WELSH STATUTORY INSTRUMENTS

2003 No. 237 (W.35)

SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES

The Fostering Services (Wales) Regulations 2003

Made - - - - 6th February 2003

Coming into force - - 1st April 2003

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 16(2), 22(1), (2)(a) to (c), (e) to (j), (6), (7)(a) to (h), (j), 25(1), 34(1), 35(1), 48(1), 118(5), (6) and (7) of the Care Standards Act 2000(**1**) and sections 23(2)(a) and (9), 59(2) and 62(3) of, and paragraph 12 of Schedule 2 to, the Children Act 1989(**2**),and having consulted such persons as it considers appropriate(**3**), hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Fostering Services (Wales) Regulations 2003 and are to come into force on 1st April 2003.

(2) These Regulations apply to Wales only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989;

"the 2000 Act" ("*Deddf 2000*") means the Care Standards Act 2000;

"appropriate office" ("*swyddfa briodol*") means in relation to a fostering service—

(**1**) 2000 c. 14.These powers are exercisable by the appropriate Minister, who is defined in section 121(1) of the Care Standards Act, in relation to England, Scotland and Northern Ireland, as the Secretary of State, and in relation to Wales, as the National Assembly for Wales. "Prescribed" and "regulations" are defined in section 121(1) of that Act.

(**2**) 1989 c. 41. Functions of the Secretary of State under the 1989 Act are made exercisable by the National Assembly for Wales by virtue of the inclusion of the 1989 Act in Schedule 1 to the National Assembly for Wales (Transfer of Functions Order) 1999 (S.I.1999/672) (*see* article 2(a) of the 1999 Order and section 22(1) of the Government of Wales 1998 (c. 38).

(**3**) *See* section 22(9) of the 2000 Act for the requirement to consult.

(a) if an office has been specified under paragraph (2) for the area in which the fostering service is situated, that office;

(b) in any other case, any office of the National Assembly;

"approval" ("*cymeradwyaeth*") means approval as a foster parent in accordance with regulation 28 and references to a person being approved are to be construed accordingly;

"area authority" ("*awdurdod ardal*") means the local authority in whose area a child is placed, in any case where that local authority is not the child's responsible authority;

"assessment" ("*asesiad*") is to be construed in accordance with regulation 27(1);

"child protection enquiries" ("*ymholiadau amddiffyn plant*") has the meaning given to it by regulation 12(4);

"children's guide" ("*arweiniad plant*") means the written guide produced in accordance with regulation 3(3);

"foster care agreement" ("*cytundeb gofal maeth*") has the meaning given to it by regulation 28(5)(b);

"foster placement agreement" ("*cytundeb lleoliad maeth*") has the meaning given to it by regulation 34(3);

"foster parent" ("*rhiant maeth*") means a person with whom a child is placed, or may be placed under these Regulations, except that, in Parts IV and V of these Regulations it does not include a person with whom a child is placed under regulation 38(2);

"fostering panel" ("*panel maethu*") means a panel established in accordance with regulation 24;

"fostering service" ("*gwasanaeth maethu*") means—

(a) a fostering agency within the meaning of section 4(4) of the 2000 Act; or

(b) a local authority fostering service;

"fostering service provider" ("*darparydd gwasanaeth maethu*") means—

(a) in relation to a fostering agency, a registered person; or

(b) in relation to a local authority fostering service, a local authority;

"general practitioner" ("*ymarferydd cyffredinol*") means a registered medical practitioner who —

(a) provides general medical services under Part II of the National Health Service Act 1977(**4**);

(b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(**5**); or

(c) provides services which correspond to services provided under Part II of the National Health Service Act 1977 otherwise than in pursuance of that Act;

"independent fostering agency" ("*asiantaeth faethu annibynnol*") means a fostering agency within the meaning of section 4(4)(a) of the 2000 Act (discharging functions of local authorities in connection with the placing of children with foster parents);

"local authority fostering service" ("*gwasanaeth maethu awdurdod lleol*") means the discharge by a local authority of relevant fostering functions within the meaning of section 43(3)(b) of the 2000 Act;

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

(**4**) 1977 c. 49.
(**5**) 1997 c. 46.

"organisation" ("*corff*") means a body corporate;

"parent" ("*rhiant*") in relation to a child, includes any person who has parental responsibility for the child;

"placement" ("*lleoliad*") means any placement of a child made by—

(a) a local authority under section 23(2)(a) of the 1989 Act or a voluntary organisation under section 59(1)(a) of the 1989 Act which is not—

(i) a placement with a person who falls within section 23(4) of that Act; or

(ii) a placement for adoption; and

(b) except in Part V of these Regulations includes a placement arranged by an independent fostering agency acting on behalf of a local authority,

and references to a child who is placed are to be construed accordingly;

"registered manager" ("*rheolwr cofrestredig*") in relation to a fostering agency means a person who is registered under Part II of the 2000 Act as the manager of the fostering agency;

"registered person" ("*person cofrestredig*") in relation to a fostering agency means any person who is the registered provider or the registered manager of the fostering agency;

"registered provider" ("*darparydd gwasanaeth* maethu") in relation to a fostering agency means a person who is registered under Part II of the 2000 Act as the person carrying on a fostering agency(**6**);

"responsible authority" ("*awdurdod cyfrifol*") means, in relation to a child, the local authority or voluntary organisation as the case may be, responsible for the child's placement;

"responsible individual" ("*unigolyn cyfrifol*") is to be construed in accordance with regulation 5(2)(b)(i);

"statement of purpose" ("*datganiad o ddiben*") 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 fostering services situated in a particular area of Wales.

(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;

(c) allowing a person to work as a volunteer;

but do not include allowing a person to act as a foster parent, and references to an employee or to a person being employed is to be construed accordingly.

(**6**) By section 121(4) of the 2000 Act the person who carries on a fostering agency falling within section 4(4)(b) of that Act (a voluntary organisation which places children with foster parents under section 59(1) of the 1989 Act) is the voluntary organisation itself.

Statement of purpose and children's guide

3.—(1) The fostering service provider must compile, in relation to the fostering service, a written statement (in these Regulations referred to as the "statement of purpose") which must consist of—

(a) a statement of the aims and objectives of the fostering service; and

(b) a statement as to the services and facilities to be provided by the fostering service.

(2) The fostering service provider must provide a copy of the statement of purpose to the appropriate office of the National Assembly and must make it available, upon request, for inspection by—

(a) any person working for the purposes of the fostering service;

(b) any foster parent or prospective foster parent of the fostering service;

(c) any child placed with a foster parent by the fostering service; and

(d) the parent of any such child.

(3) The fostering service provider must produce a written guide to the fostering service (in these Regulations referred to as the "children's guide") which must include—

(a) a summary of the statement of purpose;

(b) a summary of the procedure established—

(i) in the case of an independent fostering agency, under regulation 18(1);

(ii) in the case of a local authority fostering service, under section 26(3) of the 1989 Act; and

(iii) in the case of a fostering agency falling within section 4(4)(b) of the 2000 Act, under section 59(4)(b) of the 1989 Act(**7**);

(c) the address and telephone number of the appropriate office of the National Assembly; and

(d) the address and telephone number of the Children's Commissioner for Wales(**8**).

(4) The fostering service provider must provide a copy of the children's guide to the appropriate office of the National Assembly, to each foster parent approved by the fostering service provider and (subject to the child's age and understanding) to each child placed by it.

(5) Subject to paragraph (6) the fostering service provider must ensure that the fostering service is at all times conducted in a manner which is consistent with its statement of purpose.

(6) Nothing in paragraph (5) requires or authorises the fostering service provider to contravene or not comply with—

(a) any other provision of these Regulations; or

(b) in the case of a fostering agency, any conditions for the time being in force in relation to the registration of the registered person under Part II of the 2000 Act.

Review of statement of purpose and children's guide

4. The fostering service provider must—

(a) keep under review and where appropriate revise the statement of purpose and children's guide;

(b) notify the appropriate office of the National Assembly of any such revision within 28 days; and

(**7**) 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).

(**8**) As established under Part V of the Care Standards Act 2000.

(c) if the children's guide is revised, supply a copy to each foster parent approved by the fostering service provider and (subject to his or her age and understanding), to each child placed by it.

PART II

REGISTERED PERSONS AND MANAGEMENT OF LOCAL AUTHORITY FOSTERING SERVICE

Fostering agency — fitness of provider

5.—(1) A person must not carry on a fostering agency unless the person is fit to do so.

(2) A person is not fit to carry on a fostering agency unless the person—

(a) in the case of an independent fostering agency, is an individual who carries on the fostering agency; or

(b) is an organisation and—

(i) the organisation has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as "the responsible individual") who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the fostering agency; and

(ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that—

(a) the individual is of integrity and good character;

(b) the individual is physically and mentally fit to carry on the fostering agency; and

(c) full and satisfactory information is available in relation to the individual in respect of each matter specified in Schedule 1.

(4) A person must not carry on a fostering agency if—

(a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded; or

(b) he or she has made a composition or arrangement with his or her creditors and has not been discharged in respect of it.

Fostering agency — appointment of manager

6.—(1) The registered provider must appoint an individual other than the registered provider, to manage the fostering agency.

(2) Where the registered provider is an organisation, it must not appoint the person who is the responsible individual as the manager.

(3) The registered provider must forthwith notify the appropriate office of the National Assembly of—

(a) the name of any person appointed in accordance with this regulation; and

(b) the date on which the appointment is to take effect.