
STATUTORY INSTRUMENTS

2005 No. 389

The Adoption Agencies Regulations 2005

PART 6

PLACEMENT AND REVIEWS

Requirements imposed on the adoption agency before the child may be placed for adoption

35.—(1) This paragraph applies where the adoption agency—

- (a) has decided in accordance with regulation 33 to place a child for adoption with a particular prospective adopter; and
- (b) has met with the prospective adopter to consider the arrangements it proposes to make for the placement of the child with him.

(2) Where paragraph (1) applies, the adoption agency must, as soon as possible, send the prospective adopter a placement plan in respect of the child which covers the matters specified in Schedule 5 (“the adoption placement plan”).

(3) Where the prospective adopter notifies the adoption agency that he wishes to proceed with the placement and the agency is authorised to place the child for adoption or, subject to paragraph (4), the child is less than 6 weeks old, the agency may place the child for adoption with the prospective adopter.

(4) Unless there is a placement order in respect of the child, the adoption agency may not place for adoption a child who is less than six weeks old unless the parent or guardian of the child has agreed in writing with the agency that the child may be placed for adoption.

(5) Where the child already has his home with the prospective adopter, the adoption agency must notify the prospective adopter in writing of the date on which the child is placed for adoption with him by that agency.

(6) The adoption agency must before the child is placed for adoption with the prospective adopter—

- (a) send to the prospective adopter’s general practitioner written notification of the proposed placement and send with that notification a written report of the child’s health history and current state of health;
- (b) send to the local authority (if that authority is not the adoption agency) and Primary Care Trust or Local Health Board (Wales)(1), in whose area the prospective adopter has his home, written notification of the proposed placement; and
- (c) where the child is of compulsory school age(2), send to the local education authority, in whose area the prospective adopter has his home, written notification of the proposed placement and information about the child’s educational history and whether he has been or is likely to be assessed for special educational needs under the Education Act 1996.

(1) See sections 2 and 6 of the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

(2) See section 8 of the Education Act 1996 (c. 56).

(7) The adoption agency must notify the prospective adopter in writing of any change to the adoption placement plan.

(8) The adoption agency must place on the child's case record—

- (a) in the case of a child who is less than 6 weeks old and in respect of whom there is no placement order, a copy of the agreement referred to in paragraph (4); and
- (b) a copy of the adoption placement plan and any changes to that plan.

Reviews

36.—(1) Where an adoption agency is authorised to place a child for adoption but the child is not for the time being placed for adoption the agency must carry out a review of the child's case—

- (a) not more than 3 months after the date on which the agency first has authority to place; and
- (b) thereafter not more than 6 months after the date of the previous review ("6 months review"),

until the child is placed for adoption.

(2) Paragraphs (3) and (4) apply where a child is placed for adoption.

(3) The adoption agency must carry out a review of the child's case—

- (a) not more than 4 weeks after the date on which the child is placed for adoption ("the first review");
- (b) not more than 3 months after the first review; and
- (c) thereafter not more than 6 months after the date of the previous review,

unless the child is returned to the agency by the prospective adopter or an adoption order is made.

(4) The adoption agency must—

- (a) ensure that the child and the prospective adopter are visited within one week of the placement and thereafter at least once a week until the first review and thereafter at such frequency as the agency decides at each review;
- (b) ensure that written reports are made of such visits; and
- (c) provide such advice and assistance to the prospective adopter as the agency considers necessary.

(5) When carrying out a review the adoption agency must consider each of the matters set out in paragraph (6) and must, so far as is reasonably practicable, ascertain the views of—

- (a) the child, having regard to his age and understanding;
- (b) if the child is placed for adoption, the prospective adopter; and
- (c) any other person the agency considers relevant,

in relation to such of the matters set out in paragraph (6) as the agency considers appropriate.

(6) The matters referred to in paragraph (5) are—

- (a) whether the adoption agency remains satisfied that the child should be placed for adoption;
- (b) the child's needs, welfare and development, and whether any changes need to be made to meet his needs or assist his development;
- (c) the existing arrangements for contact, and whether they should continue or be altered;
- (d) where the child is placed for adoption, the arrangements in relation to the exercise of parental responsibility for the child, and whether they should continue or be altered;
- (e) the arrangements for the provision of adoption support services for the adoptive family and whether there should be any re-assessment of the need for those services;

- (f) in consultation with the appropriate agencies, the arrangements for assessing and meeting the child's health care and educational needs;
 - (g) subject to paragraphs (1) and (3), the frequency of the reviews.
- (7) Where the child is subject to a placement order and has not been placed for adoption at the time of the first 6 months review, the local authority must at that review—
- (a) establish why the child has not been placed for adoption and consider what further steps the authority should take in relation to the placement of the child for adoption; and
 - (b) consider whether it remains satisfied that the child should be placed for adoption.
- (8) The adoption agency must, so far as is reasonably practicable, notify—
- (a) the child, where the agency considers he is of sufficient age and understanding;
 - (b) the prospective adopter; and
 - (c) any other person whom the agency considers relevant,
- of the outcome of a review and of any decision taken by the agency in consequence of that review.
- (9) The adoption agency must ensure that—
- (a) the information obtained in the course of a review or visit in respect of a child's case including the views expressed by the child;
 - (b) the details of the proceedings of any meeting arranged by the agency to consider any aspect of the review of the case; and
 - (c) details of any decision made in the course of or as a result of the review,
- are recorded in writing and placed on the child's case record.
- (10) Where the child is returned to the adoption agency in accordance with section 35(1) or (2) of the Act, the agency must conduct a review of the child's case no earlier than 28 days, or later than 42 days, after the date on which the child is returned to the agency and when carrying out that review the agency must consider the matters set out in paragraph (6)(a), (b), (c) and (f).

Independent reviewing officers

37.—(1) An adoption agency which is—

- (a) a local authority; or
- (b) a registered adoption society which is a voluntary organisation who provide accommodation for a child,

must appoint a person (“the independent reviewing officer”) in respect of the case of each child authorised to be placed for adoption by the agency to carry out the functions mentioned in section 26(2A) of the 1989 Act.

(2) The independent reviewing officer must be registered as a social worker in a register maintained by the General Social Care Council or by the Care Council for Wales under section 56 of the Care Standards Act 2000 or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(3) The independent reviewing officer must, in the opinion of the adoption agency, have sufficient relevant social work experience to undertake the functions referred to in paragraph (1) in relation to the case.

(4) A person who is an employee of the adoption agency may not be appointed as an independent reviewing officer in a case if he is involved in the management of the case or is under the direct management of—

- (a) a person involved in the management of the case;

- (b) a person with management responsibilities in relation to a person mentioned in subparagraph (a); or
 - (c) a person with control over the resources allocated to the case.
- (5) The independent reviewing officer must—
- (a) as far as is reasonably practicable attend any meeting held in connection with the review of the child's case; and
 - (b) chair any such meeting that he attends.
- (6) The independent reviewing officer must, as far as is reasonably practicable, take steps to ensure that the review is conducted in accordance with regulation 36 and in particular to ensure—
- (a) that the child's views are understood and taken into account;
 - (b) that the persons responsible for implementing any decision taken in consequence of the review are identified; and
 - (c) that any failure to review the case in accordance with regulation 36 or to take proper steps to make the arrangements agreed at the review is brought to the attention of persons at an appropriate level of seniority within the adoption agency.
- (7) If the child whose case is reviewed wishes to take proceedings on his own account, for example, to apply to the court for revocation of a placement order, it is the function of the independent reviewing officer—
- (a) to assist the child to obtain legal advice; or
 - (b) to establish whether an appropriate adult is able and willing to provide such assistance or bring the proceedings on the child's behalf.
- (8) The adoption agency must inform the independent reviewing officer of—
- (a) any significant failure to make the arrangements agreed at a review; and
 - (b) any significant change in the child's circumstances after a review.

Withdrawal of consent

38.—(1) This paragraph applies where consent given under section 19 or 20 of the Act in respect of a child is withdrawn in accordance with section 52(8) of the Act.

(2) Where paragraph (1) applies and the adoption agency is a local authority, on receipt of the form or notice given in accordance with section 52(8) of the Act the authority must immediately review their decision to place the child for adoption and where, in accordance with section 22(1) to (3) of the Act, the authority decide to apply for a placement order in respect of the child, they must notify as soon as possible—

- (a) the parent or guardian of the child;
- (b) where regulation 14(3) applies and the agency considers it is appropriate, the child's father; and
- (c) if the child is placed for adoption, the prospective adopter with whom the child is placed.

(3) Where paragraph (1) applies and the adoption agency is a registered adoption society, the agency must immediately consider whether it is appropriate to inform the local authority in whose area the child is living.