

**EXPLANATORY MEMORANDUM TO**  
**THE RESIDENTIAL FAMILY CENTRES (AMENDMENT) REGULATIONS 2013**

**2013 No. 499**

**1.** This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 These Regulations amend the Residential Family Centres Regulations 2002 (“the Principal Regulations”), with effect from 1 April 2013, to increase the focus on the core function of residential family centres, which is to provide high quality assessments of parenting capacity.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 Since the Principal Regulations were made in 2002, they have only been subject to minor, principally consequential, amendments. Last year, the Department for Education carried out a policy review and public consultation on the provisions of the Principal Regulations and the Regulations aim to implement the policy decisions arising from that review. Those policy decisions are described below at paragraph 7.2.

**5. Territorial Extent and Application**

5.1 These Regulations apply in relation to England.

**6. European Convention on Human Rights**

6.1 As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

**7. Policy background**

7.1 Residential family centres are centres where parents undergo a residential assessment of their ability to care effectively for their children. A person who carries on or manages a residential family centre must register, with Ofsted, under Part 2 of the Care Standards Act 2000. The Principal Regulations, which are made under the Care Standards Act 2000, prescribe in more detail how the centres should be governed.

7.2 The main purpose of the centres is to provide local authorities and courts with robust, evidence-based assessments of parents' ability to care safely for their children. However, there is currently a concern that the assessments which residential family centres deliver may not be of the appropriate quality. These Regulations aim to address that concern by inserting a new regulation 13A into the Principal Regulations in order to prescribe how assessments of parents' capacity to respond to their children's needs and safeguard their welfare must be carried out. Regulation 13A also sets out that assessments must be carried out in accordance with appropriate and generally recognised methods and have regard to guidance issued by the Secretary of State. The current guidance is set out in the Framework for the Assessment of Children in Need and their Families. The Secretary of State has recently consulted on new draft guidance (Working Together to Safeguard Children) relating to the assessment of children in need. That draft guidance presents one possible model of assessment. When that guidance is issued, residential family centres will be notified.

7.3 The Regulations also amend the Principal Regulations to strengthen safeguards for the use of surveillance at the centres. The detailed requirements in the Principal Regulations in relation to facilities and services have been reduced. These amendments will enable providers to concentrate on providing a high-quality service to parents and children and for more accurate decisions to be made about the child's future. Ofsted's new inspection framework will focus inspections on addressing the effectiveness of the services which residential family centres provide. Regulation 31 of the Principal Regulations, which provided that a breach of those Regulations was an offence, and which set out the procedure which Ofsted had to follow before prosecuting for such an offence, has been revoked. Ofsted has never used this power and its removal brings the Regulations into line with recent amendments to the Children's Homes Regulations 2001 and the Fostering Services Regulations 2002.

7.4 The consultation on the policy proposals and the Regulations has not attracted public or media interest. The 13 responses to the public consultation exercise came from residential family centre providers, local authorities and Ofsted.

7.5 There are no plans to consolidate the Principal Regulations.

## **8. Consultation outcome**

8.1 A 12-week public consultation on the Regulations and National Minimum Standards for residential family centres was launched in April 2012. This followed a review of the Principal Regulations and National Minimum Standards, during which a questionnaire was sent to all residential family centres. Before the consultation, a working group of external partners including Ofsted, the Association of Directors of Children's Services and a number of residential family centre providers was established to help develop the Regulations and National Minimum Standards.

8.2 There were 13 responses to the public consultation from residential family centre providers, local authorities and Ofsted. The majority of responses were positive and welcomed the proposals. In particular, respondents welcomed the inclusion of the new

regulation 13A on assessments (inserted by regulation 9 of the Regulations) and considered that it would have a positive impact on the quality of assessments by clarifying who should carry out assessments and how they should be carried out. They also welcomed the new regulation 21A on surveillance (inserted by regulation 14 of these Regulations) which clarified the safeguards and assurance around surveillance, as there was previously no clear guidance on this. The majority of respondents had no comment about the removal of regulation 31 on offences, as Ofsted is able to rely on other enforcement provisions where it assesses that residential family centre providers have seriously breached regulations. For example, Ofsted may serve a compliance notice under section 22A of the Care Standards Act 2000 on a registered person if they have failed to comply with a requirement imposed on them (including a requirement imposed on them by the Principal Regulations). A report on the consultation and the Department's response to issues raised will be placed on the Department's website.

## **9. Guidance**

9.1 The changes are of direct interest to a limited audience: residential family centre providers, local authorities and Ofsted. We will be writing to them directly to inform them of the Regulations. The Department has also consulted on and will publish amended National Minimum Standards for residential family centres.

## **10. Impact**

10.1 Responses to the consultation did not enable us to place a monetary value on the cost implications of the new or reduced requirements. However, we consider that the Regulations will have minimal impact on business, charities or voluntary bodies.

10.2 The Regulations do not create a new burden on local authorities.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **11. Regulating small business**

11.1 The Regulations apply to small business.

11.2 Responses to the consultation confirmed that the proposed changes are likely to reduce overall burdens on providers of residential family centres. We therefore expect the Regulations to benefit these micro-business providers and that the impact of the requirements on firms employing up to 20 people will be minimal.

## **12. Monitoring & review**

12.1 The policy will be reviewed to ensure that, as a result of revising the Principal Regulations and National Minimum Standards, residential family centres have a greater

focus on providing robust, evidence-based assessments of parenting capacity and that Ofsted is better able to evaluate their performance on this basis.

12.2 Ofsted's new inspection framework is being introduced in April 2013 and will run over a three-year inspection cycle. The policy will therefore be reviewed after the first inspection cycle, i.e. after March 2016.

12.3 The two main groups to be involved in the review will be residential family centres and Ofsted. The Impact Assessment sets out (on page 17) the benchmark against which the policy will be reviewed.

### **13. Contact**

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