
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 154

The Adoption Agencies (Scotland) Regulations 2009

PART II

ADOPTION PANELS

Appointment and composition of adoption panels

3.—(1) Each—

- (a) local authority; and
- (b) registered adoption service which is carrying out or proposes to carry out functions specified in these Regulations,

must appoint a panel to be known as the “adoption panel” for the purpose of carrying out the functions conferred on it by regulation 6.

(2) The adoption panel must consist of at least 6 members.

(3) An adoption panel may be established jointly by any 2 or more adoption agencies which panel shall be known as a “joint adoption panel” and any reference to an adoption panel in these Regulations shall include a reference to a joint adoption panel.

(4) The persons appointed to an adoption panel shall include—

- (a) a medical adviser; and
- (b) a legal adviser.

(5) The adoption agency must—

- (a) be satisfied that the number of members and qualifications and experience of individual members of an adoption panel will enable it effectively to discharge its functions; and
- (b) review the membership of the panel from time to time.

(6) Where the adoption agency is of the opinion that any member of the adoption panel is unsuitable or unable to remain as a member it may terminate membership at any time by giving notice in writing with reasons.

Meetings of the adoption panel and joint adoption panel

4.—(1) No business shall be conducted by an adoption panel unless at least 3 of its members meet as the panel.

(2) The adoption panel may only make a recommendation referred to in regulation 6(2)(a) or (b) where—

- (a) a legal adviser is present at the meeting of the panel at which the recommendation is made; or
- (b) legal advice has been provided to the panel by such an adviser.

(3) The adoption panel must make a written record of its proceedings and the reasons for its recommendations.

(4) In paragraph (1) “members” does not include any legal adviser or medical adviser.

Appointment of medical and legal advisers

5.—(1) An adoption agency must appoint such number of persons with the qualifications specified in paragraph (3) as it considers necessary for the purpose of providing it with medical advice in connection with the exercise of its functions.

(2) An adoption agency must appoint such number of persons with the qualifications specified in paragraph (4) as it considers necessary for the purpose of providing it with legal advice in connection with the exercise of its functions.

(3) The qualifications referred to in paragraph (1) are that the person is a registered medical practitioner.

(4) The qualifications referred to in paragraph (2) are that the person is—

- (a) a solicitor; or
- (b) an advocate.

(5) In paragraph (4)—

“solicitor” means a person qualified to practice as a solicitor under section 4 of the Solicitors (Scotland) Act 1980(1); and

“advocate” means a practising member of the Faculty of Advocates.

Functions of the adoption panel

6.—(1) The adoption panel must consider—

- (a) the case of every child;
- (b) every proposed placement; and
- (c) the case of every prospective adopter,

referred to it by the adoption agency.

(2) The adoption panel must make recommendations on the following matters:—

- (a) whether adoption is in the best interests of the child;
- (b) whether an application for a permanence order granting authority for the child to be adopted should be made under section 80 of the Act;
- (c) whether a prospective adopter is suitable or continues to be suitable to be an adoptive parent;
- (d) whether a prospective adopter would be a suitable adoptive parent for a particular child; and
- (e) any other matter referred to the adoption panel which is relevant to the adoption agency’s functions under the Act.

(3) Where an adoption panel makes a recommendation under paragraph (2)(a) that adoption is in the best interests of the child it must provide a written report of the consideration given by it to the alternatives to adoption.

(4) Where an adoption panel makes a recommendation that there should be continued contact between the child and the child's parent or parents, it must provide a written report of the reasons why continued contact is in the best interests of the child.

(5) Before making a recommendation under paragraph (2)(c) the adoption panel must give the prospective adopter the opportunity to meet with the adoption panel to discuss the matter with them.

(6) Subject to paragraph (7) the adoption panel may make any of the recommendations in paragraph (2) at the same time or at different times.

(7) Before making a recommendation specified in paragraph (2)(d) the adoption panel must—

(a) at the meeting of the panel at which the recommendation is to be made, be satisfied that adoption is in the best interests of the child; or

(b) be satisfied that an adoption agency decision has been made under regulation 13 that adoption is in the best interests of the child; and

(c) in either case—

(i) at the meeting of the panel at which the recommendation specified in paragraph (2)(d) is to be made, make a recommendation that the prospective adopter is suitable to be an adoptive parent; or

(ii) be satisfied that an adoption agency decision has been made under regulation 8(1) or 9(5) that the prospective adopter is suitable to be an adoptive parent.

(8) In carrying out its functions the adoption panel must have regard to—

(a) the duties imposed on the adoption agency by section 14 of the Act;

(b) all the information and reports passed to it;

(c) any other information which may be provided to it on request; and

(d) where appropriate, any legal advice in relation to each case.

(9) In paragraph (4) "parent" means a parent who has any parental responsibilities or parental rights in relation to the child.