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WELSH STATUTORY INSTRUMENTS

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**2005 No. 1313**

**The Adoption Agencies (Wales) Regulations 2005**

**PART 3**

**DUTIES OF ADOPTION AGENCY WHERE THE  
AGENCY IS CONSIDERING ADOPTION FOR A CHILD**

**Application of regulations 11 to 20**

**11.** Regulations 11 to 20 apply where the adoption agency is considering adoption for a child.

**Requirement to open child's case record**

**12.—(1)** The adoption agency must set up a case record in respect of the child and place on it any information obtained and any report, recommendation or decision made by virtue of these Regulations.

(2) Where the child —

(a) is looked after; or

(b) is provided with accommodation under section 59(1) of the 1989 Act (provision of accommodation by voluntary organisations),

the local authority or, as the case may be, the registered adoption society must obtain any information which is required to be obtained by the agency by virtue of this Part, from the records maintained with respect to the child under the 1989 Act, and place that information on the case record referred to in paragraph (1).

**Requirement to provide counselling and information for, and ascertain the wishes and feelings of, the child**

**13.—(1)** The adoption agency must, so far as is reasonably practicable and in the light of the child's age and understanding—

(a) provide a counselling service for the child;

(b) explain to the child in an appropriate manner the procedure in relation to, and the legal implications of, their adoption and provide the child with appropriate written information about these matters; and

(c) ascertain the child's wishes and feelings in relation to—

(i) the possibility of placement with a new family and their adoption;

(ii) their religious and cultural upbringing; and

(iii) contact with their parent, guardian, relative or other significant person.

**Requirement to provide counselling and information for, and ascertain the wishes and feelings of, the parent or guardian of the child and others —**

- 14.—**(1) The adoption agency must, so far as is reasonably practicable —
- (a) provide a counselling service for the parent or guardian of the child;
  - (b) explain and provide written information to the child’s parent or guardian on the following matters—
    - (i) the procedure in relation to both placement for adoption and adoption;
    - (ii) the legal implications of—
      - (aa) giving consent to placement for adoption under section 19 of the Act (placing children with parental consent);
      - (bb) giving consent to the making of a future adoption order under section 20 of the Act (advance consent to adoption);
      - (cc) a placement order; and
    - (iii) the legal implications of adoption; and
  - (c) ascertain the wishes and feelings of the parent or guardian of the child and of any other significant person the agency considers relevant in relation to —
    - (i) the matters set out in section 1(4)(f)(ii) and (iii) of the Act (matters the agency must have regard to);
    - (ii) the placement of the child for adoption and their adoption, including any wishes and feelings about the child’s religious and cultural upbringing; and
    - (iii) contact with the child if the agency is authorised to place the child for adoption or the child is adopted.
- (2) This paragraph applies where the father of a child does not have parental responsibility for the child and the father’s identity is known to the agency.
- (3) Where paragraph (2) applies and the adoption agency is satisfied it is appropriate to do so the agency must—
- (a) carry out in respect of the father the requirements of paragraph (1)(a), (b)(i), and (iii) and (c) as if they applied to the father and
  - (b) ascertain so far as possible whether the father—
    - (i) wishes to acquire parental responsibility for the child under section 4 of the 1989 Act (acquisition of parental responsibility)(**1**); or
    - (ii) intends to apply for a residence order or contact order with respect to the child under section 8 of the 1989 Act (residence, contact and other orders with respect to children) or where the child is subject to a care order, an order under section 34 of the 1989 Act (parental contact with children in care).

**Requirement to obtain information (including health information) about the child**

- 15.—**(1) The adoption agency must, so far as is reasonably practicable, obtain the information about the child which is specified in Part 1 of Schedule 1.
- (2) Subject to paragraph (4), the adoption agency must —
- (a) make arrangements for the child to be examined by a registered medical practitioner; and

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(1) Section 4 was amended by section 111 of the Act.

- (b) obtain from that practitioner a written report on the state of the child's health which must include any treatment which the child is receiving, the child's needs for health care and the matters specified in Part 2 of Schedule 1,

unless the agency has received advice from the medical adviser that such an examination and report is unnecessary.

(3) Subject to paragraph (4), the adoption agency must make arrangements —

- (a) for such other medical and psychiatric examinations of, and other tests on, the child to be carried out as are recommended by the agency's medical adviser; and
- (b) to obtain written reports of such examinations and tests.

(4) Paragraphs (2) and (3) do not apply if the child is of sufficient understanding to make an informed decision and refuses to submit to the examinations or other tests.

### **Requirement to obtain information (including health information) about the child's family**

**16.—**(1) The adoption agency must, so far as is reasonably practicable, obtain the information about the child's family which is specified in Parts 3 and 4 of Schedule 1.

(2) The adoption agency must, so far as is reasonably practicable, obtain the information about the health of each of the child's natural parents and brothers and sisters which is specified in Part 5 of Schedule 1.

### **Requirement to prepare a written report for the adoption panel**

**17.—**(1) Where the adoption agency consider in light of all the information obtained by virtue of regulations 12 to 16 that adoption is the preferred option for permanence for the child, the agency must prepare a written report which must include —

- (a) the information about the child and the child's family as specified in Parts 1, 3 and 4 of Schedule 1;
- (b) a summary, written by the agency's medical adviser, of the child's state of health, the child's health history and any need for health care which might arise in the future;
- (c) the wishes and feelings of the child regarding the matters set out in regulation 13(1)(c);
- (d) the wishes and feelings of the child's parent or guardian, and where regulation 14(2) applies, the child's father, and any other person the agency considers relevant, regarding the matters set out in regulation 14(1)(c);
- (e) the views of the agency about the child's need for contact with the child's parent or guardian or other relative or with any other person the agency considers relevant (including the child's father where regulation 14(2) applies) and the arrangements the agency proposes to make for allowing any person contact with the child;
- (f) an assessment of the child's emotional and behavioural development and any related needs;
- (g) an assessment of the parenting capacity of the child's parent or guardian, and if regulation 14(2) applies, the child's father;
- (h) a chronology of the decisions and actions taken by the agency with respect to the child;
- (i) an analysis of the options for the future care of the child which have been considered by the agency and why placement for adoption is considered the preferred option; and
- (j) any other information which the agency considers relevant.

(2) The adoption agency must send the written report together with the other reports required by virtue of regulations 15 and 16 to the adoption panel.

(3) The adoption agency must obtain, so far as is reasonably practicable, any other relevant information which may be requested by the adoption panel and send that information to the panel.

### **Function of the adoption panel in relation to a child referred by the adoption agency**

**18.—**(1) The adoption panel must consider the case of every child referred to it by the adoption agency and make a recommendation to that agency as to whether the child should be placed for adoption.

(2) In considering what recommendation to make the adoption panel must have regard to the duties imposed on the adoption agency under section 1(2), (4), (5) and (6) of the Act (considerations applying to the exercise of powers in relation to the adoption of a child) and —

- (a) must consider and take into account all the information and reports passed to it in accordance with regulation 17;
- (b) may request the agency to obtain any other relevant information which the panel considers necessary;
- (c) must obtain legal advice as it considers necessary in relation to the case.

(3) Where the adoption panel make a recommendation to the adoption agency that the child should be placed for adoption it must consider and may at the same time give advice to the agency about —

- (a) the arrangements the agency proposes to make for allowing any person contact with the child;
- (b) where the adoption agency is a local authority, whether an application should be made for a placement order in respect of the child.

### **Adoption agency decision and notification**

**19.—**(1) The adoption agency must —

- (a) take into account the recommendation of the adoption panel;
- (b) take into account any advice given by the adoption panel in accordance with regulation 18(3); and
- (c) have regard to the consideration set out in section 1(2) of the Act

in coming to a decision about whether the child should be placed for adoption.

(2) No member of the adoption panel may take part in any decision made by the adoption agency under paragraph (1).

(3) The adoption agency must, if their whereabouts are known to the agency, notify its decision about whether the child should be placed for adoption and any decision in relation to contact arrangements in writing to—

- (a) the parent or guardian of the child;
- (b) any relative or other significant person whom the agency consulted under regulation 14(1) including any person in whose favour a contact order under section 8 of the 1989 Act or an order under section 34 of the 1989 Act (parental contact with children in care) may be in force immediately before the agency is authorised to place the child for adoption; and
- (c) where regulation 14(2) applies, the father; and
- (d) the agency must in an appropriate manner and in the light of the child's age and understanding explain its decision to the child.

(4) Unless either an application has been made on which a care order might be made in respect of the child which has not been disposed of, or the child is less than 6 weeks old, the agency must ascertain whether the parent or guardian of the child is prepared —

- (a) to consent under section 19 of the Act (placing children with parental consent) to the child being placed for adoption with prospective adopters identified in the consent or being placed for adoption with any prospective adopters who may be chosen by the agency; and
  - (b) at the same time to consent to the making of a future adoption order under section 20 of the Act (advance consent to adoption).
- (5) Where the parent or guardian of the child is prepared to consent to the making of a future adoption order under section 20 of the Act, the agency must explain and confirm in writing to the parent or guardian of the child that —
- (a) any consent given under section 20 of the Act may be withdrawn but that the withdrawal of consent is ineffective if it is given after an application for an adoption order is made;
  - (b) notice given to the agency may at the same or any subsequent time state their wish not to be informed of any application for an adoption order; and
  - (c) such a statement may be withdrawn.

#### **Request to appoint a Welsh family proceedings officer or an officer of CAFCASS**

**20.**—(1) Where the parent or guardian of the child is prepared to consent to the placement of the child for adoption under section 19 of the Act (placing children with parental consent) and, as the case may be, to consent to the making of a future adoption order under section 20 of the Act (advance consent to adoption), the adoption agency must request the National Assembly to appoint one of its Welsh family proceedings officers<sup>(2)</sup> or, where the child is ordinarily resident in England, the CAFCASS to appoint one of its officers for the purposes of their signification of the consent to placement or adoption and send with that request the information specified in Schedule 2.

- (2) The adoption agency must keep on the case record with respect to the child maintained in accordance with regulation 12 —
- (a) the consent form duly signed by the parent or guardian and witnessed by the Welsh family proceedings officer or the officer of CAFCASS;
  - (b) any notice given to the agency under section 20(4)(a) of the Act (statement of a wish not to be informed of any application for an adoption order); and
  - (c) the withdrawal of any consent or statement given under sections 19 or 20 of the Act.

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(2) See section 35(4) of the Children Act 2004 c. 31.