
STATUTORY INSTRUMENTS

2005 No. 2720

The Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005

PART 3

CONDUCT OF AGENCIES

Arrangements for the protection of children

12.—(1) The registered person in relation to an agency providing adoption support services to children shall prepare and implement a written policy which—

- (a) is intended to safeguard from abuse or neglect children receiving adoption support services from the agency; 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) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in respect of the child;
 - (b) written records to be kept of any allegation of abuse or neglect and the action taken in response; and
 - (c) arrangements to be made for persons working for the purposes of the agency and adults and children to whom the agency has provided adoption support services to have access to information that would enable them to contact—
 - (i) the local authority in whose area the agency is situated and any other local authority on behalf of whom the agency is providing adoption support services to a child, and
 - (ii) the registration authority,regarding any concern about child welfare or safety.

(3) In this regulation “child protection enquiries” means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the Children Act 1989 relating to the protection of children.

Provision of services

13. The registered person shall ensure that adoption support services provided to any person are appropriate having regard to the needs for such services identified by an assessment carried out by the agency or by a local authority.

Records with respect to services

14.—(1) The registered person shall maintain records indicating in respect of each person to whom the agency provides adoption support services—

- (a) full name;

- (b) date of birth;
- (c) whether he is an adoptive child or an adopted person who has attained the age of 18 or, if not, his relationship to an adoptive child or adopted person;
- (d) description of services requested;
- (e) description of needs as assessed by the agency or a local authority;
- (f) description of services provided;
- (g) whether the services are provided on behalf of a local authority by virtue of section 3(4)(b) of the 2002 Act⁽¹⁾.

(2) The records specified in paragraph (1) shall be retained for such period as the registered provider considers appropriate.

Adoption case records (adoption support agencies that were formerly adoption agencies)

15.—(1) This regulation applies where an adoption support agency holds pre-commencement case records by virtue of regulation 16(2A) of the 1983 Regulations (transfer of case records).

(2) The provisions of the 1983 Regulations that relate to the retention, storage, transfer and disclosure of information in relation to the adoption of a person adopted before 30th December 2005 shall apply to the pre-commencement case records held by an adoption support agency as they apply to the case records of an adoption agency.

(3) In this regulation—

“the 1983 Regulations” means the Adoption Agencies Regulations 1983⁽²⁾;

“adoption agency” has the same meaning as in section 1(4) of the Adoption Act 1976⁽³⁾; and

“pre-commencement case records” means case records for any adoption before 30th December 2005.

Complaints

16.—(1) The registered person shall establish a written procedure for considering complaints made by or on behalf of any person to whom the agency has provided adoption support services or to whom the agency has refused to provide adoption support services (“complaints procedure”).

(2) The complaints procedure shall provide in particular—

- (a) for an opportunity for informal resolution of a complaint at an early stage;
- (b) that no person who is the subject of a complaint takes part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;
- (c) for dealing with complaints about the registered person or responsible individual; and
- (d) in the case of an agency providing adoption support services to children, for complaints to be made by a person acting on behalf of a child.

(3) The registered person shall provide a copy of the complaints procedure to every person working for the purposes of the agency and shall provide, upon request, a copy of the procedure to any person mentioned in paragraph (1) or any person acting on behalf of a child.

(4) The copy of the complaints procedure supplied under paragraph (3) shall include—

- (a) the name, address and telephone number of the registration authority; and

(1) See regulation 5(1)(b) of the Adoption Support Services Regulations 2005, S.I. 2005/691.

(2) S.I. 1983/1964; relevant amending instruments are S.I. 1997/649, 1997/2308, 2002/3220, 2003/367 and 2005/774. Regulation 16(2A) is inserted by regulation 35 of these Regulations.

(3) 1976 c. 36. Section 1(4) was amended by paragraph 5(2) of Schedule 4 to the Care Standards Act 2000, is to be repealed by Schedule 5 to the Adoption and Children Act 2002 and will be subject to savings.

- (b) details of the procedure (if any) which has been notified to the registered person by the registration authority for the making of complaints to the registration authority that relate to the agency.

Complaints – further requirements

17.—(1) The registered person shall ensure that any complaint made under the complaints procedure is fully investigated.

(2) The registered person shall, so far as is reasonably practicable, within a period of 28 days beginning on the date on which the complaint is received by the agency, inform the complainant of the outcome of the investigation and the action (if any) that is to be taken in consequence.

(3) The registered person shall 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.

(4) The registered person shall take all reasonable steps to ensure that—

- (a) children are enabled to make a complaint; and
- (b) no person is subject to any reprisal by the agency for making a complaint.

(5) The registered person shall supply to the registration authority at its request a statement containing a summary of any complaints made during the preceding 12 months and the action that was taken in consequence.

Staffing of agency

18. The registered person shall ensure that there is, having regard to the size of the agency, the statement of purpose, and the number and needs of persons to whom the agency provides adoption support services, a sufficient number of suitably qualified, competent and experienced persons working for the purposes of the agency.

Fitness of workers

19.—(1) The registered person shall not—

- (a) employ a person to work for the purposes of the agency unless that person is fit to work for the purposes of the agency; or
- (b) allow a person who is employed by a person other than the registered provider to work for the purposes of the agency unless that person is fit to work for the purposes of the agency.

(2) For the purposes of paragraph (1), a person is not fit to work for the purposes of an agency 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 2.

Employment of staff

20.—(1) The registered person shall—

- (a) ensure that all permanent appointments of staff employed for the purposes of the agency are subject to the satisfactory completion of a period of probation; and

- (b) provide all employees with a job description outlining their responsibilities.
- (2) The registered person shall ensure that all persons employed by the agency—
 - (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

- 21.**—(1) The registered person 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 persons to whom the agency provides adoption support services;
 - (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 to whom the agency provides adoption support services is a ground on which disciplinary proceedings may be instituted.
- (2) For the purposes of paragraph (1)(b), an appropriate person is—
- (a) the registered person;
 - (b) an officer of the registration authority;
 - (c) a police officer;
 - (d) an officer of the National Society for the Prevention of Cruelty to Children;
 - (e) an officer of the local authority in whose area the agency is situated;
 - (f) an officer of the local authority in whose area the child is living.

Records with respect to staff

- 22.**—(1) The registered person shall maintain and keep up to date the records specified in Schedule 3.
- (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

- 23.**—(1) The registered person shall not use premises for the purposes of the agency unless the premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.
- (2) The registered person 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 premises are nevertheless kept in conditions of appropriate security.