

NATIONAL ASSEMBLY FOR WALES

S T A T U T O R Y I N S T R U M E N T S

2003 No. (W.)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

The Local Authority Adoption
Service and Miscellaneous
Amendments (Wales) Regulations
2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Adoption Act 1976 (“the 1976 Act”) and the Care Standards Act 2000 (“the 2000 Act”) and apply to Welsh local authorities. They provide a new regulatory framework for local authority adoption services. Part II of the 2000 Act provides for the registration and inspection of establishments and agencies, including local authority adoption services, by the National Assembly for Wales (“the National Assembly”). Part III of the 2000 Act provides for the inspection of local authority services by the National Assembly. Parts II and III of the 2000 Act (so far as not already in force) will be brought into force in relation to local authority adoption services on 30th April 2003.

Regulations 3 and 4 provide that each local authority who provides an adoption service must have a statement of purpose setting out the aims and objectives of the service and a children’s guide. The service must be carried on in a manner which is consistent with the statement of purpose.

Part 2 makes provision about the persons managing the service, and require satisfactory information to be available in relation to the matters prescribed in Schedule 3.

Part 3 makes provision about the conduct of the service, staffing and fitness of workers, the suitability

of the premises and about complaints and record keeping

Part 4 deals with various amendments. Regulations 19 and 20 make the necessary amendments to the provisions in regulations concerning registration requirements and payment of fees in line with other establishments and agencies regulated under the 2000 Act. Regulation 21 changes the requirement that information be obtained about criminal convictions and cautions committed at the age of 18 or over, as opposed to over 18.

2003 No. (W.)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

The Local Authority Adoption
Service and Miscellaneous
Amendments (Wales) Regulations
2003

Made 2003

Coming into force 30th April 2003

ARRANGEMENT OF REGULATIONS

PART 1

GENERAL

1. Citation, commencement and application
2. Interpretation
3. Statement of Purpose
4. Children's Guide
5. Review of statement of purpose and children's guide

PART 2

MANAGERS

6. Appointment of manager
8. General requirements
9. Notification of offences

PART 3

**CONDUCT OF LOCAL AUTHORITY
ADOPTION SERVICE**

10. Arrangements for the protection of children
11. Staffing
12. Fitness of workers
13. Employment of staff
14. Staff disciplinary procedure

15. Arrangements for absence of manager
16. Records with respect to staff
17. Fitness of premises
18. Complaints

PART 4

MISCELLANEOUS AMENDMENTS

19. Amendments to the Registration of Social Care and Independent Health Care (Wales) Regulations 2002
20. Amendments to the Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002
21. Amendments to the Adoption Agencies Regulations 1983.

SCHEDULE 1

Information to be included in the statement of purpose

SCHEDULE 2

Information to be included in the children's guide

SCHEDULE 3

Information required in respect of persons seeking to manage or work for the purposes of an adoption service.

SCHEDULE 4

Records to be kept in relation to each person working for the purposes of the adoption service

The National Assembly for Wales in exercise of the powers conferred upon it by sections 9(3) and (3A) and 67(5) of the Adoption Act 1976(1) and of all the other powers enabling it on that behalf, hereby makes the following Regulations:—

PART 1 GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Authority Adoption Service and Miscellaneous Amendments (Wales) Regulations 2003 and shall come into force on 30th April 2003.

(2) These Regulations apply to Wales only.

Interpretation

2.—(1) In these Regulations—

“adoption service” (*“gwasanaeth mabwysiadu”*) means the discharge by a local authority of relevant adoption functions within the meaning of section 43(3)(a) of the Care Standards Act 2000(2) and in relation to a local authority, means the discharge by that authority of those functions;

“appropriate office” (*“swyddfa briodol”*) means in relation to a local authority adoption service –

- (a) if an office has been specified under paragraph (2) for the area in which the adoption service is situated, that office;
- (b) in any other case, any office of the National Assembly;

“children’s guide” (*“arweiniad plant”*) means the written guide produced in accordance with regulation 3;

(1) 1976 c.36. Section 9(3) of the Adoption Act 1976 (“the 1976 Act”) was amended by section 116 and paragraph 5(6)(c) of Schedule 4 to, the Care Standards Act 2000 (c.14) (“the 2000 Act”). These powers are exercisable by the appropriate Minister, who is defined in section 9(5) of the 1976 Act, in relation to Wales, as the National Assembly for Wales and in relation to England as the Secretary of State and in relation to England and Wales, as the Secretary of State and the National Assembly for Wales acting jointly. Section 9(5) of the Adoption Act 1976 was inserted by section 139(2) and paragraph 4(1)(b) of Schedule 4 to the Adoption and Children Act 2002 c. 38

(2) 2000 c.14

“guardian” (*“gwarcheidwad”*) has the meaning given to it in section 5 of the Children Act 1989⁽³⁾;

“manager” (*“rheolwr”*) shall be construed in accordance with regulation 6;

“National Assembly” (*“Cynulliad Cenedlaethol”*) means the National Assembly for Wales;

“statement of purpose” (*“datganiad oddiben”*) means the written statement compiled in accordance with regulation 3(1).

(2) The National Assembly may specify an office controlled by it as the appropriate office in relation to local authorities.

(3) In these Regulations, a reference –

- (a) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph, is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(4) In these Regulations, unless the contrary intention appears, references to employing a person include –

- (a) employing a person whether or not for payment;
 - (b) employing a person under a contract of service or a contract for services; and
 - (c) allowing a person to work as a volunteer;
- and references to an employee or to a person being employed shall be construed accordingly.

(5) These Regulations apply to local authorities in Wales only.

Statement of purpose

3.—(1) Each local authority must compile in relation to the adoption service a written statement (in these Regulations referred to as “the statement of purpose”) which shall consist of a statement as to the matters listed in Schedule 1.

(2) The authority must supply a copy of the statement of purpose to the National Assembly and shall make a copy of it available, upon request, for inspection by—

⁽³⁾ 1989 c.41.

- (a) children who may be adopted, their parents and guardians;
- (b) persons wishing to adopt a child;
- (c) adopted persons, their parents, natural parents and former guardians;
- (d) every person working for the purposes of the adoption service.

(3) Subject to paragraph (4), the authority must ensure that their adoption service is at all times conducted in a manner which is consistent with its statement of purpose.

(4) Nothing in paragraph (3) shall require or authorise the authority to contravene, or not comply with

any other provision of these Regulations .

Children’s guide

4.—(1) Each local authority must produce a written guide to the adoption service (in these Regulations referred to as “the children’s guide”) which shall consist of a statement as to the matters listed in Schedule 2.

(2) The authority shall provide a copy of the children’s guide to—

- (a) the National Assembly ;
- (b) every prospective adopter with whom the authority has placed a child for adoption; and
- (c) every child (subject to his age and understanding), who may be or has been placed for adoption by the authority.

Review of statement of purpose and children’s guide

5.— Each local authority must—

- (a) keep under review and, where appropriate, revise the statement of purpose and children’s guide; and
- (b) notify the National Assembly of any such revision within 28 days.

PART 2

MANAGERS

Appointment of manager

6.—(1) Each local authority must appoint one of their officers to manage the adoption service and shall forthwith notify the National Assembly of—

- (a) the name of the person appointed in accordance with this regulation; and
- (b) the date on which the appointment is to take effect.

(2) The authority must forthwith notify the National Assembly if the person appointed under paragraph (1) ceases to manage the adoption service.

Fitness of manager

7.—(1) A person must not manage the adoption service unless he or she is fit to do so.

(2) A person is not fit to manage an adoption service unless—

- (a) he or she is of integrity and good character;
- (b) having regard to the size of the authority and its statement of purpose—
 - (i) he or she has the qualifications, skills and experience necessary for managing the adoption service; and
 - (ii) he or she is physically and mentally fit to manage the adoption service; and
- (c) full and satisfactory information is available in relation to him or her in respect of each of the matters specified in Schedule 3.

General requirements

8.—(1) The manager must, having regard to—

- (a) the size of the local authority and its statement of purpose; and
- (b) the need to safeguard and promote the welfare of children who may be, or have been, placed for adoption by the authority,

manage the adoption service with sufficient care, competence and skill.

(2) The manager shall undertake from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary to manage the adoption service.

Notification of offences

9.— Where the manager is convicted of any criminal offence, whether in Wales and England or elsewhere, he or she shall forthwith give notice in writing to the National Assembly of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted; and

- (c) the penalty imposed on him in respect of the offence.

PART 3

CONDUCT OF LOCAL AUTHORITY ADOPTION SERVICE

Arrangements for the protection of children

10.— Each local authority must prepare and implement a written policy which-

- (a) is intended to safeguard from abuse or neglect every child placed for adoption by the authority; and
- (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

Staffing

11.— Each local authority must ensure that there is, having regard to—

- (a) the size of the authority and its statement of purpose; and
- (b) the need to safeguard and promote the health and welfare of children who may be, or have been, placed for adoption by the authority,

a sufficient number of suitably qualified, competent, and experienced persons working for the purposes of the adoption service.

Fitness of workers

12.—(1) A local authority must not—

- (a) employ a person to work for the purposes of their adoption service unless that person is fit to work for the purposes of an adoption service; or
- (b) allow a person to whom paragraph (2) applies, to work for the purposes of the adoption service unless that person is fit to work for the purposes of an adoption service.

(2) This paragraph applies to any person who is employed by a person other than the authority in a position in which he or she may in the course of his or her duties have regular contact with children who may be, or have been, placed for adoption by the authority.

(3) For the purposes of paragraph (1), a person is not fit to work for the purposes of an authority's adoption service unless—

- (a) he or she is of integrity and good character;

- (b) he or she has the qualifications, skills and expertise necessary for the work he or she is to perform;
- (c) he or she is physically and mentally fit for the work he or she is to perform; and
- (d) full and satisfactory information is available in relation to him or her in respect of each of the matters specified in Schedule 3.

(4) The authority shall take reasonable steps to ensure that any person working for the purposes of the adoption service who is not employed by the authority and to whom paragraph (2) does not apply is appropriately supervised while carrying out his duties.

Employment of staff

13.—(1) Each local authority must—

- (a) ensure that all permanent appointments made by the authority for the purposes of the adoption service are subject to the satisfactory completion of a period of probation; and
- (b) provide all employees employed by the authority for the purposes of their adoption service with a job description outlining their responsibilities.

(2) The authority must ensure that all persons employed by the authority for the purposes of the adoption service –

- (a) receive appropriate training, supervision and appraisal; and
- (b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

Staff disciplinary procedure

14.—(1) Each local authority must operate a disciplinary procedure which, in particular—

- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of children who may be, or have been, placed for adoption by the authority ;
- (b) provides that the failure on the part of an employee to report to an appropriate person an incident of abuse, or suspected abuse of a child placed for adoption by the authority is a ground on which disciplinary proceedings may be instituted .

(2) For the purposes of paragraph (1)(b), an appropriate person is –

- (a) the manager of the adoption service;
- (b) an officer of the National Assembly ;

- (c) a police officer;
- (d) an officer of the National Society for the Prevention of Cruelty to Children;
- (e) an officer of the local authority in whose area the child is placed for adoption where this is a different authority.

Arrangements for absence of manager

15.— Each local authority must establish a system to ensure that where the manager proposes to be or is absent from the local authority for a continuous period of 28 days or more an identified person is responsible for the management of the adoption service until such time as the manager returns to the adoption service or (as the case may be) a new manager is appointed by the authority.

Records with respect to staff

16.—(1) Each local authority must maintain and keep up to date the records specified in Schedule 4.

(2) The records referred to in paragraph (1) shall be retained for at least 15 years from the date of the last entry.

Fitness of premises

17.—(1) The local authority must not use premises for the purposes of their adoption service unless the premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The authority must ensure –

- (a) that there are adequate security arrangements at the premises, in particular that there are secure facilities for the storage of records; and
- (b) that any records which are, for any reason, not on the authority's premises are kept in conditions of appropriate security.

Complaints

18.Each local authority must

- (a) ensure that a written record is made of any complaint, including details of the investigation made, the outcome and any action taken in consequence, and that the record is retained for at least 3 years from the date it is made; and
- (b) supply to the National Assembly at its request a statement containing a summary of

any complaints made in respect of their adoption service during the preceding 12 months and the action (if any) taken as a result of the outcome of the investigation.

PART 4

MISCELLANEOUS AMENDMENTS

Amendments to the Registration of Social Care and Independent Health Care (Wales) Regulations 2002

19. The Registration of Social Care and Independent Health Care (Wales) Regulations 2002 (4) are amended as follows –

(a) in regulation 2 (1) at the appropriate place, insert –

“ “The 1976” Act means the Adoption Act 1976(5);

“adoption service” means the discharge by a local authority of relevant adoption functions within the meaning of section 43(3)(a) of the Act and in relation to a local authority means the discharge by that authority of those functions”;

“voluntary adoption agency” means an adoption society within the meaning of the 1976 Act which is a voluntary organisation within the meaning of that Act;”

(b) in the definition of “appropriate office”, after subsection (e) insert –

“(f) in relation to an adoption service –

(i) if an office has been specified under regulation 2(2) of the Local Authority Adoption Service and Miscellaneous Amendments (Wales) Regulations 2003, that office;

(ii) in any other case, any office of the National Assembly.”

(c) In the definition of “statement of purpose”, after subsection (e) insert –

“(f) in relation to a voluntary adoption agency, the written statement required to be compiled in accordance with regulation 3(1) of the Voluntary Adoption Agencies and Adoption Agencies (Miscellaneous Amendments) Regulations 2003;

(g) in relation to an adoption service means the written statement required to be compiled in accordance with regulation 3 (1) of the Local

(4) S.I. 2002/919 (W.107)
(5) 1976 c.36

Amendments to the Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002

20. The Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002 are amended as follows –

(a) in regulation 2 (1) at the appropriate places, insert –

“ “The 1976 Act” means the Adoption Act 1976(6)”;

“new agency provider” means a person who carries on a voluntary adoption agency for the first time after 30th April 2003;

“small principal office” means a principal office where at any one time no more than eight members of full time staff (or the part time equivalents or combination of full time and part time staff) are employed in the capacity of a social worker(7);

“small branch” means a branch of a voluntary adoption agency where at any time no more than eight members of full time staff (or the part time equivalents or combination of full time and part time staff) are employed in the capacity of a social worker;

in the definition of “agency” add to the end the words “, a voluntary adoption agency where the agency’s principal office is in Wales or a local authority adoption service”;

in the definition of “existing undertaking” add “(e) a voluntary adoption agency that is approved immediately before 30th April 2003 under Part 1 of the 1976 Act” ”;

(b) after regulation 3 (3) insert the following –

“(3A) In the case of an application for registration in respect of a voluntary adoption agency which has a small principal office the registration fee shall be £300.

(3B) In a case where any agency has a branch, or as the case may be, a small branch an additional sum of

(i) £1,100 in respect of each branch; and

(ii) £300 in respect of each small branch.

(6) 1976 c.36

(7) For the definition of “social worker” see s.55(2)(a) of the 2000 Act.

(3C) Where an application for registration is made by a voluntary adoption agency that is an existing undertaking, no registration fee shall be payable.”

(c) In regulation 4 (1) –

(i) after “paragraph (2)” insert “, (2A), (2B)”;

(ii) after regulation 4(2) insert “(2A) In the case of an application mentioned in paragraph (1) in respect of a small agency or a small branch the fee shall be £300.

(2B) In the case of an application for the establishment of a new branch or small branch the fee shall be

(i) £1,100 in respect of each proposed new branch; and

(ii) £300 in respect of each proposed new small branch.

(d) In regulation 4(3) after “the establishment” insert “or agency”.

(e) After regulation 12 (Annual fee – fostering agencies and local authority fostering services) insert –

“Annual fee – voluntary adoption agencies

12. –(1) Subject to paragraph (2) the annual fee in respect of a voluntary adoption agency is –

(a) £500; and

(b) in a case where an agency has a branch or as the case may be a small branch, an additional sum of

(i) £500 in respect of each branch; and

(ii) £250 in respect of each small branch.

(2) The annual fee in respect of a voluntary adoption agency which is a small agency is £250.

(3) The annual fee in respect of a voluntary adoption agency shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (4) (“the first date”), and thereafter on the anniversary of the first date.

(4) The specified date is –

(a) in the case of an existing undertaking, on 30 April 2003, or on the date on which a certificate of registration is issued, whichever is the later;

(b) in the case of a new agency provider, the date on which a certificate of registration is issued.

Annual fee – local authorities

13. –(1) The annual fee in respect of a local authority adoption service shall be £500.

(2) The annual fee shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (3) (“the first date”), and thereafter on the anniversary of the first date.

(3) The specified date is –

(a) in the case of a local authority that is discharging relevant adoption functions on the date that these Regulations come into force on 30th April 2003; and

(b) in all other cases on the date on which such functions are first discharged.”

Amendments to Adoption Agencies Regulations 1983

21. Regulation 8A of the Adoption Agencies Regulations 1983 **(8)** is amended as follows-

(a) in paragraphs (1) and (2), for the words “over the age of 18” substitute “aged 18 or over”;

(b) in sub-paragraph (2)(a) after the words “specified offence” insert the words “committed at the age of 18 or over”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998

Date

(a) 1998 c.38.

(8) S.I.1983/1964 as amended by S.I.1997/649, S.I. 1997/2308 and S.I.2001/3443 (W.278)

SCHEDULE 1

Regulation 3(1)

INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. The aims and objectives of the local authority in relation to the adoption service.
2. The name and address of the manager.
3. The relevant qualifications and experience of the manager.
4. The number, relevant qualifications and experience of the staff employed by the authority for the purposes of the authority's adoption service.
5. The organisational structure of the adoption service.
6. The system in place to monitor and evaluate the provision of services to ensure that the services provided by the authority are effective and the quality of the adoption service is of an appropriate standard.
7. The procedures for recruiting, preparing, assessing, approving and supporting prospective adoptive parents.
8. A summary of the complaints procedure established in accordance with section 26 of the

Children Act 1989⁽⁹⁾ and the Local Authority Social Services (Complaints Procedure) Order 1990⁽¹⁰⁾.

9. The address and telephone number of the appropriate office of the National Assembly.

SCHEDULE 2

Regulation 4(1)

INFORMATION TO BE INCLUDED IN THE CHILDREN'S GUIDE

- 1 A summary of the statement of purpose.
- 2 A summary of the procedures where adoption is identified as the appropriate plan for a child.
- 3 A summary of the complaints procedures established in accordance with section 26 of the Children Act 1989 and the Local Authority Social Services (Complaints Procedure) Order 1990.
- 4 Details of how a child may have access to the services of an advocate who is independent of the authority to assist him in bringing a complaint or making a representation under the complaints procedures referred to in paragraph 3.
- 5 The address and telephone number of the appropriate office of the National Assembly.
- 6 The name, address and telephone number of the Children's Commissioner for Wales⁽¹¹⁾.

SCHEDULE 3

Regulation 7(2)(c) and 12(3)(d)

INFORMATION REQUIRED IN RESPECT OF PERSONS SEEKING TO MANAGE OR WORK FOR THE PURPOSES OF THE ADOPTION SERVICE

- 1 Proof of identity including a recent photograph.
- 2 Either—

⁽⁹⁾ 1989 c.41. The current regulations are the Representations Procedure (Children) Regulations 1991 (S.I.1991/894) as amended by S.I.1991/2033, S.I.1993/3069 and S.I.2001/2874).

⁽¹⁰⁾ S.I.1990/2244.

⁽¹¹⁾ See section 72 of the 2000 Act.

- (a) where the position falls within section 115(3) of the Police Act 1997(a), an enhanced certificate issued under section 115 of that Act; or
- (b) in any other case, a criminal record certificate issued under section 113 of the Police Act 1997,

including, to the extent permitted under the Police Act 1997, the matters specified in section 113(3A) or 115(6A) of that Act(b).

3 Two written references, including a reference from the person’s most recent employer, if any.

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

5 Documentary evidence of any relevant qualification.

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

SCHEDULE 4 Regulation 16(1)

**RECORDS TO BE KEPT IN
RELATION TO EACH PERSON
WORKING FOR THE PURPOSES OF
A LOCAL AUTHORITY’S
ADOPTION SERVICE**

A record including in respect of each person working for the authority—

- 1 Full name.
- 2 Sex.
- 3 Date of birth.
- 4 Home address.
- 5 Qualifications relevant to, and experience of work involving children.

(a) 1997 c.50. A position is within section 115(3) if it involves regularly caring for, training, supervising or being in sole charge, of persons aged under 18.

(b) Section 113(3A) and 115(6A) are inserted into the Police Act 1997 by section 8 of the Protection of Children Act 1999(c.14) and amended by sections 104, 106 and 116 of, and paragraph 25 of Schedule 4 to the Care Standards Act 2000.

6 The dates on which he or she commences and ceases to be so employed.

7 Whether he or she is employed by the local authority under a contract of service or a contract for services, or is employed by someone other than the authority.

8 His or her job description and whether he or she works full-time or part-time and the number of hours for which he or she is employed by or contracted to work for, the authority's adoption service each week.

9 Training undertaken by him or her, supervision, appraisal, disciplinary action (if any) taken against him or her and the outcome of that action, records of complaints (if any) made against or concerning him or her and the outcome of that complaint and any other records in relation to his or her employment.