
STATUTORY INSTRUMENTS

2003 No. 370

**SOCIAL CARE, ENGLAND
CHILDREN AND YOUNG PERSONS, ENGLAND**

The Local Authority Adoption
Service (England) Regulations 2003

Made - - - - 25th February 2003
Laid before Parliament 28th February 2003
Coming into force - - 30th April 2003

The Secretary of State in exercise of the powers conferred on him by sections 9(3) and (3A) and 67(5) of the Adoption Act 1976(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

PART I
GENERAL

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Local Authority Adoption Service Regulations 2003 and shall come into force on 30th April 2003.

(2) These Regulations apply to England only.

(3) In these Regulations—

“adoption service” means the discharge by a local authority of relevant adoption functions within the meaning of section 43(3)(a) of the Care Standards Act 2000(2) and, in relation to a local authority, means the discharge by that authority of those functions;

“children’s guide” means the written guide produced in accordance with regulation 3(1);

(1) 1976 c. 36. Section 9(3A) of the Adoption Act 1976 (“the Act”), was inserted by section 116 of, and paragraph 5(6)(c) of Schedule 4 to, the Care Standards Act 2000 (c. 14) (“the 2000 Act”). These powers are exercisable by the appropriate Minister, who is defined in section 9(5) of the Act in relation to England, as the Secretary of State, in relation to Wales as the National Assembly for Wales and in relation to England and Wales, as the Secretary of State and the National Assembly for Wales acting jointly. Section 9(5) of the Act was inserted by section 139(2) of, and paragraph 4(1)(b) of Schedule 4 to, the Adoption and Children Act 2002 (c. 38).

(2) 2000 c. 14.

“guardian” has the meaning given to it in section 5 of the Children Act 1989⁽³⁾;

“manager” shall be construed in accordance with regulation 5;

“statement of purpose” means the written statement compiled in accordance with regulation 2(1).

(4) In these Regulations, references to employing a person include employing a person whether or not for payment, and whether under a contract of service or a contract for services, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

Statement of purpose

2.—(1) Each local authority shall compile in relation to the adoption service a written statement (in these Regulations referred to as “the statement of purpose”) which shall consist of a statement as to the matters listed in Schedule 1.

(2) The authority shall—

(a) provide a copy of the statement of purpose to the Commission⁽⁴⁾; and

(b) make a copy of it available, upon request, for inspection by—

(i) any person working for the purposes of the adoption service;

(ii) children who may be adopted, their parents and guardians;

(iii) persons wishing to adopt a child; and

(iv) adopted persons, their parents, natural parents and former guardians.

(3) Subject to paragraph (4), the authority shall ensure that the adoption service is at all times conducted in a manner which is consistent with its statement of purpose.

(4) Nothing in paragraph (3) shall require or authorise the authority to contravene, or not comply with any other provision of these Regulations.

Children’s guide

3.—(1) Each local authority shall produce a written guide to the adoption service (in these Regulations referred to as “the children’s guide”) which shall consist of a statement as to the matters listed in Schedule 2.

(2) The authority shall provide a copy of the children’s guide to—

(a) the Commission;

(b) every prospective adopter with whom the authority has placed a child for adoption; and

(c) every child (subject to his age and understanding), who may be, or has been placed for adoption by the authority.

Review of statement of purpose and children’s guide

4. Each local authority shall—

(a) keep under review and, where appropriate, revise the statement of purpose and children’s guide; and

(b) notify the Commission of any such revision within 28 days.

⁽³⁾ 1989 c. 41.

⁽⁴⁾ By virtue of section 6(1) of the 2000 Act, the Commission means the National Care Standards Commission established under that Act.

PART II

MANAGERS

Appointment of manager

5.—(1) Each local authority shall appoint one of its officers to manage the adoption service, and shall forthwith notify the Commission of—

- (a) the name of any person appointed in accordance with this regulation; and
- (b) the date on which the appointment is to take effect.

(2) The authority shall forthwith notify the Commission if the person appointed under paragraph (1) ceases to manage the adoption service.

Fitness of manager

6.—(1) A person shall not manage an adoption service unless he is fit to do so.

(2) A person is not fit to manage an adoption service unless—

- (a) he is of integrity and good character;
- (b) having regard to the size of the local authority and its statement of purpose—
 - (i) he has the qualifications, skills and experience necessary for managing the adoption service; and
 - (ii) he is physically and mentally fit to manage an adoption service; and
- (c) full and satisfactory information is available in relation to him in respect of each of the matters listed in Schedule 3.

General requirements

7.—(1) The manager shall, having regard to—

- (a) the size of the local authority and its statement of purpose; and
- (b) the need to safeguard and promote the welfare of children who may be, or have been, placed for adoption by the authority,

manage the adoption service with sufficient care, competence and skill.

(2) The manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary to manage the adoption service.

Notification of offences

8. Where the manager is convicted of any criminal offence, whether in England and Wales or elsewhere, he shall forthwith give notice in writing to the Commission of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted; and
- (c) the penalty imposed on him in respect of the offence.

PART III

CONDUCT OF LOCAL AUTHORITY ADOPTION SERVICE

Arrangements for the protection of children

- 9.—(1) Each local authority shall prepare and implement a written policy which—
- (a) is intended to safeguard from abuse or neglect children placed for adoption by the authority; and
 - (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.
- (2) The procedure under paragraph (1)(b) shall provide in particular for—
- (a) where the child is placed with prospective adopters in the area of another local authority, the prompt referral to that authority of any allegation of abuse or neglect;
 - (b) written records to be kept of any allegation of abuse or neglect and the action taken in response;
 - (c) consideration to be given to the measures that may be necessary to protect children placed with prospective adopters following an allegation of abuse or neglect;
 - (d) arrangements to be made for persons working for the adoption service, prospective adopters and children who have been placed for adoption by the authority, to have access to information that would enable them to contact the Commission, regarding any concern about child welfare and safety.

Staffing of agency

10. Each local authority shall ensure that there is, having regard to—
- (a) the size of the authority and its statement of purpose; and
 - (b) the need to safeguard and promote the welfare of children who may be, or have been, placed for adoption by the authority,

a sufficient number of suitably qualified, competent, and experienced persons working for the purposes of the adoption service.

Fitness of workers

- 11.—(1) A local authority shall not—
- (a) employ a person to work for the purposes of the adoption service unless that person is fit to work for the purposes of an adoption service; or
 - (b) allow a person to whom paragraph (2) applies, to work for the purposes of the adoption service unless that person is fit to work for the purposes of an adoption service.
- (2) This paragraph applies to any person who is employed by a person other than the authority, in a position in which he may in the course of his duties have regular contact with children who may be, or have been, placed for adoption by the authority.
- (3) For the purposes of paragraph (1), a person is not fit to work for the purposes of an adoption service unless—
- (a) he is of integrity and good character;
 - (b) he has the qualifications, skills and experience necessary for the work he is to perform;
 - (c) he is physically and mentally fit for the work he is to perform; and

(d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 3.

(4) The authority shall take reasonable steps to ensure that any person working for the adoption service who is not employed by the authority and to whom paragraph (2) does not apply is appropriately supervised while carrying out his duties.

Employment of staff

12.—(1) Each local authority shall—

- (a) ensure that all permanent appointments made by the authority for the purposes of the adoption service are subject to the satisfactory completion of a period of probation; and
- (b) provide all employees employed by the authority for the purposes of the adoption service with a job description outlining their responsibilities.

(2) The authority shall ensure that all persons employed by the authority for the purposes of the adoption service—

- (a) receive appropriate training, supervision and appraisal; and
- (b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

Staff disciplinary procedure

13.—(1) Each local authority shall operate a disciplinary procedure which, in particular—

- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of children who may be, or have been, placed for adoption by the authority;
- (b) provides that the failure on the part of an employee to report, to an appropriate person, an incident of abuse, or suspected abuse of a child placed for adoption by the authority is a ground on which disciplinary proceedings may be instituted.

(2) For the purposes of paragraph 1(b), an appropriate person is—

- (a) the manager of the adoption service;
- (b) an officer of the Commission;
- (c) a police officer;
- (d) an officer of the National Society for the Prevention of Cruelty to Children; or
- (e) where the child is placed for adoption in the area of another local authority, an officer of that authority.

Arrangements for absence of manager

14. Each local authority shall establish a system to ensure that where the manager proposes to be or is absent from the authority for a continuous period of 28 days or more, an identified person is responsible for the management of the adoption service until such time as the manager returns or (as the case may be) a new manager is appointed by the authority.

Records with respect to staff

15.—(1) Each local authority shall maintain and keep up to date the records specified in Schedule 4.

(2) The records referred to in paragraph (1) shall be retained for at least 15 years from the date of the last entry.

Fitness of premises

16.—(1) The local authority shall not use premises for the purposes of the adoption service unless the premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The authority shall ensure—

- (a) that there are adequate security arrangements at the premises, in particular that there are secure facilities for the storage of records; and
- (b) that any records which are, for any reason, not on the authority's premises are nevertheless kept in conditions of appropriate security.

Complaints

17. Each local authority shall—

- (a) ensure that a written record is made of any complaint, including details of the investigation made, the outcome and any action taken in consequence, and for that record to be retained for at least 3 years from the date that it is made; and
- (b) supply to the Commission at its request a statement containing a summary of any complaints made in respect of the adoption service during the preceding 12 months and any action taken in consequence.

Signed by the authority of the Secretary of State for Health

Jaqui Smith
Minister of State,
Department of Health

SCHEDULE 1

Regulation 2(1)

INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. The aims and objectives of the local authority in relation to the adoption service.
2. The name and address of the manager.
3. The relevant qualifications and experience of the manager.
4. The number, relevant qualifications and experience of the staff employed by the authority for the purposes of the adoption service.
5. The organisational structure of the adoption service.
6. The system in place to monitor and evaluate the provision of services to ensure that services provided by the adoption service are effective and the quality of those services is of an appropriate standard.
7. The procedures for recruiting, preparing, assessing, approving and supporting prospective adopters.
8. A summary of the complaints procedure established in accordance with section 26(3) of the Children Act 1989(5) and the Complaints Procedure Directions 1990(6).
9. The address and telephone number of the Commission.

SCHEDULE 2

Regulation 3(1)

INFORMATION TO BE INCLUDED IN THE CHILDREN'S GUIDE

1. A summary of the statement of purpose.
2. A summary of the procedures where adoption is identified as the appropriate plan for a child.
3. A summary of the complaints procedures established in accordance with section 26(3) of the Children Act 1989 and the Complaints Procedure Directions 1990.
4. Details of how a child may have access to the services of an advocate who is independent of the authority to assist him in bringing a complaint under the complaints procedures referred to in paragraph 3.
5. The address and telephone number of the Commission.
6. The name, address and telephone number of the children's rights director(7).

(5) The Representations Procedure (Children) Regulations 1991 (S.I. 1991/894) as amended by S.I. 1991/2033, S.I. 1993/3069, S.I. 2001/2874 and S.I. 2002/546.

(6) Made by the Secretary of State, in the exercise of powers conferred by section 7B(3) of the Local Authority Social Services Act 1970.

(7) The children's rights director is established by section 6 of, and paragraph 10 of Schedule 1 to, the 2000 Act. His functions are prescribed in the National Care Standards Commission (Children's Rights Director) Regulations 2002 (S.I. 2002/1250).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 3

Regulations 6(2)(c) and 11(3)(d)

INFORMATION REQUIRED IN RESPECT OF PERSONS SEEKING TO MANAGE OR WORK FOR THE PURPOSES OF THE ADOPTION SERVICE

1. Proof of identity including a recent photograph.
2. Either—
 - (a) where the position falls within section 115(3) of the Police Act 1997⁽⁸⁾ an enhanced criminal record certificate issued under section 115 of that Act; or
 - (b) in any other case, a criminal record certificate issued under section 113 of the Police Act 1997 including, where applicable, the matters specified in section 113(3A) or 115(6A) of that Act⁽⁹⁾.
3. Two written references, including a reference from the person's most recent employer, (if any).
4. Where a person has previously worked in a position whose duties included work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the employment or position ended.
5. Documentary evidence of any relevant qualification.
6. A full employment history, together with a satisfactory written explanation of any gaps in employment.

SCHEDULE 4

Regulation 15(1)

RECORDS TO BE KEPT IN RELATION TO EACH PERSON WORKING FOR THE PURPOSES OF THE ADOPTION SERVICE

A record indicating in respect of each person working for the purposes of the adoption service—

1. Full name.
2. Sex.
3. Date of birth.
4. Home address.
5. Qualifications relevant to, and experience of, work involving children.
6. The dates on which he commences and ceases to be so employed.
7. Whether he is employed by the local authority under a contract of service or a contract for services, or is employed by someone other than the authority.
8. His job description and whether he works full-time or part-time and the number of hours for which he is employed by, or contracted to work for, the adoption service each week.
9. Training undertaken by him, supervision, appraisal, disciplinary action (if any) taken against him, complaints (if any) made against or concerning him and the outcome of such complaints and any other matters in relation to his employment for the purposes of the adoption service.

⁽⁸⁾ 1997 c. 50. A position is within section 115(3) if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18.

⁽⁹⁾ Sections 113(3A) and 115(6A) are inserted into the Police Act 1997 by section 8 of the Protection of Children Act 1999 (c. 14) and amended by sections 104 and 116 of, and paragraph 25 of Schedule 4 to, the 2000 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Adoption Act 1976 as amended by the Care Standards Act 2000. They apply to local authorities in England only.

Regulations 3 and 4 provide that each local authority who provides an adoption service must have a statement of purpose setting out the aims and objectives of the service and a children's guide. The service must be carried on in a manner that is consistent with the statement of purpose.

Part II makes provision about the persons managing the service. Regulation 5 requires the appointment of a manager. Regulations 6 and 7 make provision about the fitness of the manager and in particular, regulation 6 requires satisfactory information about the manager to be available in relation to the matters specified in Schedule 3.

Part III makes provision about the conduct of the service, arrangements for the protection of children (regulation 9), staffing and fitness of workers and in particular the availability of satisfactory information in relation to the matters specified in Schedule 3 (regulations 10 to 13), the arrangements that are to be in place where the manager is absent (regulation 14), the keeping of the records about staff that are listed in Schedule 4 (regulation 15), fitness of premises (regulation 16) and complaints (regulation 17).