on the Department of Health's website on [www.doh.gov.uk/adoption](http://www.doh.gov.uk/adoption). Further information on entry clearance procedures can be obtained from the Home Office leaflet Intercountry Adoption on [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk) and from the Foreign and Commonwealth Office on [www.fco.gov.uk](http://www.fco.gov.uk).

***After arrival in the UK***

- 5.16 On arrival in the UK, if the child's country of origin is not on the designated country list, the Adoption of Children from Overseas Regulations 2001 require prospective adopters in England and Wales to notify the local council of their intention to adopt within 14 days. The child will then be treated as a protected child and the placement monitored by the Council under Sections 32 to 37 of the Adoption Act 1976. Until the council has been notified by the adopters of their intention to adopt the placement should be treated as a private fostering arrangement under Section 66 of the Children Act 1989.
- 5.17 To seek an adoption order the prospective adopters need to lodge an application to adopt the child in a British court. They also need to notify the Home Office of the application for an adoption order. Under Section 22 of the 1976 Act the applicants must make an application for an adoption order within two years of giving notice of the intention to adopt the child to the council. However by virtue of section 13(2) of the 1976 Act an order cannot be made until the child has lived with the adopter(s) for at least 12 months.
- 5.18 Once the Court has received an application they will ask the council to write a Schedule 2 report. This must include information on a range of issues including:
- The suitability of the applicant.
  - The needs and wishes of the child, having regard to his age and understanding.
  - Whether the child was placed with the applicants lawfully.
  - Whether the applicants circumvented the usual procedures for adopting a child overseas.
- 5.19 Where the applicants have circumvented the usual procedures for adopting a child overseas and the application has been made to the County Court, the case

is likely to be transferred to the High Court. This is in accordance with the Practice Direction on the Transfer of Intercountry Adoptions between the County Court and the High Court issued in 1993. In such circumstances the council should notify the relevant law enforcement agencies.

- 5.20 When an adoption order is made in the UK it automatically confers British Citizenship on the child provided one of the adoptive parents is a British Citizen at the time the adoption order is made.
- 5.21 If the child's country of origin is on the designated list there is no need to apply for an adoption order in the British Courts. However, where a child is subject to an interim adoption order and not to a full adoption order, the prospective adopters should notify the council that the child is with them. The council must then treat the child as a privately fostered child under Section 66 of the Children Act 1989 and carry out monitoring visits to protect the child's welfare.
- 5.22 Where the adopters have a full adoption order recognised under UK law the council does not have a role in monitoring the placement other than under their normal child protection functions and, where agreed, to produce post-placement reports.
- 5.23 Adoption orders recognised in the UK but made overseas do not automatically confer British Citizenship on the child. Adoptive parents should apply to the Nationality Department of the Home Office for citizenship on behalf of their child. In such cases, applications for citizenship would usually fall to be considered under Section 3(1) of the British Nationality Act 1981. Registration as a British Citizen under this provision would be at the discretion of the Secretary of State.

#### ***Action to be taken where the procedures have not been followed correctly***

- 5.24 Where agencies become aware of a child who has been brought into the UK for the purposes of adoption without the proper procedures being followed they should:
- Take action to ensure that the welfare of the child is protected.
  - Notify the appropriate law enforcement agencies and co-operate with subsequent investigations.

#### ***Post placement/post adoption***

##### **Post adoption support**

- 5.25 Where adoptive families approach their council for support or help to maintain their placement, they should be offered the chance to talk through the issues of concern and to be offered advice and support by the council. It may be that the family will require help or protection under the council's Children Act 1989 powers or that they need adoption specific services provided under the Adoption Act 1976.

Post placement reports

5.26 Most countries require progress reports on the child to be sent to them at regular intervals. It is for the adoptive family to decide how the reports should be completed and to commission someone to do this. They may approach the council or a VAA involved in intercountry adoption; a charge may be made for providing this service. Once the report is completed the adoptive family may forward the report to the relevant overseas authority in most cases. However, for some countries, including the Philippines and China, they must be sent to the Department of Health for onward transmission.

## **CHAPTER SIX: OTHER ISSUES**

### ***Fees/charges***

- 6.1 Section 57(3) of the 1976 Act allows adoption agencies to charge prospective adopters a fee to cover the cost of preparation and assessment work. No profit may be derived from this work and adoption agencies should provide the applicants with a written statement detailing what is included in the fee.
- 6.2 Where the home study assessment is conducted solely by the council no VAT should be included in the fee. Those adoption agencies undertaking intercountry adoption may include VAT in their fee. If the adoption agency is working on behalf of the council, they should include VAT in their charge to the council. The council can claim back the VAT from Customs and Excise and must not pass on that element of their fee to the prospective adopters.
- 6.3 Councils and VAAs may consider charging fees in instalments. This would help to ensure that the right amount of fee was paid by those who pull out half-way through the process and may also allow those unable to pay the full sum up-front to apply.

### ***Complaints***

- 6.4 As users of the local authority's services, intercountry adoption applicants have the right to access the Social Services Complaints procedure. In line with the Adoption Agencies Regulations 1983, if an intercountry adoption applicant wishes to appeal against an agency decision maker's decision to reject their application to adopt, they are entitled to make further representations to the agency within 28 days. Any additional information must be considered by the adoption panel, who must then make its final recommendation to the agency decision maker, who will then make their final decision.

### ***Change of circumstances - applicants***

- 6.5 The Health Departments should be notified of any change of circumstances which may have a bearing on whether the applicants continue to meet the country's specific adoption criteria.

### ***Change of circumstances - applicants wish to adopt from a different country***

- 6.6 The approval for applicants to adopt will relate to a specific country. If the applicants wish to change their country of choice after they have been approved they must discuss this with the adoption agency. The applicants will need to demonstrate that they fully understand the cultural and other needs of a child from the 'new' country. An addendum report should be produced and returned to the adoption panel and agency decision maker to obtain a new approval.
- 6.7 The Health Departments should be informed at the earliest opportunity if the applicants decide on a change of country so that the authorities in the country concerned can be notified and arrange for the original application to be

withdrawn. In this event, applicants should be advised that where an application has already been sent to the original country of choice before the Health Departments have received notice of a change of country, they may be required to meet expenses incurred in that country – eg translation costs, as well as the costs incurred by the UK agency in undertaking the work needed to re-present the application to the adoption panel.

***Adoptions by British Citizens living abroad – through overseas assessment procedures***

- 6.8 British citizens who are living and working overseas may be able to adopt a child according to the laws of that country. In such cases they should ensure that they follow the requirements and laws of the country in which they are living.
- 6.9 If British citizens are able to apply to adopt a child in the country in which they are living they will be assessed and approved to adopt according to the procedures of that country. Once the adoption order is granted the relevant authorities in that country will monitor the progress of the adoption placement according to their laws.
- 6.10 Where a British citizen is resident abroad and wishes to adopt under the law of that country, the Department of Health has no authority in the matter. However, some countries require a general statement from the UK government that the child to be adopted is likely to be permitted to enter the UK. The Home Office Immigration and Nationality Directorate (address in useful addresses section) will issue a letter on request, stating that if the immigration criteria are met, the adoptive child will be given leave to enter the UK with the parents, once they decide to return home.
- 6.11 When the adopters wish to return to the UK they must apply to the British Embassy for an entry clearance for their child. Some people may apply for entry clearance for the child as a *de facto* dependent (see annex D for definition). These people are:
- British nationals
  - European Economic Area nationals returning to the UK to exercise treaty rights
  - Those adopters considered to hold settled status in the UK, living in a non-designated country (i.e. one where the UK does not recognise the effects of an adoption order made in that country) who have adopted a child there
- 6.12 To qualify for this the child would normally have had to live with the applicants for at least a year. This is, of course, subject to the competent authority in the child's country giving their formal agreement to the child leaving that country in the care of the person(s) concerned.

### ***Adoptions by British Citizens living abroad – through UK assessment procedures***

- 6.13 Where British citizens are living abroad they should usually go through the approval procedures of the country they are living in. However, if a particular country requires a homestudy assessment from the UK, it may be possible for applicants to be assessed in the UK if at least one of the applicants is domiciled (i.e. has a permanent home) in the United Kingdom, or in the Channel Islands or the Isle of Man.
- 6.14 In such cases applicants should approach their council or an approved adoption agency which acts independently in intercountry adoption cases to discuss undertaking a homestudy assessment. The homestudy assessment includes a number of meetings between the social worker and the applicants in the space of a few months. The council or adoption agency would need to agree to undertake the assessment in "bite-size chunks" to fit in with the applicants' visits to the UK.

### ***Child health issues***

- 6.15 As part of the Entry Clearance procedures prospective adopters must arrange for a medical report on the child to be provided, ideally on the BAAF Intercountry Adoption Medical Form. This report may be scrutinised by a Senior Medical Officer in the Department, who will ask for additional information if necessary. Information about the health and development of children proposed for adoption in the UK is not used to determine whether a child is given leave to enter and live permanently in the UK.
- 6.16 It is an essential part of UK adoption practice - and a legal requirement in relation to placements in UK - that information is provided about the health and development of children proposed for adoption. Prospective adopters need to be fully aware of any significant birth or early life experience that may affect the physical, emotional or mental development of the child so that they understand the associated responsibilities.
- 6.17 Many children available for intercountry adoption have been abandoned or placed for adoption by parents who provide little background or medical information about themselves or the child. Prospective adopters should establish which medical conditions are endemic in the child's country of origin; for example, tuberculosis is a particular risk for children from China, whilst HIV and Hepatitis B are more likely to be of concern if children are to be adopted from Romania.
- 6.18 Prospective adopters should be made aware that the HIV test in infants may give a flawed result. Infants with an HIV negative test result may actually be developing antibodies and could become HIV positive later. Other infants with positive tests may be carrying maternal antibodies which are later shed. The accuracy of tests performed in some countries from which children may be adopted may be questionable and could give rise to a false sense of security. It has also been suggested that the child could be put at risk of acquiring the infection merely by being tested in the child's own country.

- 6.19 Applicants need time to consider these risks and to understand the implications for them and their family.
- 6.20 Applicants should be made aware that the Health Departments are in no position to verify the quality of medical information contained in any medical report received from abroad; in some cases, information on which to base advice is severely lacking. Applicants should also be aware that there is no guarantee that the child will be free of serious health and developmental problems, even with a high level of care and nurture in the new home.
- 6.21 Information on the child's health should be discussed with the applicants' GP on receipt of any medical information on the child and before proceeding with the adoption. The GP may recommend immunisation or wish to consult the local consultant in communicable disease control, or if the child has hepatitis may recommend a full assessment by a hepatologist. Where prospective adopters decide to accept a child who is infected with Hepatitis B, they should be advised to arrange for a course of immunisation for themselves and their families. The course takes up to six months to complete so arrangements need to be made as soon as possible.

## ANNEXES

### *Annex A – Aide memoire for the intercountry adoption process*

- Applicants contact their local council with social services responsibilities or a VAA that undertakes intercountry adoption work.
- Council or VAA completes preparation, training and assessment in accordance with UK requirements and those of authorities in chosen overseas country.
- Application is considered by the Adoption Panel and agency decision maker makes decision in the light of Panel recommendation.
- Where application has been approved, council sends papers to the National Assembly for Wales/ Department of Health under cover of the decision maker's letter or approval.
- If the Department of Health/ National Assembly for Wales endorses the application, a Department of Health Certificate is issued.
- Where required, the Department of Health co-ordinates notarisation of all papers. If notarisation of homestudy not required, applicants make separate arrangements for other papers.
- The Department of Health forwards all papers to Foreign and Commonwealth Office for legalisation.
- Papers are returned to the Department of Health.
- Translation requirements must be considered here. May be carried out by independent translator in UK, the Embassy or Consulate, or undertaken in child's country. The Department of Health will co-ordinate.
- Papers are forwarded by the Department of Health to relevant foreign Embassy or Consulate for authentication.
- Papers forwarded to child's country of residence either via the foreign Embassy or Consulate or, more usually, by the Department of Health.
- Agency in country will consider application.
- If approved, agency in country identifies child and sends information on the child to the UK.
- Prospective adopters travel to meet child. (In married couple cases both must meet child before entry clearance granted).
- Adopters apply for UK Entry Clearance for the child as soon as his/her details are known and they have accepted the match.

- Adopters fulfil country's conditions and requirements for adoption hearing (or equivalent) in that country.
- Following adoption (or equivalent) in child's country, UK Entry Clearance procedure completed.
- Adopters and child travel to UK.
- Adopters who have adopted in a non-designated country inform council of their "intention to adopt" under UK law within 14 days of their arrival in the UK.
- When the notification of intention to adopt is received by the relevant local authority, the child becomes a protected child under Section 32 of the Adoption Act 1976.

## ***Annex B – Designated list***

Only adoptions made by order of a court in the United Kingdom or Islands or in one of the countries or territories listed below are recognised under United Kingdom statutory law.

### **a. Commonwealth countries**

Anguilla	Malaysia
Australia	Malta
Bahamas	Mauritius
Barbados	Montserrat
Belize	Namibia
Bermuda	New Zealand
Botswana	Nigeria
British Virgin Islands	Pitcairn Island
Canada	St. Christopher and Nevis
Cayman Islands	St. Vincent
Cyprus	Seychelles
Dominica	Singapore
Fiji	South Africa
Ghana	Sri Lanka
Gibraltar	Swaziland
Guyana	Tanzania
Hong Kong	Tonga
Jamaica	Trinidad and Tobago
Kenya	Uganda
Lesotho	Zambia
Malawi	Zimbabwe

### **b. Foreign countries**

Austria	Israel
Luxembourg	Belgium
Iceland	The Netherlands
China (but only where the child was adopted on or after 5 April 1993 and will be living in England or Wales or on or after 10 July 1995 and will be living in Scotland or on or after 19 February 1996 and will be living in Northern Ireland)	(including the Antilles)
Denmark (including Greenland and the Faroes)	Norway
Finland	Portugal (including the Azores and Madeira)
France (including Reunion, Martinique, Guadeloupe and French Guyana)	Spain (including the Balearics and Canary Islands)
Germany	Surinam
Greece	Sweden
	Switzerland
	Turkey
	United States of America
	Yugoslavia (but none of the states which make up the former Yugoslavia)
	The Republic of Ireland
	Italy

***Annex C – Fact sheets on countries which accept adoption applications from UK residents***

The Department of Health produces free of charge fact sheets which can be copied and given to applicants. These are regularly updated and should be referred to each time a home study is to be prepared in case the criteria or circumstances have changed.

The fact sheets for the countries listed below can be found on the Department of Health website at [www.doh.gov.uk/adoption](http://www.doh.gov.uk/adoption). Information about other countries can be obtained by contacting the Department of Health on 0207 972 4014.

Armenia  
Bolivia  
Brazil  
Bulgaria  
China  
Colombia  
Guatemala  
Haiti  
India  
Jamaica  
Jordan  
Kazakhstan  
Mauritius  
Pakistan  
Philippines  
Poland  
Russia  
Singapore  
Sri Lanka  
Thailand  
Ukraine  
Vietnam

## *Annex D – Glossary*

A.

### Adoption Act 1976

The Adoption Act 1976 consolidated the law on adoption as found in the Adoptions Acts of 1958, 1960, 1964 and 1968 and the Children Act 1975. The Adoption Act 1976 came into force on 1 January 1988. The 1976 Act has been amended by:

- Criminal Law Act 1977
- Domestic Proceedings and Magistrates' Courts Act 1978
- Magistrates' Courts Act 1980
- British Nationality Act 1981
- Criminal Justice Act 1982
- Health and Social Services and Social Security Adjudication Act 1983
- Mental Health Act 1983
- County Courts Act 1984
- Matrimonial and Family Proceedings Act 1984
- Social Security Act 1986
- Hong Kong (British Nationality) Order 1986
- Family Law Act 1986 (This Act does not amend the Adoption Act 1976 but makes reference to it)
- Family Law Reform Act 1987
- Social Security Act 1988
- Children Act 1989
- Courts and Legal Services Act 1990
- National Health Service and Community Care Act 1990
- Human Fertilisation and Embryology Act 1990
- Criminal Justice Act 1991
- The Children (Allocation of Proceedings) (Amendment) (No 2) Order 1994
- Health Authorities Act 1995
- The Trusts of Land and Appointment of Trustees Act 1996
- The Adoption (Intercountry Aspects) Act 1999
- Access to Justice Act 1999 (*This Act does not amend the Adoption Act 1976 but makes reference to it*)
- Care Standards Act 2000
- The Local Government Act 2000

### Adoption agency

This Guide will use the term "adoption agency" which means a council and an approved voluntary adoption agency. Where the council only is involved in the process, the Guide will state "council".

### Adoptive Parent

An adoptive parent is someone who has adopted children either in the UK or from a 'designated' country ie a country whose adoption orders are recognised in the UK.

## Applicant

An adoptive applicant is someone who has applied to an adoption agency to become an adoptive parent but has not yet been approved.

C.

## Central Authority

All countries have central government authorities responsible for child care. However it is common for some of them to delegate their adoption duties to national bodies, directors of children's homes or lawyers.

The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which the United Kingdom (UK) will ratify by January 2002, requires each state to designate a central authority for the purposes of intercountry adoption. The Department of Health will be the Central Authority for England. Wales, Scotland and Northern Ireland will have their own Central Authority:

Wales	The National Assembly for Wales
Scotland	The Scottish Executive
Northern Ireland	Department of Health, Social Services and Public Safety

Any communication in relation to any part of Great Britain may be sent to the Department of Health, which will forward the document as necessary to the appropriate Central Authority.

## Certificate of Eligibility

A Certificate of Eligibility is a document signed and issued by the Department of Health on behalf of the Secretary of State to assure overseas authorities that the applicants have been assessed as suitable to become adoptive parents by authorised and competent authorities. It also assures the Courts overseas that the child will be not be able to enter the UK until both entry clearance and an adoption order has been granted. It can be issued only by the Secretary of State and is signed on his behalf by a civil servant in the Department of Health. Most overseas Governments will not accept intercountry adoption applications from the UK without a Certificate of Eligibility. Prospective adopters returning to the UK with a child they intend to adopt in the UK must have gone through the standard assessment and approval procedures and had their suitability endorsed by the Secretary of State to avoid committing an offence.

## Courts - overseas

In some countries adoption orders are made by administrative procedure rather than by the courts. The foreign courts can make a range of orders including adoption orders and the applicant should be advised to seek legal advice on the effect of the order in that particular country. Foreign courts will grant an order on the basis of

evidence provided. Such orders can include entrustment, an interim adoption order, a simple adoption order or a full adoption order. The courts will be aware that the child will eventually travel to the UK where a permanent home will be provided. Orders may be granted on the basis that interim welfare reports will be provided by the councils with social services responsibilities in the UK up to the making of an adoption order in the UK.

#### Courts in England and Wales - adoption orders made in non-designated countries

Once the foreign court has made an order giving care of that child to the applicants and they have returned to the UK they must (1) inform their council of their intention to adopt in the UK and (2) make an application to an UK court. The court will give the same consideration to the application as it would in a domestic application. An important effect of an adoption order made in the UK is that the child will automatically receive British citizenship provided that at least one of the adoptive parents is a British citizen at the time the UK adoption order is made.

It is important that applicants are aware of the legal requirements in the UK from the time they begin the adoption process. They need to ensure that all necessary evidence about the adoption made in the child's country is obtained before the child comes to the UK and while contact with agents and authorities in that country is still ongoing. It is unlikely that they will be able to obtain information after the adoption process in the child's country of residence is completed.

D.

#### *De facto dependent*

A child who has been adopted, not necessarily legally, by a person or persons who have been ordinarily resident abroad for a substantial period of time. The child will be so integrated in the family that he can be considered to be an adopted child.

#### Designated and non-designated countries

The effect of an adoption order made in a designated country is that the adoption order is recognised under UK law. The full list of designated countries is set out in annex B.

Countries which do not appear in annex B are classified as non-designated countries which means that the effects of adoption orders made in those countries are not recognised in the UK.

Where a child is adopted from a non-designated country and is brought to the UK, the placement is treated as a private foster arrangement (Schedule 8, paragraph 5 The Children Act 1989) until the adopters notify the council of their intention to adopt in the UK, then the child becomes a protected child under Section 32 of the 1976 Adoption Act. The council is responsible for the investigation and the preparation of a Schedule 2 report for the court.

## Domiciled

The country in which a person is deemed to be domiciled is the country that the person treats as their permanent home and to which they have their closest legal ties.

E.

## Entry clearance

The British Embassies/High Commissions/Consulates are responsible for considering entry clearance applications to obtain a visa and enable adopted children to settle in the UK. The ECO may wish to interview the birth parent(s) and also the child, according to their age and understanding, to ascertain their views on the proposed adoption and to be satisfied that the birth parent(s) have consented to the proposed adoption. The Entry Clearance Officer (ECO) is a civil servant working in a British Diplomatic Post overseas who also deals with immigration rules, which are the responsibility of the Home Office. The ECO will ensure that immigration requirements are met and, where the child has been adopted in a non-designated country, that additional information required by the Health Departments is also provided.

## Embassies - Foreign

The foreign embassies based in the UK are involved in processing intercountry adoption applications although the extent can vary between countries. They may:

- Offer advice on their country's law and requirements.
- Confirm the 'legality' of the FCO's legalisation certificate.
- Arrange for the translation of adoption documents.
- In some cases, forward applications direct to their home country for processing.

F.

## Foreign and Commonwealth Office - FCO

The FCO's Legalisation Office legalises the Civil Servant's signature on the Certificate of Eligibility and embosses all the adoption application documents. Legalisation simply means confirming that a signature, seal or stamp appearing on a document is genuine. It does not confirm that a document is true and accurate. The FCO also provides DH with advice concerning changes of law, governments, *etc.* abroad where these might have an impact on intercountry adoption.

H.

Hague Convention - The Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29 May 1993.

The Hague Convention is essentially a framework setting out minimum standards for the process of intercountry adoption to work in the best interests of the children concerned and to enable countries to absorb its Articles within their own law. The Convention is underpinned by the 1989 United Nations Convention on the Rights of the Child which set out principles concerning the rights of children and included reference to adoption where a child cannot live with his or her own birth parents.

The Adoption (Intercountry Aspects) Act 1999 will enable the United Kingdom to ratify the Hague Convention by January 2002.

### Home Health Department

The Home Health Departments, sometimes called Lead Departments are:

England - Department of Health

Scotland - Scottish Executive

Wales - Welsh Assembly

Northern Ireland - Department of Health, Social Services and Public Safety

Jersey - States of Jersey Health and Social Services

Guernsey (including Alderney) - States of Guernsey Children Board

Isle of Man Government - Department of Health and Social Security

L.

### Legalisation

Legalisation is the process whereby an authority confirms that a signature, seal or stamp appearing on a document is genuine. In addition to legalising the documents at the FCO most countries ask for the documents to be legalised at their Embassy in London.

N.

### Notarised

Overseas governments, central adoption authorities, courts etc ask for documents to be authenticated. This involves having the documents notarised by a Notary Public. A Notary Public is someone who attests documents to be original or true copies of the original. The notarised documents then have to be legalised at the Foreign and Commonwealth Office.

P

### Prospective adopter

A prospective adopter is an approved adopter, who is waiting for a child to be matched with him/her. However, prospective adopters who adopt from non-designated countries have a different status once they return to this country with a child. They are regarded as private foster parents until the making of the adoption order.

### Public Funds

For immigration purposes, 'public funds' currently means:

- housing under the homeless legislation
- attendance allowance, severe disablement allowance, invalid care allowance and disability living allowance
- income support
- Working Families tax credit
- Council tax benefit
- disability working allowance
- housing benefit
- child benefit
- Jobseeker's allowance

Please note that the list of public funds which are taken into account for immigration purposes may change.

V.

### Voluntary Adoption Agencies

Voluntary adoption agencies (VAAs) in England are approved by the Secretary of State for Health to provide an adoption service which includes the assessment of applicants as to their suitability to become adoptive parents. Four VAAs in England currently provide an intercountry adoption service independently.

## *Annex E – Useful addresses and telephone numbers*

### *Home Office*

For information about  
immigration matters:

Home Office  
Immigration and Nationality  
Directorate  
Block C  
Whitgift Centre  
CROYDON CR9 1AT  
Tel: 0870 606 7766

For information about  
nationality matters:

Home Office  
Nationality Directorate  
3rd Floor  
India Buildings  
Water Street  
LIVERPOOL L2 0QN  
Tel: 0151 237 5200

### *Health Departments*

For information about adoption law and procedures:

England:  
Social Care Group  
Adoption & Permanence  
Department of Health  
Wellington House  
133-155 Waterloo Road  
LONDON  
SE1 8UG  
Tel: 0207 972 4014

Scotland:  
Children and Young People Group  
(Division 3-1)  
The Scottish Executive  
Area 2B-S, Victoria Quay  
EDINBURGH  
EH6 6QQ  
Tel: 0131 244 5443

Wales:  
Children and Families Division  
National Assembly for Wales  
Cathays Park  
CARDIFF CF10 3NQ  
Tel: 029 2082 3668

Northern Ireland:  
Child Care Unit  
Department of Health, Social  
Services and Public Safety  
Dundonald House  
Upper Newtownards Road  
BELFAST BT4 3SF  
Tel: 028 9052 4762

### *British Agencies for Adoption and Fostering (BAAF)*

For medical forms and information about adoption:

British Agencies for Adoption  
and Fostering (BAAF)  
Skyline House  
200 Union Street  
LONDON SE1 0LY  
Tel: 0207 593 2000

## *Annex F – Reference list*

### **PRIMARY LEGISLATION**

The Adoption Act 1976 consolidated the law on adoption as found in the Adoptions Acts of 1958, 1960, 1964 and 1968 and the Children Act 1975. The Adoption Act 1976 came into force on 1 January 1988. The 1976 Act has been amended by:

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- Domestic Proceedings and Magistrates' Courts Act 1978
- Magistrates' Courts Act 1980
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- Mental Health Act 1983
- County Courts Act 1984
- Matrimonial and Family Proceedings Act 1984
- Social Security Act 1986
- Hong Kong (British Nationality) Order 1986
- Family Law Act 1986 (This Act does not amend the Adoption Act 1976 but makes reference to it)
- Family Law Reform Act 1987
- Social Security Act 1988
- Children Act 1989
- Courts and Legal Services Act 1990
- National Health Service and Community Care Act 1990
- Human Fertilisation and Embryology Act 1990
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- Health Authorities Act 1995
- The Trusts of Land and Appointment of Trustees Act 1996
- The Adoption (Intercountry Aspects) Act 1999
- Access to Justice Act 1999 (*This Act does not amend the Adoption Act 1976 but makes reference to it*)
- Care Standards Act 2000
- The Local Government Act 2000

### **SECONDARY LEGISLATION**

- Adoption (Designation of Overseas Adoptions) Order 1973 (SI 1973 No 19)
- Forms of Adoption Entry Regulations 1975 (SI 1975 No 1959)
- Convention Adoption (Austria and Switzerland) Order 1978 (SI 1978 No 1431)
- Convention Adoption (Miscellaneous Provisions) Order 1978 (SI 1978 No 1432)
- Adoption Agencies Regulations 1983 (SI 1983 No 1964) amended by:
  - Adoption Agencies and Children (Arrangements for Placement and Review)(Miscellaneous Amendments) Regulations 1997 (SI 1997 No 649)

- The Children (Protection from Offenders)(Miscellaneous Amendments) Regulations 1997 (SI 1997 No 2308)
- The Children (Protection from Offenders)(Amendments) Regulations 1999 (SI 1999 No 2768)
- Adoption Rules 1984 (SI 1984 No 265)
- Magistrates' Courts (Adoption) Rules 1984 (SI 1984 No 611)
- Adopted Persons (Birth Records) Regulations 1991 (SI 1991 No 1981)
- Adopted Persons (Contact Register) (Fees) Rules 1991 (SI 1991 No 952)
- Adoption Allowances Regulations 1991 (SI 1991 No 2030) amended by
  - Adoption Allowances (Amendment) Regulations 1991 (SI 1991 No 2130)
- Family Proceedings Rules 1991 (SI 1991 No 1247)
- Adoption (Intercountry Aspects) Act 1999: Commencement Order No 1
- Adoption (Intercountry Aspects) Act 1999: Commencement Order No 2
- Adoption (Intercountry Aspects) Act 1999: Commencement Order No 3
- Adoption (Intercountry Aspects) Act 1999: Commencement Order No 4
- Adoption of Children from Overseas Regulations 2001
- Adoption of Children from Overseas (Wales) Regulations 2001 (SI 2001 No 1272 (W 71))

## **GOVERNMENT PUBLICATIONS**

A complete list of current Department of Health circulars and guidance - LAC, CI and LASSL - can be viewed from <http://www.doh.gov.uk/coinh.htm>. Department publications are listed on <http://www.doh.gov.uk/publications/point.html>

## **LOCAL AUTHORITY CIRCULARS (LAC)**

- LAC(84)3 & WOC 3/84 - Adoption Agencies Regulations 1983
- LAC(84)10 & WOC 25/84 - Adoption Court Rules
- LAC(87)8 & WOC 35/87 - Adoption Act 1976: Implementation
- LAC(91)9 & WOC 23/91 - Children Act 1989: Adoption Contact Register
- LAC 93(17) & WOC 54/93 - Protection of Children: Disclosure of Criminal Background of Those With Access to Children
- LAC(97)13 & WOC 33/97 - Adoption Agencies and Children (Arrangements for Placement and Review)(Miscellaneous Amendments) Regulations 1997
- LAC(97)17 & WOC 55/97 - Guidance to the Children (Protection From Offenders)(Miscellaneous Amendments) Regulations 1997
- LAC(98)20 & NAFWC 6/99 - Adoption - Achieving The Right Balance
- LAC(99)29 - Care Plans and Care proceedings under the Children Act 1989
- LAC(99)35 - (1) Guidance to the Children (Protection From Offenders)(Amendments) Regulations 1999 (2) Adoption (Intercountry Aspects) Act 1999: Commencement Order (see also NAFWC 11/00)
- LAC(2000)16 - Prime Minister's Review of Adoption: Report from the Performance and Innovation Unit
- LAC(2000)20 & NAFWC 28/00 - Guidance for local authorities on preparing for the transfer of the guardian ad litem and reporting officer (GALRO) service to CAFCASS

## **CHIEF INSPECTOR LETTERS (CI)**

- CI(90)2 - Issues of Race and Culture in the Family Placement of Children
- CI(90)17 - Adoption of Children from Overseas (and letter of 2/10/90 in Wales)
- CI(91)14 - Adoption of Children from Overseas (and letter of 9/7/91 in Wales)
- CI(93)15 and letter of 5/4/93 in Wales - (1) Adoption from Romania (2) The People's Republic of China (Part 1 has been superseded)
- CI(96)4 and CI/96/1 (Wales) - Adoption
- CI(99)6 - Care Proceedings: Amendments to LAC(98)20
- CI(99)7 - Meeting the Challenge of Changes in Adoption: Inspection of Voluntary Adoption Agencies
- CI(99)21 - Messages from Research - Adoption Now
- CI(2000)7 - LAC(98)20: 'Adoption - Achieving The Right Balance' - Response to issues arising from SSI survey of Local Authority Social Service Departments' Implementation of the Circular
- CI(2000)16 - Intermediary Services for Birth Relatives (letter of 13/9/2000 in Wales)
- CI(2000)22 "Adopting Changes": Survey and Inspection of councils' Adoption Services"

## **LOCAL AUTHORITY SOCIAL SERVICES LETTER (LASSL)**

- LASSL(200)17 - Consultation on Draft National Standards on Adoption

## **PUBLICATIONS**

- Adoption Now - Messages from Research - 1999
- Intermediary services for birth relatives document: practice guidelines - 2000
- The White Paper *Adoption: a new approach*

## **INTERNATIONAL CONVENTIONS/ AGREEMENTS ETC**

- Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees relating to Adoptions - 1965 (UK ratified 24 August 1978)
- European Convention on the Adoption of Children - 1967 (UK ratified 21 December 1967)
- Hague Conference on Private International law - Convention on the Civil Aspects of International Child Abduction - 1980
- European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children - 1980
- European Convention on Human Rights - 1986
- United Nations Declaration on Social and legal Principles Relating to the protection and Welfare of Children, with special reference to Foster Placement and Adoption, Nationally and Internationally - 1986
- United Nations - Convention on the Rights of the Child 20 November 1989 (UK ratified December 1991)

- Hague Conference on Private International law - Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption 29 May 1993
- European Parliament Resolution on Improving the Law and Co-operation between the Member States on the Adoption of Minors - 12 December 1996

## **Annex G – VAAs which work independently on intercountry adoption**

Childlink  
10 Lion Yard  
Tremadoc Road  
Clapham North  
LONDON SW4 7NQ

The Doncaster Adoption and Family  
Welfare Society Ltd  
Jubilee House  
1 Jubilee Road  
Wheatley  
DONCASTER DN1 2UE  
Tel: 01302 349909

Norwood Jewish Adoption Society  
Broadway House  
80-82 The Broadway  
Stanmore  
Middlesex HA7 4HB  
Tel: 020 8954 4555  
email: [norwoodravenswod @nwrw.org](mailto:norwoodravenswod@nwrw.org)  
[www.nwrw.org](http://www.nwrw.org)

Parents And Children Together  
FREEPOST (SCE6005)  
Reading  
RG1 4ZR  
Tel: 0800 731 1845  
email: [info@pactacharity.org](mailto:info@pactacharity.org)  
[www.pactcharity.org](http://www.pactcharity.org)