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STATUTORY INSTRUMENTS

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**2004 No. 1419**

**CHILDREN AND YOUNG PERSONS**

The Review of Children's Cases  
(Amendment) (England) Regulations 2004

*Made* - - - - 24th May 2004  
*Laid before Parliament* 28th May 2004  
*Coming into force* - - 27th September 2004

The Secretary of State in exercise of the powers conferred by sections 26(1) to (2B), 59(4)(a) and (5) and 104(4) of, and paragraph 10 of Schedule 6 to, the Children Act 1989(1) and of all other powers enabling him in that behalf hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Review of Children's Cases (Amendment) (England) Regulations 2004 and shall come into force on 27th September 2004.

(2) These Regulations apply only to England.

**Amendment of the Review of Children's Cases Regulations 1991**

2.—(1) The Review of Children's Cases Regulations 1991(2) are amended as follows.

(2) After regulation 2 insert—

**“Independent reviewing officers**

2A.—(1) Each responsible authority must appoint a person (“the independent reviewing officer”) in respect of each case to carry out the functions mentioned in section 26(2A) of the Act, which are—

- (a) participating in the review of the case in question;
- (b) monitoring the performance of the authority's functions in respect of the review;
- (c) referring the case to an officer of the Children and Family Court Advisory and Support Service(3), if the independent reviewing officer considers it appropriate to do so.

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(1) 1989 c. 41. Section 118 of the Adoption and Children Act 2002 (c. 38) amended the powers to make regulations in section 26(2) of the Act and inserted subsections (2A) to (2C) in section 26.  
(2) S.I.1991/895, amended in respect of England and Wales by S.I. 1991/2033, 1993/3069, 1995/2015, 1997/649, in respect of England only by S.I. 2002/546 and in respect of Wales only by 2002/2935.  
(3) Established by section 11 of the Criminal Justice and Court Services Act 2000 (c. 43).

(2) The independent reviewing officer must be registered as a social worker in a register maintained by the General Social Care Council under section 56 of the Care Standards Act 2000<sup>(4)</sup> 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 responsible authority, have sufficient relevant social work experience to undertake the functions mentioned in paragraph (1) in relation to the case.

(4) A person who is an employee of the responsible authority 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 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 reasonably practicable, take steps to ensure that the review is conducted in accordance with these Regulations 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 these Regulations or to take proper steps to make arrangements in accordance with regulation 8 is brought to the attention of persons at an appropriate level of seniority within the responsible authority.

(7) If the child whose case is reviewed wishes to take proceedings under the Act on his own account, for example to apply to the court for contact or for discharge of a care 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.”.

(3) For regulation 3 substitute—

**“Time when each case to be reviewed**

**3.—**(1) Each case must first be reviewed within four weeks of the date on which the child begins to be looked after or provided with accommodation by the responsible authority.

(2) The second review must be carried out no more than three months after the first and thereafter subsequent reviews must be carried out no more than six months after the date of the previous review.

(3) A review must be carried out before the time specified in paragraph (1) or (2) if the independent reviewing officer so directs.

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(4) 2000 c. 14.

- (4) This regulation is subject to regulation 11 (application of regulations to short periods.”.  
(4) After regulation 8 insert—

**“Independent reviewing officer to be notified of failure to implement etc.**

- 8A.** The responsible authority must inform the independent reviewing officer of—
- (a) any significant failure to make arrangements in accordance with regulation 8; or
  - (b) any significant change of circumstances occurring after the review that affects those arrangements.”.

Signed by authority of the Secretary of State for Education and Skills

24th May 2004

*Margaret Hodge*  
Minister of State,  
Department for Education and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations impose new obligations on the “responsible authority” in England (a local authority, voluntary organisation or a person carrying on a private children’s home) to appoint an independent reviewing officer (“IRO”) in connection with the review of each case of a child who is looked after or for whom accommodation is being provided.

Provision for requiring local authorities to appoint IROs was inserted in section 26 of the Children Act 1989 (review of cases) by section 118 of the Adoption and Children Act 2002. The requirements are applied to voluntary organisations by virtue of section 59(4) and (5) of the Children Act 1989. They are applied to persons providing private children’s homes (but only in cases where the child is not placed by a local authority or voluntary organisation) by virtue of paragraph 10 of Schedule 6 to the Children Act 1989.

Regulation 2 amends the Review of Children’s Cases Regulations 1991 by—

- (a) inserting a new regulation 2A requiring IROs to be appointed in each child’s case and providing for the description of persons that may be appointed as IROs and the manner in which the IROs should carry out their functions;
- (b) substituting a new regulation 3, providing for timing of reviews (including provision for reviews to be held when the IRO so directs);
- (c) inserting a new regulation 8A requiring the responsible authority to inform the IRO about a failure to implement decisions of a review or a significant change of circumstances following a review.

These Regulations do not impose any costs on business.