
WELSH STATUTORY INSTRUMENTS

2005 No. 1313

The Adoption Agencies (Wales) Regulations 2005

PART 7
RECORDS

Storage of case records

40. The adoption agency must ensure that the case record set up in accordance with regulation 12 or 22 in respect of a child or prospective adopter and the contents of that case record are at all times kept in secure conditions and in particular that all appropriate measures are taken to prevent the theft, unauthorised disclosure, loss or destruction of, or damage to, the case record or its contents.

Preservation of case records

41. Where an adoption order is made in relation to a child the adoption agency must keep all case records set up in accordance with regulations 12 or 22 for at least 100 years. In any other case the agency must keep the case records for such period as it considers appropriate.

Confidentiality of case records

42. Subject to regulation 43, any information obtained or reports, recommendations or decisions made by virtue of these Regulations must be treated by the adoption agency as confidential.

Access to case records and disclosure of information

43.—(1) Subject to paragraph (3), the adoption agency must provide such access to its case records and disclose such information in its possession, as may be required —

- (a) to those holding an inquiry under section 81 of the 1989 Act (inquiries) or section 17 of the Act (inquiries) for the purposes of such an inquiry;
- (b) to the National Assembly for Wales;
- (c) subject to the provisions of section 74(5) of the Care Standards Act 2000 (disclosure), to the Children's Commissioner for Wales for the purposes of any examination conducted in accordance with Part V of that Act;
- (d) subject to the provisions of sections 29(7) and 32(3) of the Local Government Act 1974 (investigations and disclosure), to the Commission for Local Administration in Wales, for the purposes of any investigation conducted in accordance with Part III of that Act;
- (e) to any person appointed by the adoption agency for the purposes of the consideration by the agency of any representations (including complaints);
- (f) to the persons and authorities by and to the extent specified in these Regulations;
- (g) to a Welsh family proceedings officer or an officer of the CAFCASS for the purposes of the discharge of the officer's duties under the Act;

(h) to a court having power to make an order under the Act or the 1989 Act.

(2) Subject to paragraph (3), the adoption agency may provide such access to its case records and disclose such information in its possession as it thinks fit for the purposes of carrying out its functions as an adoption agency.

(3) A written record must be kept by the adoption agency of any access provided or disclosure made by virtue of this regulation.

Transfer of case records

44.—(1) Subject to paragraph (4), the adoption agency may transfer a copy of a case record (or part thereof) to another adoption agency when it considers this to be in the interests of a child or prospective adopter to whom the record relates, and a written record must be kept of any such transfer.

(2) Subject to paragraph (4) a registered adoption society which intends to cease to act or exist as such must forthwith either transfer its case records to another adoption agency having first obtained the registration authority's approval for such transfer, or transfer its case records —

(a) to the local authority in whose area the society's principal office is situated; or

(b) in the case of a society which amalgamates with another registered adoption society to form a new registered adoption society, to the new body.

(3) Where a registered adoption society intends to cease to provide for the adoption of children but is registered to provide adoption support services it may retain all its case records having first obtained the registration authority's approval in writing for such retention.

(4) The adoption agency to which case records are transferred by virtue of paragraph (2)(a) or (b) must notify the registration authority in writing of such transfer.

Application of regulations 41 to 43

45. Regulations 41 to 43 do not apply to case records which are subject to the regulations made under sections 56 to 68 of the Act.