

**EXPLANATORY MEMORANDUM TO**  
**THE ADOPTION AND CARE PLANNING (MISCELLANEOUS AMENDMENTS)**  
**REGULATIONS 2018**

**2018 No. 152**

**1. Introduction**

- 1.1 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 enable additional information sharing to allow local authorities and voluntary adoption agencies (VAAs) that are working together as Regional Adoption Agencies (RAAs) to be able to operate effectively and, where appropriate, find suitable adoption placements for children without delay. Specifically this allows: (a) local authorities to share care-planning information with adoption agencies (local authorities and VAAs) where it is in the child's interests to do so; and (b) adoption agencies to share information that they hold about a person's adoption with another adoption agency for purposes related to its, or the receiving adoption agency's functions as an adoption agency.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 This instrument amends the Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 ('the 2005 Regulations') and the Care Planning, Placement and Case Review (England) Regulations 2010 ('the 2010 Regulations'). The 2005 Regulations prescribe certain matters for the purposes of the regime set out in sections 56 to 65 of the Adoption and Children Act 2002, which provides for adoption agencies to keep information about each adoption and to deal with applications for disclosure of such information. This instrument will enable adoption agencies to share information that they hold in additional circumstances.
- 4.2 The 2010 Regulations make provision about care planning for looked after children including as to the information that local authorities must keep in relation to the child and the sharing of that information. This instrument will enable local authorities to share information they hold with adoption agencies if it is in the interests of the child to do so.

## **5. Extent and Territorial Application**

5.1 This instrument extends to England and Wales.

5.2 This instrument applies to England.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

7.1 The adoption system consists of 152 local authorities along with around 25 VAAs, all of varying sizes and compositions, which are currently responsible for around 4,000 adoptions each year. In order to reduce this fragmentation, the 2015 Conservative Party Manifesto included a commitment to introduce RAAs.

7.2 The implementation of this commitment was set out in *Regionalising Adoption (2015)* which set out that RAAs will help ensure that: a) recruitment of adopters is efficient and effective, b) children are matched with suitable adopters quickly; and c) high quality support is available to adoptive families.

7.3 There are currently 6 RAAs in operation, covering 31 local authorities, with more scheduled to roll out over 2018 and 2019. The Government has stated that all local authorities should be in an RAA by 2020.

7.4 As adoption can only be undertaken by local authorities or VAAs, all RAAs are operated either by a local authority on behalf of the other local authorities or by an existing or newly registered VAA. Some parts of the adoption service remain with the local authority, so there are clear governance arrangements between the local authority and RAA to oversee RAA operations and performance.

7.5 Local authorities are responsible for the child and their case record. The RAA is responsible for matching the child with prospective adopters and recruiting sufficient adopters of the right type to meet the needs of children in its area. The establishment of RAAs means information needs to be shared between the local authority and the RAA. On occasions, this may also need to be shared with partner VAAs who are part of the RAA partnership and also undertaking recruitment. At the same time, it is important that information is not shared unnecessarily and that appropriate controls are maintained.

7.6 The Department has worked with the sector on what RAAs need to operate effectively and it is clear that they need access to adoption case records, care planning records, and information about a person's adoption. They also need to be able to share the case records of prospective adopter's with local authorities. As it is already possible for a child's adoption record and a prospective adopter's record to be shared, this instrument extends this to care planning records and information about a person's adoption, and replicates the same safeguards.

7.7 The Department is mindful of the sensitivity of this information and the need to comply with Data Protection requirements. This instrument therefore includes safeguards in that care planning records can only be shared if it is in the child's interests to do so and information about a person's adoption can only be shared for

purposes related to the disclosing agency or the receiving agency's functions as an adoption agency. The information sharing is also limited to sharing with other adoption agencies and does not enable the information to be shared more widely.

## **8. Consultation outcome**

- 8.1 There has been no formal consultation on the instrument; however, the Department did consult informally with RAA projects, the Professional Advisor to the Adoption Leadership Board, the Association of Directors of Children's Services (ADCS) and the Consortium of Voluntary Adoption Agencies (CVAA) over the rationale and content of these changes over the course of 2017. The sector are supportive of these changes, having raised this barrier to operation themselves as the first RAAs were established. This included sharing the rationale and content specifically in January 2018 with limited comments received, all of which were supportive.

## **9. Guidance**

- 9.1 No new guidance is being produced but the Department will notify adoption agencies of the changes.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies (i.e. VAAs) is positive, as the Instrument will remove barriers to allow them to operate more effectively.
- 10.2 The impact on the public sector is positive by allowing them to operate more effectively.
- 10.3 An Impact Assessment has not been prepared for this instrument. A Privacy Impact Assessment screening was completed and full privacy impact assessment not deemed necessary.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 The Department will continue to monitor the performance and operations of adoption agencies after these changes, particularly in terms of timeliness of the adoption process, speed of matching children being placed for adoption with prospective adopters, and adopter recruitment. The Department will also monitor for any issues raised regarding the sharing of this information. The Department will act accordingly on the findings of this ongoing monitoring.

## **13. Contact**

- 13.1 Sheila Shuttlewood at the Department for Education Telephone: 0207 654 6185 or email: [Sheila.shuttlewood@education.gov.uk](mailto:Sheila.shuttlewood@education.gov.uk) can answer any queries regarding the instrument.