
Child Trust Funds Draft Regulations

Consultation Response

Please contact

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The British Association for Adoption and Fostering (BAAF Adoption & Fostering) is the leading charity and membership organisation in fostering and adoption in the UK, we:

- promote the highest standards of child-centred policies and services
- speak out on behalf of looked-after children
- influence UK-wide policy and legislation
- provide much-needed information and advice
- promote greater public understanding of adoption and fostering
- support our members in their work

BAAF's main activities are the development, promotion and advocacy of best policy and practice; the provision of advice and information to our members and to the general public; training, consultancy and seminars; child placement services including the publication of our flagship monthly newspaper, *Be My Parent*. We also publish a quarterly professional journal, *Adoption and Fostering*, books and guides for professionals, academics, parents and carers and research studies. The main users of our services are our members comprising local authorities across England, Scotland and Wales, voluntary adoption agencies, independent fostering agencies and also individual social work, legal and medical professionals and carers. We are currently developing our service to Northern Ireland.

We appreciate the opportunity to comment on proposals for the working of Child Trust Funds. Our comments are limited to the possible consequences for children looked after by local authorities, adopted, or otherwise separated from their original families.

1. Change of "responsible person"

Regulation 5 provides for the opening of an account by a responsible person and Regulation 6 for the opening of an account by Inland Revenue in certain circumstances. It is not clear what mechanism is proposed for dealing with a change of responsible person. Presumably in many cases this could be dealt with straightforwardly by notification to the account provider but this supposes that the responsible person who is relinquishing this responsibility is in agreement. It is possible to envisage a number of scenarios where there is no such agreement.

- a) the opening of a CTF for a child of married parents where it is agreed that, say, the father should be nominated as the responsible person. Some years later the parents separate acrimoniously and the child continues to live with the mother who wishes to become the responsible person but is unable to obtain the father's agreement. A similar situation could arise where, say, a relative acquires a residence order in favour of the child and parental responsibility is shared between the parents and the relative.

- b) a CTF has already been opened with a parent as the responsible person and the child then starts to be looked after by the local authority (and therefore figures in the local authority returns under Regulation 33). The parent retains parental responsibility and on the face of it could continue as the responsible person but circumstances could arise where it appears to the local authority that she is not taking any part or playing any useful part in the running of the fund. Is it envisaged that there should be some provision to require her to agree to the substitution of the Official Solicitor as the responsible person in these circumstances?
- c) The situation outlined in (b) above is further complicated where a child looked after by a local authority is placed for adoption and, eventually adopted. Under current law the adoptive parent will acquire parental responsibility on the making of the adoption order and, again, presumably it will be possible for the adoptive parent then to become the responsible person in place of the birth parent or the Official Solicitor. When the Adoption & Children Act 2002 comes into Force in England and Wales, the prospective adopter will acquire parental responsibility as soon as the child is placed for adoption and this scenario may need to be considered also.

2. Returns to be submitted by the local authority under Regulation 33.

It is not absolutely clear whether this Regulation is intended to cover all children looked after for however short a period. Clearly Regulation 33(2) and (3) would cover any child who happened to be looked after on the appointed day even if he or she ceased to be looked after shortly afterwards. Regulation 33(4) refers to a child who during a return period "has become" a looked after child for the first time since the appointed day. Is the use of the phrase "has become" intended to exclude children who start to be looked after during a return period but cease to be looked after before the end of the same period? If it is intended to refer to any child who starts to be looked after during the period then this should be made clear. If it is not, ie it does refer only to a child who remains looked after at the end of the return period, then there is a risk that some children who are looked after who should be covered will not be so covered. This would occur if a child started to be looked after for the first time during one accounting period, but then went home again within that same period, and then at a later date started to be looked after on a longer term basis; he would not of course then be looked after "for the first time."

3. We have concerns also about the administrative burden placed on local authorities in respect of these notifications. While it is important that children looked after by local authorities are not disadvantaged, it is necessary to balance the costs of supplying the returns against the potential benefit to the children concerned.

4. Confidentiality and adoption. Adoption legislation makes provision restricting the ability of anyone except the adopted person, the adoptive parents, the adoption agency, the Registrar General and the court to make the link between the adopted child's new identity and his or her former identity

before the making of the adoption order. It may be necessary to consider the implications of the fact that the account provider will presumably be privy to this confidential information, and whether specific duties to preserve this confidentiality need to be included.

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