WELSH STATUTORY INSTRUMENTS

2004 No. 1011 (W.108)

SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES

The Adoption Support Services (Local Authorities) (Wales) Regulations 2004

Made - - - -	*31st March 2004*
Coming into force - -	*1 October 2004*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 2(6)(b) and (7), 4(6) and (7)(b) to (i), 139(2) and 142(4) and (5) of, and paragraph 3 of Schedule 4 to, the Adoption and Children Act 2002(**1**) and by sections 9(3), 57A(1) and (3) and 67(5) of the Adoption Act 1976(**2**), and all other powers enabling it in that behalf, hereby makes the following Regulations: —

Citation, commencement and application

1.—(1) These Regulations may be cited as the Adoption Support Services (Local Authorities) (Wales) Regulations 2004 and will come into force on 1 October 2004.

(2) These Regulations apply in relation to the provision of adoption support services by local authorities in Wales.

Interpretation

2.—(1) In these Regulations—

"the 2002 Act" ("*Deddf 2002*") means the Adoption and Children Act 2002;

"the 1983 Regulations" ("*Rheoliadau 1983*") means the Adoption Agencies Regulations 1983(**3**)

(**1**) 2002 c. 38. The powers are exercisable by the appropriate Minister: *see* section 144(1) for the definition of "regulations". The "appropriate Minister" is defined in section 144(1), in relation to Wales as the National Assembly for Wales.

(**2**) 1976 c. 36 as amended by the Children Act 1989 c. 41 (paragraph 25 of Schedule 10) and the 2002 Act (paragraph 4 of Schedule 4). These powers are exercisable by the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672.

(**3**) S.I.1983/1964, amended by S.I. 1997/649, S.I. 1983/2308 and S.I. 2001/2237.

"adoption agency" ("*asiantaeth fabwysiadu*") has the same meaning as in the Adoption Act 1976(**4**);

"adoption support services" ("*gwasanaethau cymorth mabwysiadu*") is to be construed in accordance with regulation 3(1);

"adoption support services user" ("*defnyddiwr gwasanaethau cymorth mabwysiadu*") means a person specified in the Schedule ;

"adoptive family" ("*teulu mabwysiadol*") means an adoptive child, the adoptive parent of the adoptive child and any child of the adoptive parent and references to the adoptive family of, or in relation to, a person is to be construed as the adoptive family of which that person is a member;

"adoptive parent" ("*rhiant mabwysiadol*") means a person —

(a) who an adoption agency has decided in accordance with regulation 11(1) of the 1983 Regulations would be a suitable adoptive parent for a particular child;

(b) with whom an adoption agency has placed a child for adoption;

(c) who has given notice under section 22(1) of the Adoption Act 1976 of his or her intention to apply for an adoption order for a child; or

(d) who has adopted a child,

but does not include a person where the child is no longer a child, or where the person is the step-parent or natural parent of the child, or was the step-parent of the child before he or she adopted the child;

"child tax credit" ("*credyd treth plant*") has the same meaning as in the Tax Credits Act 2002(**5**);

"a child who is looked after" ("*plentyn sy'n derbyn gofal*") has the same meaning as in section 22(1) of the Children Act 1989(**6**);

"notify" ("*hysbysu*") means notify in writing.

(2) In these Regulations—

(a) subject to paragraph (b), "adoptive child" means a child who has been, or may be, adopted;

(b) references to a person's adoptive child are to a child other than the person's stepchild, who has been, or may be, adopted by that person.

(3) In regulations 8 to 15, "child" ("*plentyn*") means an adoptive child, and references to a person's child are to a child, other than the person's stepchild, who has been or may be adopted by that person.

Provision of adoption support services

3.—(1) For the purposes of section 2(6) of the 2002 Act (definition of "adoption support services")(**7**), the following services are prescribed —

(a) financial support payable under regulation 10;

(b) services to enable groups of adoption support services users to discuss matters relating to adoption;

(**4**) By section 1(4) of the Adoption Act 1976, a local authority or appropriate voluntary organisation may be referred to as an adoption agency. The term "appropriate voluntary organisation" is defined in section 1(5) of the 1976 Act, as inserted by section 116 and Schedule 4, paragraph 5 of the Care Standards Act 2000, c. 14.
(**5**) 2002 c. 21.
(**6**) 1989 c. 41.
(**7**) By section 2(6) of the 2002 Act, the term "adoption support services" is defined as (a) counselling, advice and information, and (b) any other services prescribed by regulations in relation to adoption.

(c) assistance in relation to arrangements for contact between an adoptive child and —

(i) a relative of the adoptive child; or

(ii) any person with whom the adoptive child has a relationship which appears to the local authority to be beneficial to the welfare of the child having regard to the matters referred to in sub-paragraphs (i) to (iii) of section 1(4)(f) of the 2002 Act;

(d) services that may be provided to an adoptive parent or adoptive child in relation to the therapeutic needs of the child;

(e) assistance for the purpose of ensuring the continuance of the relationship between the child and his or her adoptive parent, including —

(i) training for adoptive parents for the purpose of meeting any special needs of the child;

(ii) respite care.

(2) For the purposes of paragraph 3(1) of Schedule 4 to the 2002 Act, the arrangements which local authorities are required to make are arrangements for providing any service specified in column (1) of the Schedule for persons who are of a description specified in the corresponding entry in column (2) of that Schedule;

(3) The arrangements referred to in paragraph (2) in respect of any service are required to be made whether or not the local authority have decided to provide the service to any person.

Adoption support services adviser

4.—(1) The local authority shall appoint a person (an "adoption support services adviser") to carry out the function specified in paragraph (2).

(2) The functions of the adoption support services adviser are to give advice and information, to persons who may be affected by the adoption or proposed adoption of a child, as to —

(a) services that may be appropriate to those persons; and

(b) how those services may be made available to them.

(3) The local authority must only appoint a person as an adoption support services adviser if satisfied that his or her knowledge and experience of —

(a) the process of adoption; and

(b) the effect of the adoption of a child on persons likely to be affected by the adoption,

is sufficient for the purposes of the role of an adoption support services adviser.

Requirement for assessment

5.—(1) A local authority must, at the request of an adult or child specified in the Schedule, carry out an assessment of his or her needs for adoption support services.

(2) A local authority may, at the request of any other person, carry out an assessment of his or her needs for adoption support services

(3) Where a local authority are considering adoption for a child who is looked after, they must, before completing the written report required under regulation 7(2)(e) of the 1983 Regulations, carry out an assessment of a child's needs for adoption support services.

(4) Where a local authority propose to place a particular child for adoption with a prospective adopter, they must, before completing the written report required under regulation 9(1) of the 1983 Regulations, carry out an assessment of the needs of each member of the adoptive family for adoption support services.

(5) Where —

(a) a local authority are reviewing the placement for adoption of a child under regulation 12(2)(k) of the 1983 Regulations; and

(b) they have not carried out an assessment in accordance with paragraph (4) in respect of each member of the adoptive family,

they must, before completing the review, carry out an assessment of the needs of each member of the adoptive family for adoption support services.

(6) Where a local authority ("the placing authority") are considering the placement of a child who is looked after with a prospective adopter who is resident in the area of another local authority ("the recovering authority") the placing authority must consult the recovering authority in writing about the placement and the result of the assessments undertaken in accordance with paragraphs (3) and (4) and in particular upon the abilities of the agencies in the area of the recovering authority to provide any identified adoption support services.

(7) A recovering authority in Wales must respond in writing to the consultation undertaken in accordance with paragraph (6) within twenty-eight days of receiving it.

(8) Where a recovering authority has responded in writing to the consultation undertaken in accordance with paragraph (6), these written comments must be taken into account by the adoption panel when considering the placement of the child in accordance with regulation 10 of the 1983 Regulations and by the adoption agency when considering its decision in accordance with regulation 11 of the 1983 Regulations.

(9) Where the person's request under paragraph (1) or (2) relates to a particular service specified in regulation 3(1), or it appears to the local authority that the person's needs for adoption support services may be adequately assessed by reference to a particular service so specified, the local authority may carry out the assessment by reference only to that service.

(10) The local authority is not required under paragraph (1) to carry out an assessment of a person's needs unless —

(a) paragraph (11) applies;

(b) paragraph (12) applies and the person requests the assessment —

(i) not more than one year after the date of the adoption order; or

(ii) not more than three years after the date on which the adoptive child was placed with the adoptive parents; or

(c) sub-paragraphs (a) and (b) do not apply and the person lives in the area of the local authority.

(11) This paragraph applies where an adoptive child —

(a) is looked after by the local authority; or

(b) has not been adopted but has been placed for adoption by the local authority.

(12) This paragraph applies where an adoptive child —

(a) has been adopted by his or her adoptive parents; and

(b) before the adoption order was made, was placed for adoption with the adoptive parents by the local authority.

Procedure for assessment

6.—(1) The assessment of a person's needs for adoption support services must be carried out by, or under the supervision of, a person who has suitable qualifications, experience and skills necessary for the purposes of the assessment.

(2) In carrying out the assessment, the local authority must have regard to the following considerations —

(a) the needs of the person;

(b) the needs of the person's adoptive family;

(c) in the case of an adoptive child who has been placed for adoption, the circumstances that led to the child being placed for adoption;

(d) any special needs of the adoptive child arising from the fact that —

(i) the child has been looked after by a local authority;

(ii) the child has been habitually resident outside the British Islands;

(iii) the adoptive parent is a relative of the child.

(3) The local authority must, where it considers it appropriate to do so —

(a) interview the person and, where the person is an adoptive child, its adoptive parents;

(b) prepare a written report of the assessment.

(4) The local authority must, having regard to the assessment, decide —

(a) whether the person has needs for adoption support services; and

(b) if so, whether to provide any such services to him or her,

and, subject to paragraphs (6) and (7), must give notice in writing in accordance with paragraph (5), of that decision and the reasons for the decision.

(5) The notice referred to in paragraph (4) must be given —

(a) where the person is an adult, to that person;

(b) where the person is a child and —

(i) it appears to the local authority that the child is of sufficient age and understanding for it to be appropriate to give him or her such notice; and

(ii) in all the circumstances it does not appear inappropriate to do so,

to the child;

(c) in any other case where the person is a child, to —

(i) the person who an adoption agency has decided in accordance with regulation 11(1) of the 1983 Regulations would be a suitable adoptive parent for the child;

(ii) the person with whom the child has been placed for adoption;

(iii) the person by whom the child has been adopted; or

if no person falls within heads (i) to (iii) of this sub-paragraph, the person who proposes to adopt the child.

(6) Where the assessment relates only to the provision of information, the requirement in paragraph (4) to give notice will not apply where the local authority does not consider it appropriate to give such notice.

(7) Where the assessment relates to a person's need for financial support, the notice to be given in relation to the local authority's decision as to the provision of financial support must be given in addition to any notice which is to be given in accordance with regulations 12 and 13.

Plan

7.—(1) If the local authority decide to provide any adoption support services to a person, they must, except where the services are to be provided on a single occasion —

(a) prepare a plan in accordance with which the services are to be provided; and

(b) notify him or her of the plan.