WELSH STATUTORY INSTRUMENTS

2003 No. 710 (W.86)

SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES

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

Made - - - -	*12th March 2003*
Coming into force - -	*30th April 2003*

The National Assembly for Wales in exercise of the powers conferred upon it by sections 9(2), (3), and (3A) and 67(5) of the Adoption Act 1976(**1**) and sections 12(2), 15(3), 16(1), (2) and (3), 22(1), (2)(a) to (d), (f) to (j), (5)(a) and (c), (7)(a) to (h), (j) and (8)(c), 33, 34(1), 35 and 118(5) to (7) of the Care Standards Act 2000(**2**) and of all the other powers enabling it on 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—

(**1**) 1976 c. 36 In section 9 of the 1976 Act subsection (2) was amended and subsection (3A) inserted by section 116 and paragraph 5(6)(c) of Schedule 4 to the Care Standards Act 2000 (c. 14)("the 2000 Act"). The 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. Subsections(2) and (3) were amended and subsetion (5) 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

"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;

"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 4;

"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.

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—

(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**) 1989 c. 41.

(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 or her 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 or she was convicted; and

(c) the penalty imposed on him or her 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 experience 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 or her 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.