

**2019 No. (W.)**

**SOCIAL CARE, WALES**

**The Local Authority Adoption  
Services (Wales) Regulations 2019**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 9 of the Adoption and Children Act 2002 Act provides that regulations may make provision for any purpose relating to (a) the exercise by local authorities or voluntary adoption agencies of their functions in relation to adoption, or (b) the exercise by adoption support agencies of their functions in relation to adoption. The power to make regulations under section 9 is not limited by the specific powers in sections 10 to 12, 45, 54 and 56 to 65 and 98 nor by any other powers exercisable in respect of local authorities.

These Regulations impose requirements on local authority adoption service providers, referred to in these Regulations as “service providers”. A local authority adoption service is referred to in these Regulations as a “service”.

Part 1 of these Regulations contains definitions of certain terms used in the Regulations. “Support” includes the support which a service is required to provide in the course of making arrangements for adoption or after adoptions have been arranged, as well as the adoption support services which the service provides or arranges to provide.

Part 2 outlines the general requirements which apply to service providers as to the way in which the service is provided, including requirements in relation to the statement of purpose (Schedule 1 sets out the information to be included in the statement of purpose), the arrangements for monitoring and improvement and the requirement to appoint a manager to be responsible for the management of the service. Part 2 also sets out the policies and procedures which must be in place.

Part 3 deals with the requirements as to the information to be provided to individuals on the

commencement of the provision of support. Regulation 12 requires that this information must be in the form of a written guide and sets out detailed requirements about the guide, including its contents and format.

Part 4 contains requirements as to the standards of support to be provided. These include overarching requirements as well as more detailed requirements relating to the provision of information, meeting individuals' language and communication needs and treating individuals with respect and sensitivity.

Part 5 contains specific requirements in relation to ensuring individuals are safe and protected from abuse, neglect and improper treatment. As well as requiring policies and procedures to be in place in relation to safeguarding, the regulations in this Part place specific requirements as to the action to be taken in the event of an allegation or evidence of abuse.

Part 6 contains requirements as to staffing, which include general requirements as to the deployment of sufficient numbers of staff.

Part 6 also contains specific requirements as to the fitness of individuals working at the service. These requirements apply not just to employees but extend also to volunteers and to other persons working at the service. The fitness requirements include a requirement for specific information and documentation to be available in respect of persons working in services, as set out in Schedule 2.

Other requirements contained in Part 6 include requirements relating to supporting and developing staff, providing information to staff and the operation of a suitable disciplinary procedure. To ensure that employees report incidents of abuse to an appropriate person, the regulations in this Part require the provider's disciplinary procedure to provide that a failure to report would itself be grounds for disciplinary proceedings.

Part 7 ensures that premises to be used in relation to services are adequate for the supervision of staff and secure storage of records.

Part 8 sets out the requirement to keep records in respect of the service and Schedule 3 sets out the records which are required to be kept. Part 8 also contains requirements on the service provider to have a complaints policy and a whistleblowing policy in place.

Parts 9 to 12 contain the requirements placed on the manager employed by the service.

Part 9 sets out the requirements on managers which related to the effective oversight of the adequacy of resources and making reports to the service provider

on the adequacy of the resources and on other matters. The manager is required to make arrangements for engagement with individuals and others so that their views on the quality of support can be taken into account by the service provider.

Part 10 sets out the requirements on the manager for ensuring the compliance of the service with other requirements including the keeping of records. The manager must also put arrangements in place for ensuring that there are systems in place to record incidents and complaints and ensuring that policies and procedures are kept up to date.

Part 11 sets out the requirements in relation to monitoring, reviewing and improving the quality of support provided, including making a report to the service provider.

Part 12 sets out other requirements on the manager, including requirements to ensure that the whistleblowing policy is being complied with.

Part 13 covers other requirements on service providers and includes a requirement to have a strategy in place for the recruitment of sufficient numbers of adopters and to provide prospective adopters with information about the adoption process.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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I N S T R U M E N T S

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**2019 No. (W. )**

**SOCIAL CARE, WALES**

**The Local Authority Adoption  
Services (Wales) Regulations 2019**

*Made* 17 February 2019

*Laid before the National Assembly for Wales*  
19 February 2019

*Coming into force* 29 April 2019

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The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 9(1) and (3), and 10 of the Adoption and Children Act 2002(1).

## PART 1

### General

#### **Title and commencement**

1.—(1) The title of these Regulations is the Local Authority Adoption Services (Wales) Regulations 2019.

(2) These Regulations come into force on 29 April 2019.

#### **Interpretation**

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Adoption and Children Act 2002;

“the 2016 Act” (“*Deddf 2016*”) means the Regulation and Inspection of Social Care (Wales) Act 2016(2);

“adoption support services” (“*gwasanaethau cymorth mabwysiadu*”) has the meaning given in

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(1) 2002 c. 38; section 144(1) of the Act defines “regulations” as meaning regulations made by the appropriate Minister, unless they are required to be made by the Lord Chancellor, the Secretary of State or the Registrar General. Section 144(1) defines “appropriate Minister” in relation to Wales as meaning the National Assembly for Wales. The power conferred on the National Assembly for Wales to make regulations under the Act transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(2) 2016 anaw 2.

section 2(6) of the Act and regulation 3 of the Adoption Support Services (Local Authorities) (Wales) Regulations 2005(1);

“DBS certificate” (“*tystysgrif GDG*”) means a certificate of a type referred to in paragraph 2 or 3 of Schedule 2;

“Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) and “DBS” (“*GDG*”) mean the body formed by section 87(1) of the Protection of Freedoms Act 2012(2);

“employee” (“*cyflogai*”) has the same meaning as in section 230(1) of the Employment Rights Act 1996(3);

“individual” (“*unigolyn*”) means, unless the context indicates otherwise—

- (a) a child who may be adopted, their parent or guardian,
- (b) a person wishing to adopt a child, or
- (c) an adopted person, their parent, birth parent or former guardian,

who is receiving support of the type which a local authority adoption service is required to provide in accordance with the Adoption Agencies (Wales) Regulations 2005(4) or the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005(5), or

- (d) any person receiving adoption support services;

“local authority adoption service” (“*gwasanaeth mabwysiadu awdurdod lleol*”) means the discharge by a local authority of the functions under the Act of making or participating in arrangements for the adoption of children or the provision of adoption support services;

“local authority in England” (“*awdurdod lleol yn Lloegr*”) means—

- (a) a county council in England,
- (b) a district council for an area in England for which there is no county council,
- (c) a London borough council, or
- (d) the Common Council of the City of London;

“reasonable adjustments” (“*addasiadau rhesymol*”) means such reasonable adjustments as would be required under the Equality Act 2010(6);

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(1) S.I. 2005/1512 (W. 116).  
(2) 2012 c. 9.  
(3) 1996 c. 18.  
(4) S.I. 2005/1313 (W. 95).  
(5) S.I. 2005/2689 (W. 189).  
(6) 2010 c. 15, section 20.



“representative” (“*cynrychiolydd*”) means any person having legal authority, or the consent of the individual, to act on the individual’s behalf;

“the service” (“*y gwasanaeth*”) means the local authority adoption service;

“service provider” (“*darparwr gwasanaeth*”) means the local authority providing the local authority adoption service;

“service regulator” (“*y rheoleiddiwr gwasanaethau*”) means the Welsh Ministers in the exercise of their regulatory functions as defined in section 3(1)(b) of the 2016 Act;

“social care manager” (“*rheolwr gofal cymdeithasol*”) has the meaning given in section 79(1)(b) of the 2016 Act;

“Social Care Wales” (“*Gofal Cymdeithasol Cymru*”) has the meaning given in section 67(3) of the 2016 Act;

“staff” (“*staff*”) includes—

- (a) persons employed by the service provider to work at the service as an employee or a worker, and
- (b) persons engaged by the service provider under a contract for services,

but does not include persons who are allowed to work as volunteers;

“statement of purpose” (“*datganiad o ddiben*”) means the document containing the information which must be provided in accordance with Schedule 1 for the place in relation to which the service is provided;

“worker” (“*gweithiwr*”) has the same meaning as in section 230(3) of the Employment Rights Act 1996.

(2) In these Regulations, where used in relation to the support provided to an “individual” as defined in this regulation, “support” includes—

- (a) the support which a local authority adoption service is required to provide to individuals in the course of arranging an adoption or after an adoption has been arranged in accordance with the Adoption Agencies (Wales) Regulations 2005 or the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005, or

- (b) the adoption support services which a local authority provides or arranges to provide<sup>(1)</sup>.

## PART 2

### General requirements on service providers

#### **Requirements in relation to the provision of the service**

3. The service provider must ensure that the service is provided with sufficient care, competence and skill, having regard to the statement of purpose.

#### **Content of statement of purpose**

4. The service provider must prepare a statement of purpose which contains the information listed in Schedule 1.

#### **Requirements in relation to statement of purpose**

5.—(1) The service provider must provide the service in accordance with the statement of purpose.

(2) The service provider must—

- (a) keep the statement of purpose under review, and
- (b) where appropriate, revise the statement of purpose.

(3) Unless paragraph (4) applies, the service provider must notify the persons listed in paragraph (6) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

(4) This paragraph applies in cases where it is necessary to revise the statement of purpose with immediate effect.

(5) If paragraph (4) applies, the service provider must, without delay, notify the persons listed in paragraph (6) of any revision made to the statement of purpose.

(6) The persons who must be notified of any revision to the statement of purpose in accordance with paragraph (3) or (5) are—

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(1) Section 3(4) of the Act provides that a local authority may provide any of the requisite facilities by securing their provision by (a) registered adoption societies, or (b) other persons who are within a description prescribed by regulations of persons who may provide the facilities in question. "Facilities" include making arrangements for the provision of adoption support services (section 3(2)(b)). Regulation 5 of the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 prescribes, for the purposes of section 3(4)(b), persons other than registered adoption societies who may provide the requisite facilities.

- (a) the service regulator;
- (b) individuals;
- (c) any representatives, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

(7) The service provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

### **Requirements in relation to monitoring and improvement**

6.—(1) The service provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of the service.

(2) Those arrangements must include arrangements for seeking the views of—

- (a) individuals;
- (b) any representatives, unless this is not appropriate or would be inconsistent with the individual's well-being;
- (c) any other local authority or local authority in England which has arranged for the provision of adoption support services by the service;
- (d) staff,

on the quality of the service and how this can be improved.

(3) When making any decisions on plans for improvement of the quality of the service, the service provider must—

- (a) take into account the views of those persons consulted in accordance with paragraph (2), and
- (b) have regard to the quality of service report prepared by the manager in accordance with regulation 39(4).

### **Requirement to appoint a manager**

7.—(1) Each service provider must appoint one of its officers to be responsible for the management of the service.

(2) The service provider must immediately give notice in writing to the service regulator of—

- (a) the name of the person appointed as manager, and
- (b) the date on which the appointment is to take effect.

(3) The service provider must notify the service regulator in writing if the person appointed under paragraph (1) ceases to manage the service.

### **Fitness requirements for appointment of manager**

8.—(1) The service provider must not appoint a person to manage the service unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 22(2) (fitness of staff) are met in respect of that person.

### **Other requirements in relation to the manager**

9.—(1) A service provider must ensure that the person who is appointed as the manager—

- (a) is supported to carry out their duties effectively, and
- (b) undertakes appropriate training.

(2) The service provider must ensure that the manager complies with the requirements of Parts 9 to 12 (duties to be carried out by the manager).

(3) In the event that the service provider has reason to believe that the manager has not complied with a requirement imposed by the regulations in Parts 9 to 12, the service provider must take such action as is necessary to ensure that the requirement is complied with.

(4) The service provider must put suitable arrangements in place to ensure that the service is managed effectively at any time when there is no manager appointed or when the manager is absent from the service.

### **Requirements to provide the service in accordance with policies and procedures**

10.—(1) The service provider must ensure that the following policies and procedures are in place for the service—

- (a) safeguarding (see regulation 19);
- (b) supporting and developing staff (see regulation 23);
- (c) staff discipline (see regulation 25);
- (d) complaints (see regulation 31);
- (e) whistleblowing (see regulation 32).

(2) The service provider must also have such other policies and procedures in place as are reasonably necessary to support the aims and objectives of the service set out in the statement of purpose.

(3) The service provider must ensure that the content of the policies and procedures which are required to be in place by virtue of paragraphs (1) and (2) is—

- (a) appropriate to the needs of individuals for whom support is provided,

- (b) consistent with the statement of purpose, and
- (c) kept up to date.

(4) The service provider must ensure that the service is provided in accordance with those policies and procedures.

### **Duty of candour**

**11.** The service provider must act in an open and transparent way with—

- (a) individuals;
- (b) any representatives of those individuals.

## **PART 3**

Requirements on service providers as to the information to be provided to individuals on commencement of the provision of support

### **Information about the service**

**12.**—(1) The service provider must prepare a written guide to the service.

(2) The guide must be—

- (a) dated, reviewed at least annually and updated as necessary;
- (b) in an appropriate language, style, presentation and format, having regard to the statement of purpose for the service;
- (c) given to any individual who is receiving support;
- (d) made available to others on request, unless this is not appropriate or would be inconsistent with the well-being of an individual.

(3) The guide must contain information about—

- (a) how to raise a concern or make a complaint;
- (b) the availability of advocacy services;
- (c) the role and contact details for the Children's Commissioner for Wales.

(4) The service provider must ensure that an individual receives such assistance as is necessary to enable the individual to understand the information contained in the guide.

### **Service agreement**

**13.**—(1) The service provider must ensure that every individual who receives support is given a signed copy of any agreement relating to—

- (a) the support provided to the individual;

(b) any other services provided to the individual.

(2) The service provider must ensure that the individual receives such assistance as is necessary to enable the individual to understand the information contained in any such agreement.

## PART 4

### Requirement on service providers as to the standards of support to be provided

#### **Standards of support – overarching requirements**

**14.**—(1) The service provider must ensure that support is provided in a way which protects, promotes and maintains the safety and well-being of individuals.

(2) The service provider must ensure that support is provided in a way which—

- (a) maintains good personal and professional relationships with individuals and staff, and
- (b) encourages and assists staff to maintain good personal and professional relationships with individuals.

#### **Information**

**15.**—(1) The service provider must put arrangements in place to ensure that an individual has the information they need to make or participate in assessments, plans and day to day decisions about the way support is provided to them.

(2) Information provided must be available in the appropriate language, style, presentation and format, having regard to—

- (a) the nature of the service as described in the statement of purpose;
- (b) the level of the individual's understanding and ability to communicate;
- (c) in the case of a child, the child's age.

(3) The service provider must ensure that the individual receives such assistance as is necessary to enable them to understand the information provided.

#### **Language and communication**

**16.** The service provider must take reasonable steps to meet the language and communication needs of an individual.

#### **Respect and sensitivity**

**17.**—(1) The service provider must ensure that individuals are treated with respect and sensitivity.

- (2) This includes, but is not limited to—
- (a) respecting the individual’s privacy and dignity;
  - (b) respecting the individual’s rights to confidentiality;
  - (c) promoting the individual’s autonomy and independence;
  - (d) having regard to any relevant protected characteristics (as defined in section 4 of the Equality Act 2010<sup>(1)</sup>) of the individual.

## PART 5

### Requirements on service providers – safeguarding

#### **Safeguarding - overarching requirement**

**18.** The service provider must provide the service in a way which ensures that individuals are safe and are protected from abuse, neglect and improper treatment.

#### **Safeguarding policies and procedures**

**19.—(1)** The service provider must have policies and procedures in place—

- (a) for the prevention of abuse, neglect and improper treatment, and
- (b) for responding to any allegation or evidence of abuse, neglect or improper treatment.

(2) In this regulation, such policies and procedures are referred to as safeguarding policies and procedures.

(3) The service provider must ensure that their safeguarding policies and procedures are operated effectively.

(4) In particular, where there is an allegation or evidence of abuse, neglect or improper treatment, the service provider must—

- (a) act in accordance with their safeguarding policies and procedures,
- (b) take immediate action to ensure the safety of all individuals for whom support is provided,
- (c) make appropriate referrals to other agencies, and
- (d) keep a record of any evidence or the substance of any allegation, any action taken and any referrals made.

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(1) 2010 c. 15.

## Interpretation of Part 5

20. In this Part—

“abuse” (“*camdriniaeth*”) means physical, sexual, psychological, emotional or financial abuse and, in relation to a child, any other harm.

For the purposes of this definition—

(a) “financial abuse” (“*camdriniaeth ariannol*”) includes—

(i) having money or other property stolen;

(ii) being defrauded;

(iii) being put under pressure in relation to money or other property;

(iv) having money or other property misused;

(b) “harm” (“*niwed*”) has the same meaning as in section 197(1) of the 2014 Act<sup>(1)</sup>;

“improper treatment” (“*triniaeth amhriodol*”) includes discrimination or unlawful restraint, including inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005<sup>(2)</sup>;

“neglect” (“*esgeulustod*”) has the same meaning as in section 197(1) of the 2014 Act.

## PART 6

Requirements on service providers as to staffing

### Staffing - overarching requirements

21.—(1) The service provider must ensure that at all times a sufficient number of suitably qualified, trained, skilled, competent and experienced staff are deployed to work at the service, having regard to—

(a) the statement of purpose for the service,

(b) the individuals’ need for support,

(c) assisting individuals to meet their need for support,

(d) the need to safeguard and promote the health and welfare of children, and

(e) the requirements of these Regulations.

(2) The service provider must ensure that suitable arrangements are made for the support and development staff.

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(1) “The 2014 Act” is defined in section 2(5) of the Act as the Social Services and Well-being (Wales) Act 2014 (anaw 4).

(2) 2005 c. 9.



## **Fitness of staff**

**22.**—(1) The service provider must not—

- (a) employ a person under a contract of employment to work at the service unless that person is fit to do so;
- (b) allow a volunteer to work at the service unless that person is fit to do so;
- (c) allow any other person to work at the service in a position in which that person may, in the course of duties, have regular contact with individuals who are receiving support or with other persons who are vulnerable unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—

- (a) the person is of suitable integrity and good character;
- (b) the person has the qualifications, skills, competence and experience necessary for the work that person is to perform;
- (c) the person is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks which are intrinsic to the work for which that person is employed or engaged;
- (d) the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters specified in Part 1 of Schedule 2 and this information or documentation is available at the service for inspection by the service regulator;
- (e) where the person is employed by the service provider to manage the service, from 1 April 2022, the person is registered as a social care manager with Social Care Wales.

(3) An appropriate DBS certificate must be applied for by, or on behalf of the service provider, for the purpose of assessing the suitability of a person for the post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as “the DBS update service”).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the service provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in accordance with paragraph (3) and thereafter further such applications must be made at least every three years.

(7) If any person working at the service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the service provider must—

- (a) take necessary and proportionate action to ensure that the relevant requirements are complied with;
- (b) where appropriate, inform—
  - (i) the relevant regulatory or professional body;
  - (ii) the Disclosure and Barring Service.

### **Supporting and developing staff**

**23.**—(1) The service provider must have a policy in place for the support and development of staff.

(2) The service provider must ensure that any person working at the service (including a person allowed to work as a volunteer)—

- (a) receives an induction appropriate to their role;
- (b) is made aware of their own responsibilities and those of other staff;
- (c) receives appropriate supervision and appraisal;
- (d) receives core training appropriate to the work to be performed by them;
- (e) receives specialist training as appropriate;
- (f) receives support and assistance to obtain such further training as is appropriate to the work they perform.

(3) The service provider must ensure that any person employed to work at the service as a manager is supported to maintain their registration with Social Care Wales.

### **Information for staff**

**24.**—(1) The service provider must ensure that all persons working at the service (including any person allowed to work as a volunteer) are provided with information about the service and the way it is provided.

(2) The service provider must ensure that there are arrangements in place to make staff aware of any codes of practice about the standards of conduct

expected of social care workers, which are required to be published by Social Care Wales under section 112(1)(a) of the 2016 Act.

### **Disciplinary procedures**

**25.**—(1) The service provider must put in place and operate a disciplinary procedure.

(2) The disciplinary procedure must include—

- (a) provision for the suspension, and the taking of action short of suspension, of an employee, in the interests of the safety or well-being of individuals;
- (b) provision that a failure on the part of an employee to report an incident of abuse, or suspected abuse, to an appropriate person, is grounds on which disciplinary proceedings may be instituted.

(3) For the purpose of paragraph (2)(b), an appropriate person is—

- (a) the service provider,
- (b) an officer of the service regulator,
- (c) an officer of the local authority for the area where the service is provided,
- (d) in the case of an incident of abuse or suspected abuse of a child, an officer of the National Society for the Prevention of Cruelty to Children, or
- (e) a police officer,

as the case may be.

## **PART 7**

### **Requirements on service providers as to premises**

#### **Overarching requirement**

**26.** The service provider must ensure that the premises are suitable for the service, having regard to the statement of purpose for the service.

#### **Adequacy of premises**

**27.** The service provider must ensure that the premises used for the operation of the service have adequate facilities for—

- (a) the supervision of staff;
- (b) the secure storage of records.

## PART 8

### Other requirements on service providers

#### Records

**28.**—(1) The service provider must keep and maintain the records specified in Part 1 of Schedule 3.

(2) The service provider must—

- (a) ensure that records specified in Part 1 of Schedule 3 are accurate and up to date;
- (b) keep the records securely;
- (c) make suitable arrangements for the records to continue to be kept securely in the event the service closes;
- (d) make the records available to the service regulator on request;
- (e) where an adoption order has been made in relation to a child, retain records relating to the child and the child's adopter for at least 100 years from the date of the adoption order;
- (f) where adoption support services are provided to an individual, retain records relating to the individual for at least 100 years from the date of the last entry;
- (g) in a case which does not fall within subparagraph (e) or (f) retain—
  - (i) records relating to adults for 3 years from the date of the last entry;
  - (ii) records relating to children for 15 years from the date of the last entry;
- (h) ensure that individuals who use the service—
  - (i) can have access to their records, and
  - (ii) are made aware they can access their records.

#### Notifications

**29.**—(1) The service provider must notify the service regulator of the events specified in paragraphs 1 and 2 of Schedule 4.

(2) The service provider must notify the local authority for the area in which the child is placed for adoption of the event specified in paragraph 1 of Schedule 4.

(3) The notifications required by paragraphs (1) and (2) of this regulation must include details of the event.

(4) Unless otherwise stated, notifications must be made without delay and in writing.

(5) Notifications must be made in such manner and in such form as may be required by the service regulator.

### **Conflicts of interest**

**30.** The service provider must have effective arrangements in place to identify, record and manage potential conflicts of interest.

### **Complaints policy and procedure**

**31.—(1)** The service provider must have a complaints policy in place and ensure that the service is operated in accordance with that policy.

(2) The service provider must have effective arrangements in place for dealing with complaints including arrangements for—

- (a) identifying and investigating complaints,
- (b) giving an appropriate response to a person who makes a complaint, if it is reasonably practicable to contact that person,
- (c) ensuring that appropriate action is taken following an investigation, and
- (d) keeping records relating to the matters in subparagraphs (a) to (c).

(3) The service provider must provide a summary of complaints, responses and any subsequent action taken to the service regulator within 28 days of being requested to do so.

(4) The service provider must—

- (a) analyse information relating to complaints and concerns, and
- (b) having regard to that analysis, identify any areas for improvement.

### **Whistleblowing**

**32.—(1)** The service provider must have arrangements in place to ensure that all persons working at the service (including any person allowed to work as a volunteer) are able to raise concerns about matters that may adversely affect the health, safety or well-being of persons for whom the service is provided.

(2) These arrangements must include—

- (a) having a whistleblowing policy in place and acting in accordance with that policy, and
- (b) establishing arrangements to enable and support people working at the service to raise such concerns.

(3) The service provider must ensure that the arrangements required under this regulation are operated effectively.

(4) When a concern is raised, the service provider must ensure that—

- (a) the concern is investigated,

- (b) appropriate steps are taken following an investigation, and
- (c) a record is kept relating to the matters in subparagraphs (a) and (b).

## PART 9

### Requirements on managers for ensuring effective oversight of the service

#### **Oversight of adequacy of resources**

**33.**—(1) The manager must report to the service provider on the adequacy of the resources available to provide the service in accordance with the requirements of these Regulations.

(2) Such reports must be made on a quarterly basis.

#### **Other reports to the service provider**

**34.** The manager must, without delay, report to the service provider—

- (a) any concerns about the provision of the service,
- (b) any significant changes to the way the service is managed or provided, and
- (c) any concerns that the service is not being provided in accordance with the statement of purpose for the service.

#### **Engagement with individuals and others**

**35.**—(1) The manager must put suitable arrangements in place for obtaining the views of—

- (a) individuals,
- (b) any representatives of those individuals,
- (c) staff employed at the service, and
- (d) any other local authority or local authority in England,

on the quality of support provided and how this can be improved.

(2) The manager must report on the views obtained so that these views can be taken into account by the service provider when making any decisions on plans for improvement of the quality of support provided by the service.

## PART 10

### Requirements on managers for ensuring the compliance of the service

#### **Duty to ensure there are systems in place to record incidents and complaints**

36. The manager must ensure that there are effective systems in place to record incidents, complaints and matters on which notifications must be made in accordance with regulation 29.

#### **Duty to ensure there are systems in place for keeping of records**

37. The manager must ensure that there are effective systems in place in relation to the records, which include systems for ensuring the accuracy and completeness of records which must be kept in accordance with regulation 28.

#### **Duty to ensure policies and procedures are up to date**

38. The manager must put suitable arrangements in place to ensure that the service provider's policies and procedures are kept up to date, having regard to the statement of purpose for the service.

## PART 11

### Requirements on managers for monitoring, reviewing and improving the quality of the service

#### **Quality of service review**

39.—(1) The manager must put suitable arrangements in place to establish and maintain a system for monitoring, reviewing and improving the quality of the service.

(2) The system established under paragraph (1) must make provision for the quality of the service to be reviewed as often as required but at least every 6 months.

(3) As part of any review undertaken, the manager must make arrangements for—

- (a) considering the outcome of the engagement with individuals and others, as required by regulation 35 (engagement with individuals and others);
- (b) analysing the aggregated data on incidents, notifiable incidents, safeguarding matters, whistleblowing, concerns and complaints;

- (c) reviewing any action taken in relation to complaints;
  - (d) considering the outcome of any audit of the accuracy and completeness of records.
- (4) On completion of a review of the quality of service in accordance with this regulation, the manager must prepare a report to the service provider which must include—
- (a) an assessment of the standard of support provided, and
  - (b) recommendations for the improvement of the service.

## PART 12

### Other requirements on managers

#### **Support for raising concerns**

**40.** The manager must ensure that the service provider’s whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service to raise such concerns are being operated effectively.

#### **Duty of candour**

**41.** The manager must act in an open and transparent way with—

- (a) individuals, and
- (b) any representatives of those individuals.

## PART 13

### Other requirements on service providers

#### **Prospective and approved adopters**

**42.** The service provider must—

- (a) have written plans on its strategy to recruit sufficient number of adopters;
- (b) have comprehensive plans for preparation and approval processes for adopters contained within its policies and procedures;
- (c) provide prospective adopters with written information about the adoption process including information about—
  - (i) the policy and procedures in respect of the adoption process;
  - (ii) arrangements for the assessment of and the provision of adoption support services;



- (iii) the Adoption Register for Wales and any other relevant national adoption register;
- (iv) local and regional arrangements;
- (d) provide assistance where disruption of a placement has occurred or is in danger of occurring, which includes the use of mediation and meetings.

## PART 14

### Miscellaneous amendment

#### **Amendment to the Adoption Support Services (Local Authorities) (Wales) Regulations 2005**

**43.**—(1) The Adoption Support Services (Local Authorities) (Wales) Regulations 2005(1) are amended as follows.

(2) In regulation 5—

(a) after paragraph (1)(b) insert—

“(bb) an individual falling within regulation 3(e) of the Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019(2).”;

(b) in paragraph (2), omit the words from “but in relation to” to the end.

*Julie Morgan*

Deputy Minister for Health and Social Services under authority of the Minister for Health and Social Services, one of the Welsh Ministers  
17 February 2019

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(1) S.I. 2005/1512 (W. 116).  
(2) S.I. 2019/xxx (W.xx).

## SCHEDULE 1

Regulations 2(1) and 4

### Information to be contained in a statement of purpose by a service provider

The statement of purpose provided by a service provider must contain the following information—

- (a) the name and principal address of the local authority;
- (b) the name and address of the manager;
- (c) a statement of the range of needs of the individuals for whom the service is to be provided;
- (d) how the service is to be provided to meet the needs of individuals and to support them to meet those needs;
- (e) details of the management and staff structure of the service;
- (f) details of the arrangements made to support the cultural, linguistic and religious needs of individuals;
- (g) details of how the service provider will meet individuals' language and communication needs, including through the medium of Welsh;
- (h) the aims and objectives of the service provider in relation to the service, including cases involving inter-country adoption;
- (i) the arrangements that the service provider has put in place to assess and make provision for adoption support services;
- (j) the relevant qualifications and experience of the manager;
- (k) the number, relevant qualifications and experience of the staff employed by the service provider for the purposes of the service;
- (l) the system in place to monitor and evaluate the provision of services to ensure that the services provided by the service provider are effective and the quality of the service is of an appropriate standard;
- (m) the procedures for recruiting, preparing, assessing, approving and supporting prospective adoptive parents;

- (n) details of the adoption support service advisor and the procedures for the assessment for and provision of adoption support services;
- (o) a summary of the complaints procedures established in accordance with the Representations Procedure (Wales) Regulations 2014<sup>(1)</sup>, the Social Services Complaints Procedure (Wales) Regulations 2014<sup>(2)</sup> and sections 171 and 172 of the 2014 Act<sup>(3)</sup>;
- (p) the address and telephone number of the service regulator.

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(1) S.I. 2014/1795 (W. 188).

(2) S.I. 2014/1794 (W. 187).

(3) "The 2014 Act" is defined in section 2(5) of the Act as the Social Services and Well-being (Wales) Act 2014 (anaw 4).

## SCHEDULE 2

Regulations 2(1) and 22

### PART 1

Information and documentation to be available  
in respect of persons working in a service

**1.** Proof of identity including a recent photograph.

**2.** Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997<sup>(1)</sup>, a copy of a valid criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006<sup>(2)</sup> (provision of barring information on request).

**3.** Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of a valid enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children (within the meaning of section 113BA(2) of that Act) or suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act).

**4.** Two written references, including a reference from the last employer, if any.

**5.** Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable verification of the reason why the employment or position ended.

**6.** Documentary evidence of any relevant qualification.

**7.** Where relevant, documentary evidence of registration with Social Care Wales.

**8.** A full employment history, together with a satisfactory written explanation of any gaps in employment.

**9.** Evidence of satisfactory linguistic ability for the purposes of providing support to those individuals for whom the worker is to provide support.

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(1) 1997 c. 50.

(2) 2006 c. 47. Sections 30 to 32 of the Safeguarding Vulnerable Groups Act 2006 as originally enacted are to be replaced by new sections 30A and 30B as a result of substitutions made by section 72(1) of the Protection of Freedoms Act 2012. Section 72(1) is to be commenced on a day to be appointed.

**10.** Details of registration with or membership of any professional body.

## PART 2

### Interpretation of Part 1

**11.** For the purposes of paragraphs 2 and 3 of Part 1 of this Schedule—

- (a) if the person to whom the certificate relates is not registered with the DBS update service, a certificate is only valid if—
  - (i) it has been issued in response to an application by the service provider in accordance with regulation 22(3) or (6) (fitness of staff), and
  - (ii) no more than three years have elapsed since the certificate was issued;
- (b) if the person to whom the certificate relates is registered with the DBS update service, the certificate is valid regardless of when it was issued.

PART 1

Records to be kept by service providers

1. In respect of each individual—

- (a) full name;
- (b) date of birth;
- (c) whether the person is—
  - (i) a child who may be adopted, their parent and guardian;
  - (ii) a person wishing to adopt a child;
  - (iii) an adopted person, their parent, birth parent, former guardian or related person;
- (d) description of support requested;
- (e) description of need for support along with any assessment of that need;
- (f) description of support provided;
- (g) whether the support is provided on behalf of a local authority under regulations made under section 3(4)(b) of the Act;
- (h) plans including—
  - (i) adoption support plans;
  - (ii) care and support plans;
  - (iii) placement plans;
- (i) reviews of plans referred to in sub-paragraph (h).

2. A record of any charges by the service provider to individuals for the provision of support and any additional services.

3. A record of all complaints made by individuals or their representatives or by persons working at the service about the operation of the service, and the action taken by the service provider in respect of any such complaint.

4. A record of all persons working at the service, which must include the following matters—

- (a) full name and home address;
- (b) date of birth;
- (c) qualifications relevant to, and experience of, working with individuals;
- (d) the dates on which the person commences and ceases to be so employed;
- (e) whether the person is employed by the service provider under a contract of service, a contract for services, or otherwise than under

- contract, or is employed by someone other than the service provider;
- (f) the position the person holds at the service, the work the person performs and the number of hours for which the person is employed each week;
  - (g) a copy of the person's birth certificate and passport (if any);
  - (h) a copy of each reference obtained in respect of the person;
  - (i) training undertaken by the person, supervision and appraisal;
  - (j) records of disciplinary action and any other records in relation to the person's employment;
  - (k) a record of the date of the person's latest DBS certificate and whether there was any action taken as a result of the content of the certificate.

## PART 2

### Interpretation of Part 1

5. For the purposes of paragraph 1 of Part 1 of this Schedule—

- (a) “related person” has the meaning given in regulation 2(1) of the Adoption Support Services (Local Authorities) (Wales) Regulations 2005;
- (b) an “adoption support plan” is the plan which sets out the adoption support services the local authority has decided to provide for the child and the adoptive family, how these will be provided and by whom (if applicable);
- (c) “care and support plan” means a plan for the child made under section 54 or section 83 of the 2014 Act;
- (d) “placement plan” has the meaning given in regulation 36(2) of the Adoption Agencies (Wales) Regulations 2005.

## SCHEDULE 4 Regulation 29

### Notifications by the service provider

1. Death of a child placed with prospective adopter where an adoption order has yet to be made.
2. Any referral to the DBS pursuant to the Safeguarding Vulnerable Groups Act 2006.