

2004 No. 2187

CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES

**The Children and Family Court Advisory and Support Service
(Reviewed Case Referral) Regulations 2004**

<i>Made</i> - - - -	<i>16th August 2004</i>
<i>Laid before Parliament</i>	<i>26th August 2004</i>
<i>Coming into force</i> - -	<i>27 September 2004</i>

The Lord Chancellor, in exercise of the powers conferred upon him by sections 26(2C) and 104(4) of the Children Act 1989(a), makes the following Regulations:

Commencement and citation

1. These Regulations may be cited as the Children and Family Court Advisory and Support Service (Reviewed Case Referral) Regulations 2004 and shall come into force on 27 September 2004.

Interpretation

2. In these Regulations—

a “claim for judicial review” means a claim to review the lawfulness of—

(a) an enactment; or

(b) a decision, action or failure to act in relation to the exercise of a public function;

“court” means the House of Lords, the Court of Appeal, the High Court, a county court or a magistrates court;

“independent reviewing officer” means an independent reviewing officer referred to in regulation 2A of the Review of Children’s Cases Regulations 1991(b);

“proceedings” means court proceedings;

“the Service” means the Children and Family Court Advisory and Support Service;

“referral” means a referral under section 26(2A)(c) of the Children Act 1989.

(a) 1989 c.41; section 26(2C) was inserted by section 118 of the Adoption and Children Act 2002 (c.38).

(b) 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 S.I.2004/1419 and in respect of Wales only by S.I. 2002/2935,S.I.2002/3013 and S.I.2004/1449.

Extension of the functions of officers of the Service

3. The functions of the Service in respect of family proceedings (within the meaning of section 12 of the Criminal Justice and Court Services Act 2000(a)) are extended so that they can be exercised in respect of any –

- (a) proceedings under section 7(1) of the Human Rights Act 1998(b);
- (b) claim for judicial review; and
- (c) other proceedings,

in connection with a referral by an independent reviewing officer.

Manner in which the functions of the officers of the Service are to be performed

4. On referral of a case by an independent reviewing officer, the functions of an officer of the Service shall be performed in the manner prescribed by regulations 5 to 9 below.

Appointment of an officer of the Service

5.—(1) Following receipt of a referral by an independent reviewing officer, the Service shall appoint an officer to assess the case.

(2) The officer of the Service shall decide on a course of action and submit a written report of the decision to—

- (a) the independent reviewing officer;
- (b) the Chief Executive of the local authority which appointed the independent reviewing officer;
- (c) any person specified by the independent reviewing officer in the referral; and
- (d) any other person the officer of the Service considers should be informed,

stating the reasons for the decision and the information taken into account, including where appropriate the ascertainable wishes and feelings of the child.

(3) The officer of the Service must seek to submit the report referred to in paragraph (2) to the persons referred to in that paragraph within two weeks of the referral.

(4) If the officer of the Service does not submit a written report within two weeks of the referral, he shall—

- (a) send written notice within two weeks of the referral to the persons referred to in paragraph (2) (a) to (d) explaining that it has not been possible to send the report within that period; and
- (b) submit the report as soon as is reasonably practicable thereafter and shall include in the report an explanation for the delay.

Inappropriate referral of a case

6. If the officer of the Service appointed under regulation 5(1) considers that the case has been inappropriately referred to him by the independent reviewing officer, that officer may—

- (a) require further written information as to the steps taken before the referral; or
- (b) proceed with the referral irrespective of whether he considers that the referral was appropriate.

(a) 2000 c.43.
(b) 1998 c.42.

Issue of proceedings

7.—(1) Where the decision made under regulation 5(2) is to bring proceedings, the officer of the Service must seek to bring them within six weeks of receipt by the Service of the referral by the independent reviewing officer.

(2) If the proceedings cannot be brought within six weeks, the proceedings shall be brought as soon as is reasonably practicable thereafter.

Settlement of the case without a court hearing

8. Notwithstanding whether proceedings have been issued or not, the officer of the Service may seek to settle the case by alternative dispute resolution or other means—

- (a) following the issue of proceedings, at any time before the date set for the final hearing of the proceedings; or
- (b) in a case where proceedings have not been issued, at any time.

Report following the conclusion of the case

9.—(1) On the conclusion of every case, whether following judgment of the court or settlement before or after proceedings were brought, the officer of the Service shall provide a written report to the persons referred to in regulation 5(2)(a) to (d) within six weeks of the judgment or settlement.

(2) The report under regulation 9(1) shall contain—

- (a) the reasons for the decision to bring proceedings or the decision to settle;
- (b) where applicable, the reasons for any delay where the time limits in regulations 5(2) or 7(1) have not been complied with;
- (c) full details of the court order or other settlement; and
- (d) any comments or recommendations the officer of the Service may have in respect of the case.

Signed by authority of the Lord Chancellor

Filkin
Parliamentary Under Secretary of State
Department for Constitutional Affairs

Dated 16th August 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for an extension of the functions of the Children and Family Court Advisory and Support Service, enabling court proceedings to be brought as necessary following a referral from an independent reviewing officer under section 26(2A)(c) of the Children Act 1989 (inserted by section 118 of the Adoption and Children Act 2002).

The Regulations further provide for the manner in which any functions of the officers of the Service are to be exercised following such a referral. For example, the officer of the service will assess the case, decide on a course of action, issue court proceedings if appropriate and report back to the independent reviewing officer on the outcome of any action taken.

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