
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 154

The Adoption Agencies (Scotland) Regulations 2009

PART III

ASSESSMENT OF PROSPECTIVE ADOPTERS

Duties of adoption agencies: assessment of prospective adopters

7.—(1) Each adoption agency must prepare and publish a statement of the general criteria applied by it for the purpose of determining whether any person may be accepted for assessment as an adoptive parent.

(2) Each adoption agency must from time to time review the general criteria prepared by it under paragraph (1).

(3) In considering any application by a person to be assessed by the adoption agency as an adoptive parent the adoption agency must—

- (a) apply the general criteria under paragraph (1); and
- (b) undertake any further steps which it considers necessary to consider and make a determination on the application.

(4) Where the adoption agency determines that a person should not be accepted for assessment as an adoptive parent it must give notice in writing of its determination to that person.

(5) Where the adoption agency determines that a person should be accepted for assessment as an adoptive parent it must—

- (a) so far as is reasonably practicable obtain the information in Part I of Schedule 1;
- (b) assess the case and prepare a report on the assessment;
- (c) refer the case to the adoption panel for a recommendation on whether the prospective adopter is suitable to be an adoptive parent;
- (d) provide all relevant information obtained under sub-paragraph (a) and a copy of the report on the assessment to the adoption panel at the same time as making the referral;
- (e) notify the prospective adopter that the case has been referred to the adoption panel; and
- (f) provide the prospective adopter with a copy of the report provided to the adoption panel which report shall exclude any information provided by any person in confidence.

Approval of prospective adopters

8.—(1) Where an adoption agency receives a recommendation from the adoption panel under regulation 6(2)(c) or (d) it must make a decision on whether the prospective adopter is suitable to be an adoptive parent within 14 days of the date the recommendation was made.

(2) No member of the adoption panel which made the recommendation is to take part in the decision.

(3) Where an adoption agency makes a decision that a person is suitable to be an adoptive parent it must be satisfied that—

- (a) it has taken into account the recommendations made by the adoption panel; and
- (b) the prospective adopter is a suitable person with whom to place a child or children.

(4) Where the adoption agency makes a decision that is contrary to the recommendation of the adoption panel the agency must record in writing the reasons for that decision.

(5) Where the decision is that the prospective adopter is suitable to be an adoptive parent the adoption agency must notify in writing the prospective adopter of the decision within 14 days of making that decision.

(6) Where the decision is that the prospective adopter is not suitable to be an adoptive parent the adoption agency must—

- (a) notify the prospective adopter in writing of the decision within 7 days of making the decision;
- (b) send with the notification—
 - (i) its reasons for the decision; and
 - (ii) where the adoption panel’s recommendation was that the prospective adopter was suitable to be an adoptive parent, a copy of that recommendation;
- (c) inform the prospective adopter in writing that they may require the decision to be reviewed within 28 days of the date of notification (the “28 day period”); and
- (d) invite the prospective adopter to submit to the adoption agency any representations regarding the decision within the 28 day period.

Review of adoption agency decisions

9.—(1) Where a prospective adopter has, within the 28 day period referred to in regulation 8(6) (c), required a review of the decision made under regulation 8(1) the adoption agency must refer the case to the adoption panel for a recommendation.

(2) A referral under paragraph (1) must be made to a differently constituted adoption panel.

(3) Where a referral is made under paragraph (1) the adoption agency must provide the adoption panel with—

- (a) a copy of its decision and reasons made under regulation 8(4);
- (b) the report provided to the adoption panel under regulation 7(5)(d);
- (c) any representations received by the adoption agency from the prospective adopter; and
- (d) any other relevant information.

(4) The adoption panel must consider the case referred to it under paragraph (1) and make a fresh recommendation to the adoption agency as to whether the prospective adopter is suitable to be an adoptive parent.

(5) The adoption agency must—

- (a) make a decision (the “reviewed decision”) within 14 days of the date the fresh recommendation was made under paragraph (4); and
- (b) notify the prospective adopter of its reviewed decision within 7 days of making the reviewed decision.

(6) Where the reviewed decision is that the prospective adopter is not suitable to be an adoptive parent the notification under paragraph (5)(b) must—

- (a) state the reasons for the reviewed decision; and

- (b) where the adoption panel's fresh recommendation was that the prospective adopter was suitable to be an adoptive parent, include a copy of the adoption panel's fresh recommendation.

Review without request

10.—(1) Where an adoption agency has made a decision to approve a person as an adoptive parent that agency must, where paragraph (2) or (3) applies, carry out a review of the approval of the prospective adopter by complying with the requirements in paragraph (4).

(2) This paragraph applies where no child has been placed for adoption within 2 years from the date the adoption agency made the decision to approve that person as an adoptive parent under regulation 8(1) or 9(5)(a).

(3) This paragraph applies where—

- (a) the adoption agency has placed a child or children with the prospective adopter in accordance with regulation 18;
- (b) no application for an adoption order has been made in respect of the child; and
- (c) the adoption agency considers that a review of the prospective adopter's approval is necessary or appropriate to safeguard or promote the welfare of the child.

(4) The requirements are—

- (a) to re-assess the prospective adopter's suitability to become an adoptive parent by making such enquiries and obtaining such information as the adoption agency considers necessary in order to review whether the prospective adopter continues to be suitable to be an adoptive parent; and
- (b) to seek and take into account the views of the prospective adopter.

(5) If, following the review, the adoption agency considers that the prospective adopter may no longer be suitable to be an adoptive parent it must—

- (a) prepare a report on the re-assessment ("the review report");
- (b) notify the prospective adopter that the case is to be referred to the adoption panel;
- (c) send the prospective adopter a copy of the review report; and
- (d) invite the prospective adopter to submit any representations to the adoption agency within 14 days of the report being sent.

(6) At the end of the period of 14 days referred to in paragraph (5)(d) (or earlier if any representations of the prospective adopters are received before that period has expired) the adoption agency must send the review report, together with any such representations, to the adoption panel.

(7) When a referral to the adoption panel is made under paragraph (6) the adoption agency must—

- (a) notify the prospective adopter that the case has been referred to the adoption panel; and
- (b) provide the prospective adopter with a copy of the report provided to the adoption panel which report shall exclude any information provided by any person in confidence.

(8) The adoption panel must consider the review report, the representations made by the prospective adopter (if any), and any other information passed to it by the adoption agency and make a recommendation as to whether the prospective adopter continues to be suitable to be an adoptive parent.

Adoption agency decision on review

11.—(1) Where an adoption agency receives a recommendation from the adoption panel under regulation 10(8), the adoption agency must make a decision on whether the prospective adopter continues to be suitable to be an adoptive parent within 14 days from the date of the recommendation.

(2) Regulations 8(2) to (6) and 9 shall apply to that recommendation or, as the case may be, decision as if—

- (a) references to the recommendation of an adoption panel were references to a recommendation under regulation 10(8);
- (b) in regulation 9(1) and (3) references to a decision were to a decision under paragraph (1); and
- (c) the reference to the report provided to the adoption panel under regulation 7(5)(d) were a reference to the report provided to the panel under regulation 10(5)(a).