

Draft Regulations laid before the National Assembly for Wales under section 187(2)(b), (f), (g), (j) and (k) of the Regulation and Inspection of Social Care (Wales) Act 2016, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

SOCIAL CARE, WALES

**The Adoption Services (Service
Providers and Responsible
Individuals) and Local Authority
Adoption Services (Wales)
Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) introduced a new system of regulation of care and support services in Wales, replacing that established under the Care Standards Act 2000.

The 2016 Act also introduced a new concept of “regulated services” which is defined in section 2 of that Act. A person who wants to provide a regulated service must make an application for registration to the Welsh Ministers (in the exercise of their regulatory functions) specifying the regulated service that the person wants to provide.

Section 2(1)(d) of the 2016 Act provides that an adoption service is a regulated service, which is defined in Schedule 1 to that Act as meaning a service provided in Wales by (a) an adoption society within the meaning of the Adoption and Children Act 2002 (“the 2002 Act”) which is a voluntary organisation within the meaning of that Act, or (b) an adoption support agency within the meaning given by section 8 of that Act. A person who is registered to provide an adoption service is referred to in these regulations as a service provider.

Section 27 of the 2016 Act provides that regulations may impose requirements on an adoption service provider in relation to an adoption service. Section 28 further provides that regulations may impose requirements on a responsible individual designated by a regulated adoption service provider.

Section 30 of the 2016 Act enables the Welsh Ministers to make regulations about an adoption service provider who is liquidated, with section 31 allowing regulations to be made about a provider who has died.

The Welsh Ministers may make regulations to provide that it is an offence for an adoption service provider (section 45 of the 2016 Act) and for a responsible individual (section 46) to fail to comply with specified provisions.

Section 9 of the 2002 Act provides that regulations may make provision for any purpose relating to (a) the exercise by local authorities or voluntary adoption agencies of their functions in relation to adoption, or (b) the exercise by adoption support agencies of their functions in relation to adoption. The power to make regulations under section 9 is not limited by the specific powers in sections 10 to 12, 45, 54 and 56 to 65 and 98, nor by any other powers exercisable in respect of local authorities, voluntary adoption agencies or adoption support agencies. Subsection (3) enables regulations to be made under this provision to provide that a person who breaches those regulations commits an offence and is liable on summary conviction (prosecuted in the magistrates' court) to a fine not exceeding level 5 on the standard scale.

These Regulations impose requirements on local authority adoption service providers and on regulated adoption service providers, which together are referred to as “service providers”.

Part 1 of these Regulations contains definitions of certain terms used in the Regulations.

Part 2 prescribes those services which constitute adoption support services. Part 2 also covers exceptions which are made under powers in section 2(3) of the Act which enable the Welsh Ministers to prescribe things which, despite Schedule 1 to the Act (which sets out the definition of an adoption service), are not to be treated as an adoption service.

Part 3 sets out the general requirements which apply to regulated adoption service providers as to the way in which the service is provided, including requirements in relation to the statement of purpose, the arrangements for monitoring and improvement, and the making of notifications to the Welsh Ministers and other bodies. Schedule 1 sets out the specific notifications which are required to be made. Part 3 also

makes provision to ensure the financial sustainability of the service.

Part 3 also describes various requirements in relation to the designation of a responsible individual. Under section 6 of the 2016 Act, a person who wants to provide a regulated adoption service must make an application for registration to the Welsh Ministers in which a person is designated as the responsible individual.

Part 4 of these Regulations outlines the general requirements which apply to local authority adoption service providers as to the way in which the service is provided, including requirements in relation to the statement of purpose and the arrangements for monitoring and improvement. The requirement to designate a responsible individual does not apply to local authority adoption service providers, who are instead required to appoint a manager to be responsible for the management of the service.

Parts 5 to 8 of these Regulations set out the requirements which must be met by regulated adoption service providers and local authority adoption service providers.

Part 5 covers overarching requirements as to safeguarding and the care and support to be provided as well as more detailed requirements relating to the provision of information, meeting the language and communication needs of a child and treating children with respect and sensitivity. Part 5 also sets out the requirement to keep records and Schedule 3 sets out the specific records which must be kept.

Part 6 contains specific requirements in relation to ensuring children are safe and protected from abuse, neglect and improper treatment. As well as requiring policies and procedures to be in place in relation to safeguarding, the regulations in this Part place specific requirements as to the action to be taken in the event of an allegation or evidence of abuse. This Part also details other policies and procedures which must be in place, including those in relation to complaints and whistleblowing.

Part 7 ensures that premises, facilities and equipment to be used in relation to adoption services are suitable and safe.

Part 8 contains requirements as to staffing, which include general requirements as to the deployment of sufficient numbers of staff and specific requirements as to the fitness of individuals working at the service. These requirements apply not just to employees but extend also to volunteers and to other persons working at the adoption service. The fitness requirements include a requirement for specific information and

documents to be available in respect of persons working in adoption services, as set out in Schedule 4.

Other requirements contained in Part 8 include requirements relating to supporting and developing staff, providing information to staff and the operation of a suitable disciplinary procedure. To ensure that employees report incidents of abuse to an appropriate person, the regulations in this Part require the provider's disciplinary procedure to provide that a failure to report would itself be grounds for disciplinary proceedings.

Part 9 sets out requirements on responsible individuals which relate to the effective management of a regulated adoption service. The responsible individual has a general duty to supervise the management of the service (regulation 43) and specific duties to appoint a fit person to manage the service (regulations 44 and 45). The responsible individual must also put arrangements in place for the management of the service when the manager is absent (regulation 49).

Part 10 contains requirements on responsible individuals for ensuring the effective oversight of the service. By placing these requirements on the responsible individual, the regulations in this Part ensure that a person of an appropriately senior level in the organisation is accountable for service quality and compliance. The responsible individual is also required to make reports to the service provider on the adequacy of resources (regulation 51) and on other matters (regulation 52). The responsible individual must make arrangements for engagement with individuals and others so that their views on the quality of care and support provided can be taken into account by the provider (regulation 53).

Part 11 sets out the duty of the responsible individual for ensuring compliance with other requirements, including requirements as to the notification of incidents and complaints and the keeping of records. The responsible individual must also ensure that the policies and procedures of the regulated adoption service provider are kept up to date (regulation 56).

Part 12 covers the responsible individual's responsibilities in relation to monitoring and reviewing the quality of the service, and making a report to the regulated adoption service provider (regulation 57).

Part 14 covers offences. Regulation 62(1) provides that a failure of a regulated adoption service provider to comply with the requirements of specified provisions in these Regulations is an offence. In addition, where a regulated adoption service provider fails to comply with certain other requirements, regulation 62(3) provides that this is also an offence if

the failure to comply results in a child being exposed to avoidable harm or significant risk of such harm or suffering a loss of money or property as a result of theft, misuse or misappropriation. Regulation 63 provides that a failure of a responsible individual to comply with the requirements of specified provisions in these Regulations is an offence.

Part 15 specifies the responsibilities on the “appointed person” in the event of the insolvency of the regulated adoption service provider. Part 15 also sets out steps to be taken by the personal representatives of the deceased in the event of the death of a regulated adoption service provider who is an individual. It enables the personal representatives to act in the capacity of the provider and modifies the 2016 Act so that in these circumstances, the personal representatives are not required to register as provider, and one of the personal representatives can be designated as the responsible individual.

Part 16 sets out the circumstances in which the Welsh Ministers (instead of a regulated adoption service provider) may designate an individual to be a responsible individual.

Part 17 describes the duties which must be carried out by the manager employed by the local authority adoption service. These include responsibilities relating to the oversight of the adequacy of resources, making reports to the local authority adoption service provider, ensuring that there are systems in place to record complaints and ensuring that policies and procedures are kept up to date.

Part 18 covers other requirements on local authority adoption service providers and includes a requirement to set up a child’s case record and place specified matters on it; a requirement to provide a child’s birth parents with services including counselling and provision of information relating to the child, where the local authority considers that adoption is the preferred option for the child; and a requirement to have a strategy in place for the recruitment of sufficient numbers of adopters and to provide prospective adopters with information about the adoption process.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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Made

Coming into force

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The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 2(3), 21(5), 27, 28, 30, 31, 45, 46 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾ (“the 2016 Act”) and sections 9(1) and (3) and 10 of the Adoption and Children Act 2002.

The Welsh Ministers have consulted such persons as they think appropriate, as required by sections 27(4)(a) and 28(4) of the 2016 Act.

A draft of these Regulations was laid before the National Assembly for Wales under section 187(2)(b), (f), (g), (j) and (k) of the 2016 Act and has been approved by a resolution of the National Assembly for Wales.

(1) 2016 anaw 2.

PART 1

General

Title and commencement

1.—(1) The title of these Regulations is the Adoption Services (Service Providers and Responsible Individuals) and Local Authority Adoption Services (Wales) Regulations 2019.

(2) These Regulations come into force on 1 April 2019 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” (“...”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the 2002 Act” (“...”) means the Adoption and Children Act 2002⁽¹⁾;

“the 2014 Act” (“...”) means the Social Services and Well-being (Wales) Act 2014⁽²⁾;

“abuse” (“*camdriniaeth*”, “*cam-drin*”) means physical, sexual, psychological, emotional or financial abuse, and “financial abuse” (“*camdriniaeth ariannol*”) includes—

- (a) having money or other property stolen,
- (b) being defrauded,
- (c) being put under pressure in relation to money or other property, or
- (d) having money or other property misused;

“area authority” (“*awdurdod ardal*”) means the local authority or local authority in England for the area in which a child is placed, or is to be placed, where this is different from the placing authority;

“care and support plan” (“*cynllun gofal a chymorth*”) means a plan for the child made under section 54 or section 83 of the 2014 Act;

“child” (“...”) means a person who is aged under 18;

“clinical commissioning group” (“*grwp comisiynu clinigol*”) means a body established under section 14D of the National Health Service Act 2006⁽³⁾;

“Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) and “DBS” (“*GDG*”) mean the body formed by section 87(1) of the Protection of Freedoms Act 2012⁽⁴⁾;

(1) 2002 c. 38.
(2) 2014 anaw 4.
(3) 2006 c. 41.
(4) 2012 c. 9.

“employee” (“*cyflogai*”) has the same meaning as in section 230 of the Employment Rights Act 1996⁽¹⁾;

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

“harm” (“*niwed*”) has the same meaning as in section 197(1) of the 2014 Act;

“improper treatment” (“*triniaeth amhriodol*”) means discrimination or unlawful restraint, including inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005⁽²⁾;

“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales;

“local authority adoption service” (“...”) means the discharge by a local authority of the functions under the 2002 Act of making or participating in arrangements for the adoption of children or the provision of adoption support services as defined in section 2(6) of the 2002 Act;

“local authority in England” (“*awdurdod lleol yn Lloegr*”) means—

- (a) a county council in England,
- (b) a district council for an area in England for which there is no county council,
- (c) a London borough council, or
- (d) the Common Council of the City of London;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006⁽³⁾;

“National Health Service Commissioning Board” (“*Bwrdd Comisiynu'r Gwasanaeth Iechyd Gwladol*”) means the body established under section 1H of the National Health Service Act 2006;

“neglect” (“*esgeulustod*”) has the same meaning as in section 197(1) of the 2014 Act;

“personal outcomes” (“*canlyniadau personol*”) means—

- (a) in relation to an adult, means the outcomes that the adult wishes to achieve; or
- (b) in relation to a child, means
 - (i) the outcomes that the child wishes to achieve, or

(1) 1996 c.18.

(2) 2005 c. 9.

(3) 2006 c. 42.

- (ii) the outcomes that any persons with parental responsibility wish to achieve in relation to the child;

“placing authority” (“*awdurdod lleoli*”) means in relation to a child who is looked after by a local authority or local authority in England, that local authority;

“regulated adoption service” means an adoption service which is regulated within the meaning of the 2016 Act;

“representative” (“*cynrychiolydd*”) means any person having legal authority, or the consent of the individual, to act on the individual’s behalf;

“service regulator” (“*y rheoleiddiwr gwasanaethau*”) means the Welsh Ministers in the exercise of their regulatory functions⁽¹⁾;

“staff” (“...”) includes—

- (a) persons employed by the service provider⁽²⁾ to work at the service as an employee or a worker, and
- (b) persons engaged by the service provider under a contract for services,

but does not include persons who are allowed to work as volunteers.

“statement of purpose” (“*datganiad o ddiben*”) means—

- (a) in the case of an adoption service provider, the document containing the information which must be provided in accordance with regulation 3(c) of and Schedule 2 to the 2017 Registration Regulations for the place from which the service is provided⁽³⁾, and
- (b) in the case of a local authority adoption service, the information which must be provided in accordance with Schedule 5 for the place from which the service is provided;

“worker” (“*gweithiwr*”) has the same meaning as in section 230 of the Employment Rights Act 1996⁽⁴⁾.

(2) For the purpose of these Regulations—

- (a) in Parts 3 and 9 to 16—
 - (i) references to “adoption service” means an adoption service which is a regulated service within the meaning of the Act; and

(1) “Regulatory functions” is defined in section 3(1)(b) of the Act.

(2) “Service provider” is defined in section 3(1)(c) of the Act.

(3) Regulation 3(c) of the Regulated Services (Registration) (Wales) Regulations 2017 (S.I. 2017/1098. (W.278)) requires a person who wants to provide an adoption service to provide a statement of purpose for each place from which the service is to be provided.

(4) 1996 c.18.

- (ii) references to “service provider” means the provider of a service referred to in paragraph (a)(i);
- (b) in Parts 4 and 17 to 18—
 - (i) references to “adoption service” means a local authority adoption service; and
 - (ii) references to “service provider” means the provider of a service referred to in paragraph (b)(i);
- (c) in Parts 5 to 8—
 - (i) references to “adoption service” means—
 - (aa) an adoption service which is a regulated service within the meaning of the Act; and
 - (bb) a local authority adoption service; and
 - (ii) references to “service provider” means the provider of a service referred to in paragraph (c)(i)(aa) and (bb);
- (d) “care and support” means—
 - (i) the provision of support by an adoption society when making arrangements for the adoption of children⁽¹⁾; or
 - (ii) the provision of adoption support services (by an adoption society or adoption support agency) which has the meaning given in section 2(6) of the 2002 Act and—
 - (aa) regulation 3 of these Regulations when adoption support services are provided by a regulated adoption service; or
 - (bb) regulation 3 of the Adoption Support Services (Local Authorities) (Wales) Regulations 2005⁽²⁾ when provided by or on behalf of a local authority adoption service;
- (e) unless the context indicates otherwise “individual” means—
 - (i) where the service is provided by an adoption society—
 - (aa) a child who may be adopted and any parent or guardian of that child;

(1) The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313) requires an adoption agency to provide counselling and information for a child whom the agency is considering for adoption, the child’s parent or guardian, and the prospective adopter.

(2) S.I. 2005/1512.

- (bb) a person wishing to adopt a child;
 - (cc) an adopted person and any parent, natural parent or former guardian of that person;
 - (dd) any other person who may be receiving adoption support services; or
 - (ee) representatives of a person referred to in (dd);
- (ii) where the service is provided by an adoption support agency—
- (aa) any person receiving adoption support services; or
 - (bb) representatives of any person receiving adoption support services;
- (iii) where the service is provided by a local authority adoption service—
- (aa) a child who may be adopted and any parent or guardian of that child;
 - (bb) a person wishing to adopt a child;
 - (cc) an adopted person and any parent, natural parent or former guardian of that person;
 - (dd) any other person who may be receiving adoption support services;
 - (ee) representatives of a person referred to in (dd); or
 - (ff) any person seeking an assessment of their need for the provision of adoption support services by the local authority.

PART 2

Regulated adoption service – prescribed services and exceptions

Adoption support services

3.—(1) For the purposes of these Regulations and section 2(6)(b) of the 2002 Act the following services are prescribed as adoption support services—

- (a) assistance to adoptive parents, adoptive children, and related persons in relation to arrangements for contact between an adoptive child and a natural parent or a related person of the adoptive child;

- (b) services that may be provided in relation to the therapeutic needs of a child in relation to the child's adoption;
- (c) assistance for the purpose of ensuring the continuance of the relationship between a child and the child's adoptive parent, including training for the adoptive parent for the purpose of meeting any special needs of the child arising from that adoption;
- (d) assistance where disruption in an adoption arrangement or placement has occurred or is in danger of occurring, including:
 - (i) mediation; and
 - (ii) organising and running meetings to discuss disruptions in adoptions or placements;
- (e) assistance to adopted persons who have attained the age of 18 in obtaining information in relation to their adoption or facilitating contact between such persons and their relatives;
- (f) assistance to relatives of adopted persons who have attained the age of 18, in obtaining information in relation to that adoption or facilitating contact between such persons and the adopted person.

(2) For the purposes of sub-paragraphs (e) and (f) "relative" means any person who but for his or her adoption would be related to the adopted person by blood, including half blood or marriage.

(3) In this regulation—

- (a) "adoptive child" (*"plentyn mabwysiadol"*) means a child who is an agency adoptive child or a non-agency adoptive child;
- (b) "adoptive parent" (*"rhiant mabwysiadol"*) means a person—
 - (i) who an adoption agency has decided in accordance with regulation 34(1) of the Adoption Agencies (Wales) Regulations 2005 is a suitable adoptive parent for a particular child;
 - (ii) with whom an adoption agency has placed a child for adoption;
 - (iii) who has given notice under section 44 of the 2002 Act of his or her intention to apply for an adoption order for a child;
 - (iv) who has adopted a child; or
 - (v) who has adopted a child who has subsequently attained the age of 18;
- (c) "agency adoptive child" (*"plentyn mabwysiadol drwy asiantaeth"*) means a child—

- (i) in respect of whom an adoption agency has decided in accordance with regulation 19(1) of the Adoption Agencies (Wales) Regulations 2005 is a child who should be placed for adoption;
- (ii) whom an adoption agency has placed for adoption; or
- (iii) who has been adopted after having been placed for adoption by an adoption agency;
- (d) “non-agency adoptive child” (“plentyn mabwysiadol heb fod drwy asiantaeth”) means a child—
 - (i) in respect of whom a person—
 - (aa) has given notice under section 44 of the 2002 Act of his or her intention to apply for an adoption order; and
 - (bb) is not the birth parent or step parent of the child; or
 - (ii) who has been adopted by a person who—
 - (aa) is not the birth parent of the child; and
 - (bb) was not the step parent of the child before he or she adopted the child but does not include an agency adoptive child.

Exceptions

4.—(1) The following services are not to be treated as an adoption service⁽¹⁾, despite paragraph 4 of Schedule 1 to the Act (regulated services: definitions, adoption service)—

- (a) the provision of a service in relation to adoption by a person, in the course of a legal activity (within the meaning of the Legal Services Act 2007⁽²⁾), who is—
 - (i) an authorised person for the purposes of that Act; or
 - (ii) a European lawyer within the meaning of the European Communities (Services of Lawyers) Order⁽³⁾;
- (b) the provision of services to enable groups of adoptive children, adoptive parents and birth parents or former guardians of an adoptive child to discuss matters relating to adoption;

(1) “adoption service” has the meaning given in paragraph 4 of Schedule 1 to the Act.

(2) 2007 c.29

(3) S.I. 1978/1910.

- (c) the provision of respite care to an adoptive child or an adoptive parent by a care home service or domiciliary support service in respect of which a person is registered to provide under chapter 2 of the Act;
 - (d) the provision of respite care in relation to adoption consisting of child minding or day care within the meaning in Part 2 of the Children and Families (Wales) Measure 2010 and in respect of which a person is registered for child minding or day care under that Part of that Measure;
 - (e) the provision of adoption support services by a person (otherwise than in partnership with others) only under a contract for services with—
 - (i) a regulated adoption service; or
 - (ii) a local authority adoption service.
- (2) In paragraph (1)(e) a person does not include the plural and is not a corporate body.

PART 3

General requirements on adoption service providers – regulated adoption services

Requirements in relation to the provision of the service

5. The service provider must ensure that the adoption service is provided with sufficient care, competence and skill, having regard to the statement of purpose.

Requirements in relation to the statement of purpose

6.—(1) The service provider must provide the service in accordance with the statement of purpose.

(2) The service provider must—

- (a) keep the statement of purpose under review; and
- (b) where appropriate, revise the statement of purpose.

(3) Unless paragraph (4) applies the service provider must notify the persons listed in paragraph (6) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

(4) This paragraph applies in cases where it is necessary to revise the statement of purpose with immediate effect.

(5) If paragraph (4) applies the service provider must without delay notify the persons listed in paragraph (6) of any revision made to the statement of purpose.

(6) The persons who must be notified of any revision to the statement of purpose in accordance with paragraph (3) or (5) are—

- (a) the service regulator; and
- (b) individuals;

(7) The service provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

Suitability of the service

7.—(1) The service provider must not provide care and support for an individual unless the provider has determined that the adoption service is suitable to meet the individual's needs for care and support and to enable the individual to achieve their personal outcomes in accordance with the statement of purpose.

(2) The service provider must have in place a policy and procedures on commencement of the service.

(3) The determination under paragraph (1) must take into account—

- (a) any up to date plan;
- (b) any health or other relevant assessments;
- (c) the individual's views, wishes and feelings;
- (d) any risks to the individual's well-being;
- (e) any risks to the well-being of other individuals to whom care and support is provided;
- (f) the individual's religious persuasion, racial origin, cultural and linguistic background, sexual orientation and gender identity;
- (g) any reasonable adjustments which the service provider could make to enable the individual's care and support needs to be met;
- (h) the service provider's policy and procedures on commencement of the service.

(4) In a case where the individual does not have a plan, the service provider must—

- (a) assess the individual's care and support needs; and
- (b) identify their personal outcomes.

(5) The assessment required by paragraph (4) must be carried out by a person who—

- (a) has the skills, knowledge and competence to carry out the assessment; and
- (b) has received training in the carrying out of assessments.

(6) In making the determination in paragraph (1), the service provider must involve the individual, the placing authority (if applicable) and any

representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
 - (b) involving the representative would not be consistent with the individual's well-being.
- (7) In this regulation “plan” may include—
- (a) an adoption support plan⁽¹⁾;
 - (b) a care and support plan; or
 - (c) an adoption placement plan⁽²⁾.

Requirements in relation to monitoring and improvement

8.—(1) The service provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of care and support provided by the adoption service.

(2) Those arrangements must include arrangements for seeking the views of—

- (a) individuals;
- (b) any representatives, unless this is not appropriate or would be inconsistent with that person's well-being;
- (c) any local authority or local authority in England which has arranged for the provision of adoption support services by the adoption service;
- (d) any person working for the purposes of the adoption service,

on the quality of care and support provided by the adoption service and how this can be improved.

(3) When making any decisions on plans for improvement of the quality of care and support provided by the adoption service, the service provider must—

- (a) take into account the views of those persons consulted in accordance with paragraph (2); and
- (b) have regard to the quality of care report prepared by the responsible individual in accordance with regulation 58 (quality of care review).

(1) An “adoption support plan” is the plan which sets out the adoption support services the local authority has decided to provide for the child and the adoptive family, how these will be provided and by whom (if applicable).

(2) An “adoption placement plan” has the meaning given in regulation 36(2) of the Adoption Agencies (wales) Regulations 2005 (S.I. 2005/1313)

Notifications

9.—(1) The service provider must notify the service regulator of the events specified in Part 1 of Schedule 1.

(2) The service provider must notify the Local Health Board, or clinical commissioning group and the National Health Service Commissioning Board, of the events specified in Part 2 of Schedule 1.

(3) In the case of an adoption service provided by an adoption society the service provider must notify—

- (a) the placing authority of the events specified in Part 3 of Schedule 1;
- (b) the area authority of the events specified in Part 4 of Schedule 1;
- (c) the Local Health Board, or clinical commissioning group and the National Health Service Commissioning Board, of the events specified in Part 4 of Schedule 1.

(4) The notifications required by this regulation must include details of the event.

(5) Unless otherwise stated, notifications must be made without delay and in writing.

(6) Notifications must be made in such manner and in such form as may be required by the service regulator.

(7) In this regulation “Local Health Board”, “clinical commissioning group” and the “National Health Service Commissioning Board” means the Local Health Board, or the clinical commissioning group and the National Health Service Commissioning Board in whose area the child who has died or sustained serious injury in the course of receiving care and support was living at the time of the incident.

Compliance with code of practice

10. The service provider must adhere to the code of practice on the standards of conduct and practice expected of persons employing or seeking to employ social care workers, which is required to be published by Social Care Wales under section 112(1)(b) of the Act.

Requirements in relation to the responsible individual

11.—(1) This regulation does not apply to a service provider who is an individual.

(2) A service provider to whom this regulation applies must ensure that the person who is designated as the responsible individual—

- (a) is supported to carry out their duties effectively, and

(b) undertakes appropriate training.

(3) In the event that the service provider has reason to believe that the responsible individual has not complied with a requirement imposed by the regulations in Parts 9 to 13, the provider must—

- (a) take such action as is necessary to ensure that the requirement is complied with, and
- (b) notify the service regulator.

(4) During any time when the responsible individual is unable to fulfil their duties, the service provider must ensure that there are arrangements in place for—

- (a) the effective management of the service,
- (b) the effective oversight of the service,
- (c) the compliance of the service with the requirements imposed by the regulations in Parts 3 and 5 to 8; and
- (d) monitoring, reviewing and improving the quality of the care and support provided by the service.

(5) If the responsible individual is unable to fulfil their duties for a period of more than 28 days, the service provider must—

- (a) notify the service regulator, and
- (b) inform the service regulator of the interim arrangements.

Requirements in relation to the responsible individual where the service provider is an individual

12.—(1) This regulation applies where the service provider is an individual.

(2) If this regulation applies, the individual must undertake appropriate training for the proper discharge of his or her duties as the responsible individual.

(3) During any time when the individual is absent, he or she must ensure that there are arrangements in place for—

- (a) the effective management of the service,
- (b) the effective oversight of the service,
- (c) the compliance of the service with the requirements of the regulations in Parts 3 and 5 to 8; and
- (d) monitoring, reviewing and improving the quality of the care and support provided by the service.

(4) If the individual is unable to fulfil their duties as a responsible individual for a period of more than 28 days, he or she must—

- (a) notify the service regulator, and

- (b) inform the service regulator of the interim arrangements.

Requirements in relation to the financial sustainability of the service

13.—(1) The service provider must take reasonable steps to ensure that the adoption service is financially sustainable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The service provider must maintain appropriate and up to date accounts for the service.

(3) The service provider must provide copies of the accounts to the Welsh Ministers within 28 days of being requested to do so.

(4) The Welsh Ministers may require accounts to be certified by an accountant.

Duty of candour

14. The service provider must act in an open and transparent way with—

- (a) individuals receiving care and support;
- (b) any representatives of those individuals.

PART 4

General requirements on adoption service providers – local authority adoption services

Requirements in relation to the provision of the service

15. The service provider must ensure that the adoption service is provided with sufficient care, competence and skill, having regard to the statement of purpose.

Content of statement of purpose

16. The service provider must prepare a statement of purpose which contains the information listed in Schedule 5.

Requirements in relation to statement of purpose

17.—(1) The service provider must provide the adoption service in accordance with the statement of purpose.

(2) The service provider must—

- (a) keep the statement of purpose under review, and
- (b) where appropriate, revise the statement of purpose.

(3) Unless paragraph (4) applies, the service provider must notify the persons listed in paragraph (6) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

(4) This paragraph applies in cases where it is necessary to revise the statement of purpose with immediate effect.

(5) If paragraph (4) applies, the service provider must, without delay, notify the persons listed in paragraph (6) of any revision made to the statement of purpose.

(6) The persons who must be notified of any revision to the statement of purpose in accordance with paragraph (3) or (5) are—

- (a) the service regulator;
- (b) individuals.

(7) The service provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

Requirements in relation to monitoring and improvement

18.—(1) The service provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of care and support provided by the adoption service.

(2) Those arrangements must include arrangements for seeking the views of—

- (a) individuals;
- (b) any representatives, unless this is not appropriate or would be inconsistent with that person's well-being;
- (c) any other local authority or local authority in England which has arranged for the provision of adoption support services by the service;
- (d) any person working for the purposes of the service,

in relation to the quality of care and support provided by the service and how this can be improved.

(3) When making any decisions on plans for improvement of the quality of care and support provided by the adoption service, the service provider must—

- (a) take into account the views of those persons consulted in accordance with paragraph (2); and
- (b) have regard to the quality of care report prepared by the responsible individual in accordance with regulation 58 (quality of care review).

Requirements in relation to the local authority manager

19.—(1) Each service provider must appoint one of its officers to be responsible for the management of the adoption service.

(2) The service provider must immediately give notice in writing to the service regulator of—

- (a) the name of the person appointed as manager; and
- (b) the date on which the appointment is to take effect.

(3) The service provider must notify the service regulator in writing if the person appointed under paragraph (1) ceases to manage the service.

Fitness requirements for appointment of manager

20.—(1) The service provider must not appoint a person to manage the service unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 40(2) (fitness of staff) are met in respect of that person.

Requirements in relation to the manager

21.—(1) A service provider must ensure that the person who is appointed as the manager—

- (a) is supported to carry out their duties effectively, and
- (b) undertakes appropriate training.

(2) The service provider must ensure that the manager complies with the requirements of Part 17 (duties to be carried out by the local authority manager) of these Regulations.

(3) In the event that the service provider has reason to believe that the manager has not complied with a requirement imposed by the regulations in Part 17, the service provider must take such action as is necessary to ensure that the requirement is complied with.

(4) The service provider must put suitable arrangements in place to ensure that the service is managed effectively at any time when there is no manager appointed or when the manager is absent from the service.

Duty of candour

22. The service provider must act in an open and transparent way with—

- (a) individuals receiving care and support;
- (b) any representatives of those individuals.

PART 5

General requirements on adoption service providers – regulated adoption service providers and local authority adoption service providers

Safeguarding - overarching requirement

23. The service provider must provide the service in a way which ensures that individuals are safe and are protected from abuse, neglect and improper treatment.

Information about the service

24.—(1) The service provider must prepare a written guide to the service.

(2) The guide must be—

- (a) dated, reviewed at least annually and updated as necessary;
- (b) in an appropriate language, style, presentation and format, having regard to the statement of purpose for the adoption service;
- (c) given to any individual who is receiving care and support;
- (d) made available to others on request, unless this is not appropriate or would be inconsistent with the well-being of an individual.

(3) The guide must contain information about—

- (a) how to raise a concern or make a complaint;
- (b) the availability of advocacy services.

(4) The service provider must ensure that an individual receives such support as is necessary to enable the individual to understand the information contained in the guide.

Service agreement

25.—(1) The service provider must ensure that every individual who receives care and support is given a signed copy of any agreement relating to—

- (a) the care and support provided to the individual;
- (b) any other services provided to the individual.

(2) The service provider must ensure that the individual receives such support as is necessary to enable the individual to understand the information contained in any such agreement.

Information

26.—(1) The service provider must ensure that an individual has the information they need to make or participate in assessments, plans and day to day decisions about the way care and support is provided to them and how they are supported to achieve their personal outcomes.

(2) Information provided must be available in the appropriate language, style, presentation and format, having regard to—

- (a) the nature of the service as described in the statement of purpose;
- (b) the level of the individual's understanding and ability to communicate;
- (c) in the case of a child, the child's age.

(3) The service provider must ensure that the individual receives such support as is necessary to enable them to understand the information provided.

Language and communication

27.—(1) The service provider must take reasonable steps to meet the language needs of an individual.

(2) The service provider must put arrangements in place to ensure that an individual is provided with access to such aids and equipment as may be necessary to facilitate the individual's communication with others.

Respect and sensitivity

28.—(1) The service provider must ensure that individuals are treated with respect and sensitivity.

(2) This includes, but is not limited to—

- (a) respecting the individual's privacy and dignity;
- (b) respecting the individual's rights to confidentiality;
- (c) promoting the individual's autonomy and independence;
- (d) having regard to any relevant protected characteristics (as defined in section 4 of the Equality Act 2010) of the individual.

Standards of care and support – overarching requirements

29.—(1) The service provider must ensure that care and support is provided in a way which protects, promotes and maintains the safety and well-being of individuals.

(2) The service provider must ensure that care and support is provided in way which—

- (a) maintains good personal and professional relationships with individuals and staff; and
- (b) encourages and assists staff to maintain good personal and professional relationships with individuals.

Conflicts of interest

30. The service provider must have effective arrangements in place to identify, record and manage potential conflicts of interest.

Records

31.—(1) The service provider must keep and maintain the records specified in Schedule 3.

- (2) The service provider must—
 - (a) ensure that records are accurate and up to date;
 - (b) keep all records securely;
 - (c) make arrangements for the records to continue to be kept securely in the event the service closes;
 - (d) make the records available to the service regulator on request;
 - (e) retain records relating to adults for 15 years from the date of the last entry;
 - (f) retain records relating to children for 75 years from the date of the last entry, unless the records are returned to the placing authority in accordance with sub-paragraph (d);
 - (g) ensure that a person who receives care and support from the service—
 - (i) can have access to their records; and
 - (ii) are made aware they can access their records.

PART 6

**Policies, procedures and other standards –
regulated adoption service providers and local
authority adoption service providers**

Requirements to provide the service in accordance with policies and procedures

32.—(1) The service provider must ensure that the following policies and procedures are in place for the service—

- (a) commencement of the service (regulation 7);
- (b) safeguarding (regulation 33);

- (c) complaints (regulation 34);
- (d) whistleblowing (regulation 35);
- (e) supporting and developing staff (regulation 41);
- (f) staff discipline (regulation 43).

(2) The service provider must also have such other policies and procedures in place as are reasonably necessary to support the aims and objectives of the adoption service set out in the statement of purpose.

(3) The service provider must ensure that the content of the policies and procedures which are required to be in place by virtue of paragraphs (1) to (2) is—

- (a) appropriate to the needs of individuals for whom care and support is provided;
- (b) consistent with the statement of purpose; and
- (c) kept up to date.

(4) The service provider must ensure that the adoption service is provided in accordance with those policies and procedures.

Safeguarding policies and procedures

33.—(1) The service provider must have policies and procedures in place—

- (a) for the prevention of abuse, neglect and improper treatment, and
- (b) for responding to any allegation or evidence of abuse, neglect or improper treatment.

(2) In this regulation, such policies and procedures are referred to as safeguarding policies and procedures.

(3) The service provider must ensure that their safeguarding policies and procedures are operated effectively.

(4) In particular, where there is an allegation or evidence of abuse, neglect or improper treatment, the service provider must—

- (a) act in accordance with their safeguarding policies and procedures;
- (b) take immediate action to ensure the safety of all children for whom care and support is provided;
- (c) make appropriate referrals to other agencies; and
- (d) keep a record of any evidence or the substance of any allegation, any action taken and any referrals made.

Complaints policy and procedure

34.—(1) The service provider must have a complaints policy in place and ensure that the adoption service is operated in accordance with that policy.

(2) The service provider must have effective arrangements in place for dealing with complaints including arrangements for—

- (a) identifying and investigating complaints;
- (b) giving an appropriate response to a person who makes a complaint, if it is reasonably practicable to contact that person;
- (c) ensuring that appropriate action is taken following an investigation; and
- (d) keeping records relating to the matters in subparagraphs (a) to (c).

(3) The service provider must provide a summary of complaints, responses and any subsequent action taken to the service regulator within 28 days of being requested to do so.

(4) The service provider must—

- (a) analyse information relating to complaints and concerns; and
- (b) having regard to that analysis, identify any areas for improvement.

Whistleblowing

35.—(1) The service provider must ensure that all persons working at the service (including any person allowed to work as a volunteer) are able to raise concerns about matters that may adversely affect the health, safety or well-being of persons for whom the service is provided.

(2) These arrangements must include—

- (a) having a whistleblowing policy in place and acting in accordance with that policy; and
- (b) establishing arrangements to enable and support people working at the service to raise such concerns.

(3) The service provider must ensure that the arrangements required under this regulation are operated effectively.

(4) When a concern is raised, the service provider must ensure that—

- (a) the concern is investigated,
- (b) appropriate steps are taken following an investigation, and
- (c) a record is kept relating to the matters in subparagraphs (a) to (b).

PART 7

Premises, facilities and equipment - regulated adoption service providers and local authority adoption service providers

Overarching requirement

36. The service provider must ensure that the premises, facilities and equipment are suitable for the adoption service, having regard to the statement of purpose for the service.

Adequacy of premises

37. The service provider must ensure that the premises used for the operation of the adoption service have adequate facilities for—

- (a) the supervision of staff;
- (b) the secure storage of records.

Facilities and equipment

38. The service provider must ensure that the facilities and equipment used for the provision of the service are—

- (a) suitable and safe for the purpose for which they are intended to be used;
- (b) used in a safe way;
- (c) properly maintained;
- (d) kept clean to a standard which is appropriate for the purpose for which they are being used;
- (e) stored appropriately.

PART 8

Staffing - regulated adoption service providers and local authority adoption service providers

Staffing - overarching requirements

39.—(1) The service provider must ensure that at all times a sufficient number of suitably qualified, trained, skilled, competent and experienced staff are deployed to work at the adoption service, having regard to—

- (a) the statement of purpose for the service;
- (b) the care and support needs of individuals;
- (c) the need to support individuals to achieve their personal outcomes;
- (d) the need to safeguard and promote the health and welfare of children; and
- (e) the requirements of these Regulations.

Fitness of staff

40.—(1) The service provider must not—

- (a) employ a person under a contract of employment to work at the service unless that person is fit to do so;
- (b) allow a volunteer to work at the service unless that person is fit to do so;
- (c) allow any other person to work at the adoption service in a position in which he or she may in the course of his or her duties have regular contact with individuals who are receiving care and support or with other persons who are vulnerable unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to work at the adoption service unless—

- (a) the person is of suitable integrity and good character;
- (b) the person has the qualifications, skills, competence and experience necessary for the work he or she is to perform;
- (c) the person is able by reason of their health, after reasonable adjustments are made, of properly performing the tasks which are intrinsic to the work for which he or she is employed or engaged;
- (d) the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters specified in Part 1 of Schedule 2 and this information or documentation is available at the service for inspection by the service regulator;
- (e) where the person is employed by the service provider to manage the service, the person is registered as a social care manager with Social Care Wales.

(3) The certificate referred to in paragraphs 2 and 3 of Schedule 2 (referred to in this regulation as a DBS certificate) must be applied for by, or on behalf of the service provider, for the purpose of assessing the suitability of a person for the post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as the DBS update service).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person's DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person's DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the service provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in accordance with paragraph (3) and thereafter further such applications must be made at least every three years.

(7) If any person working at the adoption service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the service provider must—

- (a) take necessary and proportionate action to ensure that the relevant requirements are complied with;
- (b) where appropriate, inform—
 - (i) the relevant regulatory or professional body;
 - (ii) the Disclosure and Barring Service.

Supporting and developing staff

41.—(1) The service provider must have a policy in place for the support and development of staff.

(2) The service provider must ensure that any person working at the service (including a person allowed to work as a volunteer)—

- (a) receives an induction appropriate to their role;
- (b) is made aware of his or her own responsibilities and those of other staff;
- (c) receives appropriate supervision and appraisal;
- (d) receives core training appropriate to the work to be performed by them;
- (e) receives specialist training as appropriate;
- (f) receives support and assistance to obtain such further training as is appropriate to the work they perform.

(3) The service provider must ensure that any person employed to work at the adoption service as a manager is supported to maintain their registration with Social Care Wales.

Information for staff

42.—(1) The service provider must ensure that all persons working at the adoption service (including any person allowed to work as a volunteer) are provided

with information about the service and the way it is provided.

(2) The service provider must ensure that there are arrangements in place to make staff aware of any codes of practice about the standards of conduct expected of social care workers, which is required to be published by Social Care Wales under section 112(1)(a) of the Act.

Disciplinary procedures

43.—(1) The service provider must put in place and operate a disciplinary procedure.

(2) The disciplinary procedure must include—

- (a) provision for the suspension, and the taking of action short of suspension, of an employee, in the interests of the safety or well-being of people using the service;
- (b) provision that a failure on the part of an employee to report an incident of abuse, or suspected abuse, to an appropriate person, is grounds on which disciplinary proceedings may be instituted.

(3) For the purpose of paragraph (2)(b), an appropriate person is—

- (a) the service provider;
- (b) the responsible individual;
- (c) an officer of the service regulator;
- (d) an officer of the local authority for the area where the service is provided;
- (e) in the case of an incident of abuse or suspected abuse of a child, an officer of the National Society for the Prevention of Cruelty to Children; or
- (f) a police officer,

as the case may be.

PART 9

Requirements on responsible individuals for ensuring effective management of the service

Supervision of the management of the service

44. The responsible individual must supervise the management of the adoption service which includes taking the steps described in regulations 34 (complaints policy and procedure), 50 (arrangements when manager is absent) and 51 (visits).

Duty to appoint a manager

45.—(1) The responsible individual must appoint a person to manage the adoption service. But this requirement does not apply if the conditions in paragraph (2) or (3) apply.

(2) Where the service provider is an individual, the conditions are—

- (a) the service provider is an individual;
- (b) the service provider proposes to manage the service;
- (c) the service provider is fit to manage the service;
- (d) the service provider is registered as a manager with Social Care Wales; and
- (e) the service regulator agrees to the service provider managing the service.

(3) Where the service provider is a partnership, body corporate or unincorporated body, the conditions are—

- (a) the service provider proposes that the individual designated as the responsible individual for the service is to be appointed to manage the service;
- (b) that individual is fit to manage the service;
- (c) that individual is registered as a manager with Social Care Wales; and
- (d) the service regulator agrees to that individual managing the service.

(4) For the purposes of paragraph (2)(b), the service provider is not fit to manage the service unless the requirements of regulation 40(2) (fitness of staff) are met in respect of the service provider.

(5) The duty in paragraph (1) is not discharged if the person appointed to manage the service is absent for a period of more than three months.

Fitness requirements for appointment of manager

46.—(1) The responsible individual must not appoint a person to manage the adoption service unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 40(2) (fitness of staff) are met in respect of that person.

Restrictions on appointment manager for more than one service

47.(1) The responsible individual must not appoint a person to manage more than one adoption service, unless paragraph (2) applies.

(2) This paragraph applies if—

- (a) the service provider has applied to the service regulator for permission to appoint a manager for more than one service, and
- (b) the service regulator is satisfied that the proposed management arrangements—
 - (i) will not have an adverse impact on the provision of the service; and
 - (ii) will provide reliable and effective oversight of each service.

Duty to report the appointment of manager to service provider

48. On the appointment of a manager in accordance with regulation 45(1), the responsible individual must give notice to the service provider of—

- (a) the name of the person appointed, and
- (b) the date on which the appointment is to take effect.

Duty to report appointment of manager to Social Care Wales and the service regulator

49.—(1) On the appointment of a manager in accordance with regulation 45(1), the responsible individual must give notice to Social Care Wales and the service regulator of—

- (a) the name, date of birth and Social Care Wales registration number of the person appointed, and
- (b) the date on which the appointment is to take effect.

(2) In a case where the service provider is an individual and the service regulator has agreed to the service provider managing the service, the service provider must give notice to Social Care Wales of—

- (a) the name, date of birth and Social Care Wales registration number of the service provider, and
- (b) the date from which the service provider is to manage the service.

Arrangements when manager is absent

50.—(1) The responsible individual must put suitable arrangements in place to ensure that the adoption service is managed effectively at any time when there is no manager or when the manager is not present at the service.

(2) If there is no manager or the manager is not present at the service for a period of more than 28 days, the responsible individual must—

- (a) notify the service provider and the service regulator, and
- (b) inform them of the arrangements which have been put in place for the effective management of the service.

Visits

51.—(1) The responsible individual must—

- (a) visit the premises from which the adoption service is provided;
- (b) meet with members of staff who are employed to provide an adoption service from each place in respect of which the responsible individual is designated; and
- (c) meet with individuals for whom an adoption service is being provided from each such place.

(2) The frequency of such visits and meetings is to be determined by the responsible individual having regard to the statement of purpose but must be at least every three months.

PART 10

Requirements on responsible individuals for ensuring effective oversight of the service

Oversight of adequate resources

52.—(1) The responsible individual must report to the service provider on the adequacy of the resources available to provide the adoption service in accordance with the requirements of these Regulations.

(2) Such reports must be made on a quarterly basis.

(3) But this requirement does not apply where the service provider is an individual.

Other reports to the service provider

53.—(1) The responsible individual must, without delay, report to the service provider—

- (a) any concerns about the management or provision of the service;
- (b) any significant changes to the way the service is managed or provided;
- (c) any concerns that the service is not being provided in accordance with the statement of purpose for the service.

(2) But this requirement does not apply where the service provider is an individual.

Engagement with individuals and others

54.—(1) The responsible individual must put suitable arrangements in place for obtaining the views of—

- (a) individuals;
- (b) any local authority or local authority in England which has arranged for the provision of care and support by the adoption service;
- (c) persons working for the purposes of the adoption service,

on the quality of care and support provided and how this can be improved.

(2) The responsible individual must report the views obtained so that these views can be taken into account by the service provider when making any decisions on plans for improvement of the quality of care and support provided by the service.

PART 11

Requirements on responsible individuals for ensuring compliance of the service

Duty to ensure there are systems in place to record incidents and complaints

55. The responsible individual must ensure that there are effective systems in place to record incidents, complaints and matters on which notifications must be made in accordance with regulations 9 (notifications: service provider) and 62 (notifications: responsible individual).

Duty to ensure there are systems in place for keeping of records

56. The responsible individual must ensure that there are effective systems in place in relation to the keeping of records, which include systems for ensuring the accuracy and completeness of records which are required to be kept by regulation 31 (records).

Duty to ensure policies and procedures are up to date

57. The responsible individual must put suitable arrangements in place to ensure that the service provider's policies and procedures are kept up to date, having regard to the statement of purpose.

PART 12

Requirements on responsible individuals for monitoring, reviewing and improving the quality of the regulated service

Quality of care review

58.—(1) The responsible individual must put suitable arrangements in place to establish and maintain a system for monitoring, reviewing and improving the quality of care and support provided by the adoption service.

(2) The system established under paragraph (1) must make provision for the quality of care and support to be reviewed as often as required but at least every 6 months.

(3) As part of any review undertaken, the responsible individual must make arrangements for—

- (a) considering the outcome of the engagement with individuals and others, as required by regulation 54 (engagement with individuals and others);
- (b) analysing the aggregate data on incidents, notifiable incidents, safeguarding matters, whistleblowing, concerns and complaints;
- (c) reviewing any action taken in relation to complaints;
- (d) considering the outcome of any audit of the accuracy and completeness of records.

(4) On completion of a review of the quality of care and support in accordance with this regulation, the responsible individual must prepare a report to the service provider which must include—

- (a) an assessment of the standard of care and support provided, and
- (b) recommendations for the improvement of the service.

(5) But the requirement in paragraph (4) does not apply where the service provider is an individual.

Statement of compliance with the requirements as to standards of care and support

59.—(1) The responsible individual must prepare the statement required to be included in the annual return under section 10(2)(b) of the Act, in so far as it relates to the place or places in respect of which the responsible individual has been designated.

(2) When preparing the statement, the responsible individual must have regard to the assessment of the standard of care and support which is contained in a

report prepared in accordance with regulation 58(4) (quality of care review).

PART 13

Other requirements on responsible individuals

Support for staff raising concerns

60.The responsible individual must ensure that the provider's whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service to raise such concerns are being operated effectively.

Duty of candour

61. The responsible individual must act in an open and transparent way with—

- (a) individuals who are receiving care and support; and
- (b) any representatives of those individuals.

Notifications

62.—(1) The responsible individual must notify the service regulator of the events specified in Schedule 4.

(2) The notifications required by paragraph (1) must include details of the event.

(3) Unless otherwise stated, notifications must be made without delay and in writing.

(4) Notifications must be made in such manner and in such form as may be required by the service regulator.

PART 14

Offences

Offences – service provider

63.—(1) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2)(1).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations—

- (a) 6(3) (requirements in relation to statement of purpose);

(1) For penalties upon conviction for an offence under this regulation, see section 51(1) of the Act.

- (b) 6(5) (requirements in relation to statement of purpose);
- (c) 9(1), (2), (3), (5) (notifications);
- (d) 13(3) (requirements in relation to financial sustainability of the service);
- (e) 24(1) (information about the service);
- (f) 24(2) (information about the service);
- (g) 24(3) (information about the service);
- (h) 25(1) (service agreement);
- (i) 31(1) (records);
- (j) 31(2) (records);
- (k) 32(1) (requirements to provide the service in accordance with policies and procedures);
- (l) 40(1) (fitness of staff);
- (m) 42(1) (information for staff).

(3) A service provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in—

- (a) avoidable harm (whether of a physical or psychological nature) to an individual;
- (b) an individual being exposed to a significant risk of such harm occurring; or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by an individual of the money or property concerned.

(4) The provisions specified for the purposes of paragraph (3) are the provisions of regulations—

- (a) 5 (requirements in relation to the provision of the service);
- (b) 6(1) (requirements in relation to the statement of purpose);
- (c) 7(1) (requirement to ensure suitability of the service);
- (d) 7(3) (requirement to ensure suitability of the service);
- (e) 23 (safeguarding – overarching requirement);
- (f) 29(1) (standards of care and support – overarching requirements);
- (g) 32(4) (requirements to provide the service in accordance with policies and procedures);
- (h) 39 (staffing – overarching requirements).

Offences – responsible individuals

64.—(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2)(1).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations—

- (a) 45(1) (duty to appoint a manager);
- (b) 46(1) (fitness requirements for appointment of manager);
- (c) 49(1) (duty to report the appointment of manager);
- (d) 49(2) (duty to report the appointment of manager);
- (e) 51(1) (visits);
- (f) 51(2) (visits);
- (g) 52(1) (oversight of adequacy of resources);
- (h) 52(2) (oversight of adequacy of resources);
- (i) 53(1) (other reports to the service provider);
- (j) 58(4) (quality of care review);
- (k) 59(1) (statement of compliance with the requirements as to standards of care and support);
- (l) 62(1) (notifications); and
- (m) 62(3) (notifications).

PART 15

Service providers who are liquidated etc. or who have died

Appointment of liquidators etc.

65.—(1) An appointed person must—

- (a) without delay, give written notification to the service regulator of their appointment and the reasons for their appointment;
- (b) within 28 days of their appointment, notify the service regulator of their intentions regarding the future operation of the service.

(2) In this regulation “appointed person” (“*person a benodir*”) has the same meaning as in section 30 of the Act.

(1) For penalties upon conviction for an offence under this regulation, see section 51(1) of the Act.

Death of service provider

66.—(1) Where a service provider who is an individual has died, the personal representatives of the individual must—

- (a) without delay, give written notification of the death to the service regulator;
- (b) within 28 days of the death, notify the service regulator of their intentions regarding the future operation of the service.

(2) The personal representatives of the individual may act in the capacity of the service provider for a period not exceeding 28 days or for such longer period (not exceeding one year) as the service regulator may agree.

(3) Where the personal representatives are acting in the capacity of the service provider in accordance with paragraph (2), Part 1 of the Act applies with the following modifications—

- (a) section 5 (requirement to register) does not apply;
- (b) section 21(2) (responsible individuals) is to be read as if after paragraph (a) there is inserted—

“(aa) where the personal representatives of a service provider who has died are acting in the capacity of the service provider, be one of the personal representatives;”.

(4) In this regulation, “the service” means the regulated service or services which the service provider who has died was registered to provide at the time of their death.

PART 16

Regulations under section 21(5) of the Act

Designation of responsible individual by Welsh Ministers

67.The service regulator (instead of a service provider) may designate an individual to be a responsible individual, despite the requirements of section 21(2) of the Act not being met in respect of the individual, in the following circumstances—

- (a) the service provider is an individual who has died and the personal representatives of the service provider have notified the service regulator that they do not intend to make an application under section 11(1)(c) of the Act;
- (b) the service provider is an individual and they have notified the service regulator—

- (i) that they are no longer able to comply with their duties as a responsible individual, and
- (ii) the reasons for this being the case;
- (c) the service provider is a corporate body or partnership and they have notified the service regulator—
 - (i) that the individual designated by the service provider as the responsible individual is no longer able to comply with their duties as a responsible individual,
 - (ii) the reasons for this being the case, and
 - (iii) that there is no other individual who is eligible to be a responsible individual and who is able to comply with the duties of a responsible individual.

PART 17

Requirements on the local authority adoption service manager

Oversight of adequacy of resources

68.—(1) The manager must report to the service provider on the adequacy of the resources available to provide the service in accordance with the requirements of these Regulations.

(2) Such reports must be made on a quarterly basis.

Other reports to the local authority

69. The manager must, without delay, report to the service provider—

- (a) any concerns about the provision of the adoption service,
- (b) any significant changes to the way the service is managed or provided, and
- (c) any concerns that the service is not being provided in accordance with the statement of purpose for the service.

Engagement with individuals and others

70.—(1) The manager must put suitable arrangements in place for obtaining the views of—

- (a) individuals;
- (b) staff employed by the adoption service; and
- (c) any other local authority or local authority in England,

on the quality of care and support provided and how this can be improved.

(2) The manager must report on the views obtained so that these views can be taken into account by the service provider when making any decisions on plans for improvement of the quality of care and support provided by the service.

Duty to ensure there are systems in place to record complaints

71. The manager must ensure that there are effective systems in place to record complaints.

Duty to ensure there are systems in place for keeping of records

72. The manager must ensure that there are effective systems in place in relation to the records which must be kept in accordance with regulation 31, which include systems for ensuring the accuracy and completeness of records.

Duty to ensure policies and procedures are up to date

73. The manager must put suitable arrangements in place to ensure that the service provider's policies and procedures are kept up to date, having regard to the statement of purpose for the adoption service.

Quality of care review

74.—(1) The manager must put suitable arrangements in place to establish and maintain a system for monitoring, reviewing and improving the quality of care and support provided by the adoption service.

(2) The system established under paragraph (1) must make provision for the quality of care and support to be reviewed as often as required but at least every 6 months.

(3) As part of any review undertaken, the manager must make arrangements for—

- (a) considering the outcome of the engagement with individuals and others, as required by regulation 70 (engagement with individuals and others);
- (b) analysing the aggregated data on incidents, notifiable incidents, safeguarding matters, whistleblowing, concerns and complaints;
- (c) reviewing any action taken in relation to complaints;
- (d) considering the outcome of any audit of the accuracy and completeness of records.

(4) On completion of a review of the quality of care and support in accordance with this regulation, the manager must prepare a report to the service provider which must include—

- (a) an assessment of the standard of care and support provided; and
- (b) recommendations for the improvement of the service.

Support for raising concerns

75. The manager must ensure that the service provider's whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service to raise such concerns are being operated effectively.

Duty of candour

76. The manager must act in an open and transparent way with—

- (a) individuals who are receiving care and support; and
- (b) any representatives of those individuals.

PART 18

Other requirements on the local authority adoption service provider

Requirement to open a child's case record

77.—(1) The service provider must set up a case record ("the child's case record") in respect of each child and place on it—

- (a) any information and reports obtained by the local authority in respect of the child;
- (b) the child's permanence report;
- (c) any written record of any proceedings of an adoption panel under regulation 18 of the Adoption Agencies (Wales) Regulations 2005⁽¹⁾, its recommendation as to whether or not a child should be placed for adoption and the reasons for its recommendation and any advice given by the panel to an adoption agency;
- (d) any record of an adoption agency's decision and any notification of that decision under

(1) S.I. 2005/1313.

regulation 19 of the Adoption Agencies (Wales) Regulations 2005;

- (e) details of any consent by a parent or guardian of a child to placement for adoption under section 19 of the 2002 Act (placing children with parental consent);
- (f) details of any consent by a parent or guardian of a child to the making of a future adoption order under section 20 of the 2002 Act (advance consent to adoption);
- (g) any form or notice withdrawing consent under section 19 or 20 of the 2002 Act or notice given under section 20(4)(a) or (b) of the 2002 Act;
- (h) a copy of any placement order in respect of the child; and
- (i) any other documents or information obtained by the local authority which it considers should be included in the case record.

Birth parents

78.—(1) The service provider where it considers that adoption is the preferred option for a child, or where a child is relinquished, must provide birth parents with—

- (a) a counselling service;
- (b) as much information in relation to the child as the natural parents may reasonably require, and which the local authority is able to give;
- (c) an explanation and written information in respect of the following matters—
 - (i) the procedure in respect of both placement for adoption and adoption, including the Adoption Register for Wales and any other relevant national adoption register; and
 - (ii) the legal implications of—
 - (aa) giving consent to placement for adoption under section 19 of the 2002 Act (placing children with parental consent);
 - (bb) giving consent to the making of a future adoption order under section 20 of the 2002 Act; (advance consent to adoption);
 - (cc) a placement order⁽¹⁾;
 - (dd) adoption.

(1) “placement order” has the meaning given in section 21 of the 2002 Act.

(2) The service provider where it considers that adoption is the preferred option for a child, or where a child is relinquished, must ascertain the wishes and feelings of the natural parents and guardian of the child and of any other significant person the service provider considers relevant in relation to—

- (a) the matters set out in section 1(4)(f)(ii) and (iii) of the 2002 Act (matters the agency must have regard to);
- (b) the placement of the child for adoption and their adoption, including any wishes and feelings about the child's religious and cultural upbringing;
- (c) contact with the child if the local authority is authorised to place the child for adoption or the child is adopted.

(3) This paragraph applies where the father of the child or woman who is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008⁽¹⁾ does not have parental responsibility for the child and that person's identity is known to the local authority.

(4) Where paragraph (3) applies and the service provider is satisfied it is appropriate to do so the service provider must ascertain so far as possible whether the father or woman who is a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008—

- (a) wishes to acquire parental responsibility for the child under section 4 or 4ZA of the Children Act 1989; or
- (b) intends to apply for a child arrangements order with respect to the child under section 8 of the Children Act 1989, or where the child is subject to a care order, an order under section 34 of the Children Act 1989 (parental contact with children in care).

Prospective and approved adopters

79. The service provider must—

- (a) have written plans on its strategy to recruit sufficient number of adopters;
- (b) have comprehensive plans for preparation and approval processes for adopters contained within its policies and procedures;
- (c) provide prospective adopters with written information about the adoption process including information about—
 - (i) the policy and procedures in respect of the adoption process;

(1) 2008 c. 22

- (ii) arrangements for the assessment of and the provision of care and support;
 - (iii) the Adoption Register for Wales and any other relevant national adoption register;
 - (iv) local and regional arrangements;
- (d) provide assistance where disruption of a placement has occurred or is in danger of occurring, which includes the use of mediation and meetings.

Huw Irranca-Davies

Minister for Children, Older People and Social Care
under authority of the Cabinet Secretary for Health and
Social Services, one of the Welsh Ministers

Date

SCHEDULES

SCHEDULE 1 Regulation 9

Notifications by the service provider

PART 1

Notifications to the service regulator

1. Any revision to the statement of purpose, 28 days prior to the revised statement of purpose coming into effect.
2. Where the service provider (individual or organisation) changes their name.
3. Where the service provider is a company, any change in the directors of the company.
4. Where the service provider is an individual, the appointment of a trustee in bankruptcy in relation to that individual.
5. Where the service provider is a body corporate or partnership, the appointment of a receiver, manager, liquidator or provisional liquidator in relation to that company or partnership.
6. Where the service provider is a partnership, death of one of the partners.
7. Where the service provider is a partnership, any change in the partners.

8. Expected absence of the responsible individual for 28 days or more, 7 days prior to commencement of the absence.

9. The unexpected absence of the responsible individual, no later than 7 days after the commencement of the absence.

10. Unexpected absence of the responsible individual for 28 days or more, where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.

11. Return from absence of the responsible individual.

12. The responsible individual ceases, or proposes to cease, being the responsible individual for the service.

13. Any abuse or allegation of abuse in relation to an individual that involves the service provider and/or a member of staff.

14. Where the service provider (if an individual) or responsible individual (if the provider is an organisation) or appointed manager is convicted of any criminal offence, whether in Wales and England or elsewhere, of—

- (a) the date and place of conviction,
- (b) the offence of which they were convicted, and
- (c) the penalty imposed in respect of the offence.

15. Any allegation of misconduct by a member of staff.

16. Any incident reported to the police.

17. Any events which prevent, or could prevent, the provider from continuing to provide the service safely.

18. Any proposal to change the address of the principal office, 28 days prior to the change taking place.

19. Any referral to the DBS pursuant to the Safeguarding Vulnerable Groups Act 2006⁽¹⁾.

20. Where the service provider, responsible individual or appointed manager is charged with any offence specified in the Schedule to the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009⁽²⁾, notice of the offence charged and the place of charge.

21. Any incident of child sexual exploitation or suspected child sexual exploitation.

(1) 2006 c. 47.

(2) S.I. 2009/37.

22. The death of a child placed for adoption by the adoption service.

23. Any serious complaint about a prospective adopter approved by the service.

24. The instigation and outcome of any child protection enquiry involving a child placed for adoption by the service.

PART 2

Notification to the local health board/clinical commissioning group and National Health Service Commissioning Board

25. Death of a child placed for adoption by the adoption service.

26. Any serious accident sustained by a child placed for adoption by the adoption service.

27. The death or serious injury of an adult or child in the course of receiving care and support from the adoption service.

PART 3

Notifications to the placing authority

28. Any serious complaint about a prospective adopter approved by the adoption service where a child is placed for adoption with that prospective adopter by another adoption service.

29. The death of a child placed for adoption by the adoption service.

30. The instigation and outcome of any child protection enquiry involving a child placed for adoption by the adoption service.

PART 4

Notifications to the area authority

31. The death of a child placed for adoption by the adoption service.

32. Any serious accident sustained by a child placed for adoption by the adoption service.

33. Any serious complaint about a prospective adopter approved by the adoption service where a child is placed for adoption with that prospective adopter by the adoption service.

34. Any serious complaint about a prospective adopter approved by the adoption service where a child is placed for adoption with that prospective adopter by another adoption service (if not notified as the placing authority).

35. The instigation and outcome of any child protection enquiry involving a child placed for adoption by the adoption service or receiving adoption support services from the adoption service.

SCHEDULE 2 Regulation 40

PART 1

Information and documents to be available in respect of persons working in a regulated adoption service and a local authority adoption service

1. Proof of identity including a recent photograph.

2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997(1), a copy of a valid(2) criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request).

3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of a valid(3) enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children (within the meaning of section 113BA(2) of that Act) or suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act).

4. Two written references, including a reference from the last employer, if any.

5. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable verification of the reason why the employment or position ended.

(1) 1997 c. 50.

(2) For the meaning of “valid”, see Part 2 of this Schedule.

(3) For the meaning of “valid”, see Part 2 of this Schedule.

6. Documentary evidence of any relevant qualification.

7. Where relevant, documentary evidence of registration with Social Care Wales.

8. A full employment history, together with a satisfactory written explanation of any gaps in employment.

9. Evidence of satisfactory linguistic ability for the purposes of providing care and support to those individuals for whom the worker is to provide care and support.

10. Details of registration with or membership of any professional body.

PART 2

Interpretation of Part 1

11. For the purposes of paragraphs 2 and 3 of Part 1 of this Schedule—

- (a) if the person to whom the certificate relates is not registered with the DBS update service, a certificate is only valid if—
 - (i) it has been issued in response to an application by the service provider in accordance with regulation 40(3) or (6) (fitness of staff), and
 - (ii) no more than three years have elapsed since the certificate was issued;
- (b) if the person to whom the certificate relates is registered with the DBS update service, the certificate is valid regardless of when it was issued.

SCHEDULE 3 Regulation 31

Records to be kept in respect of regulated adoption services and local authority adoption services

1. In respect of each person to whom the service provides care and support—

- (a) full name;
- (b) date of birth;
- (c) whether the persons are—
 - (i) children who may be adopted, their parents and guardians;
 - (ii) persons wishing to adopt a child;

- (iii) adopted persons, their parents, natural parents, former guardians and related persons;
- (d) description of services requested;
- (e) description of assessed needs;
- (f) description of services provided;
- (g) whether the services are provided on behalf of a local authority under regulations made under section 3(4)(b) of the 2002 Act;
- (h) plans including—
 - (i) adoption support plans;
 - (ii) care and support plans;
 - (iii) adoption placement plans;
- (i) reviews of plans referred to in (h).

2. A record of all complaints made by individuals or their representatives or by persons working at the service about the operation of the service, and the action taken by the service provider in respect of any such complaint.

3. A record of all persons working at the service, which must include the following matters—

- (a) full name and home address;
- (b) sex;
- (c) date of birth;
- (d) qualifications relevant to, and experience of, working with persons receiving care and support and qualifications relevant to and experience of work involving children;
- (e) the dates on which the person commences and ceases to be so employed;
- (f) whether the person is employed under a contract of service or a contract for services, or is employed by someone other than the service provider;
- (g) the person's job description and whether the person works full-time or part-time and the number of hours for which the person is employed by or contracted to work for each week;
- (h) a copy of the person's birth certificate and passport (if any);
- (i) a copy of each reference obtained in respect of the person;
- (j) training undertaken by the person, supervision, appraisal and any complaints made against or concerning the person and the outcome of such complaints and any other matters in relation to the person's employment;

- (k) records of disciplinary action and any other records in relation to the person's employment;
- (l) a record of the date of a DBS certificate and whether there was any action taken as a result of the content of the certificate.

SCHEDULE 4 Regulation 62

Notifications by the responsible individual

- 1.** The appointment of a manager (see regulation 66(1)).
- 2.** The expected absence of the appointed manager for 28 days or more, 7 days prior to the commencement of the absence.
- 3.** The unexpected absence of the appointed manager, no later than 7 days after the commencement of the absence.
- 4.** The unexpected absence of appointed manager for 28 days or more where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
- 5.** Return from absence of appointed manager.
- 6.** Interim arrangements where the manager is absent for longer than 28 days.
- 7.** Someone other than the appointed manager is proposing to manage or is managing the service.
- 8.** The appointed manager ceases, or proposes to cease, managing the service.

SCHEDULE 5 Regulation 16

Information to be contained in a statement of purpose by a local authority

The statement of purpose provided by a local authority must contain the following information—

- (a) the name and principal address of the local authority;
- (b) the name and address of the manager;
- (c) a statement of the range of needs of the individuals for whom the service is to be provided;

- (d) how the service is to be provided to meet the needs of individuals and to support them to achieve their personal outcomes;
- (e) details of the management and staff structure of the service;
- (f) details of the facilities and equipment that will be available to individuals taking into account the range of needs set out in the statement of purpose;
- (g) details of the arrangements made to support the cultural, linguistic and religious needs of individuals;
- (h) details of how the local authority will meet individuals' language and communication needs, including through the medium of Welsh;
- (i) the aims and objectives of the local authority in relation to the service, including cases involving inter-country adoption;
- (j) the arrangements that the local authority has put in place to assess and make provision for care and support;
- (k) the relevant qualifications and experience of the manager;
- (l) the number, relevant qualifications and experience of the staff employed by the local authority for the purposes of the service;
- (m) the system in place to monitor and evaluate the provision of services to ensure that the services provided by the authority are effective and the quality of the service is of an appropriate standard;
- (n) the procedures for recruiting, preparing, assessing, approving and supporting prospective adoptive parents;
- (o) details of the adoption support service advisor and the procedures for the assessment for and provision of care and support;
- (p) a summary of the complaints procedures established in accordance with the Representations Procedure (Wales) Regulations 2014(1), the Social Services Complaints Procedure (Wales) Regulations 2014(2) and sections 171 and 172 of the 2014 Act;
- (q) the address and telephone number of the appropriate office of the Welsh Ministers.

(1) S.I. 2014/1795

(2) S.I. 2014/1794

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