

Children and Young Persons, Wales

Social Care, Wales

Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) Directions 2015

Purpose

The primary purpose of these Directions is to ensure that effective joint arrangements are in place between local authorities in Wales for the delivery of adoption services.

Summary

The Welsh Ministers are exercising the direction – making powers conferred by section 3A Adoption and Children Act 2002 to require local authorities in Wales to enter into specified arrangements with each other in relation to the provision of specified services under section 3(1) Adoption and Children Act 2002. The aim of the arrangements is to ensure consistent delivery of high quality adoption services across Wales. The arrangements are at a national level, regional level and local level.

At national level, the arrangements will be effected through a Governance Board, an Advisory Group and a Director of Operations.

At a regional level, the arrangements will be effected by five regional collaboratives. Each collaborative is a partnership of local authorities working together to ensure that a good quality adoption service is provided in their region. The composition of the regional collaboratives is determined by paragraph 7(2) and is set out at Schedule 1.

Local authorities will continue to carry out some of their adoption functions individually at local level.

Collectively, these joint arrangements for the provision of adoption services are referred to as “the National Adoption Service”.

Partnership agreements will set out the extent to which adoption functions are to be exercised by local authorities individually and the extent to which they are to be exercised through local authorities working in partnership through a regional collaborative.

Action

Local authorities should ensure that they are in a position to comply with the requirements of the Directions when they come into force on 13 March 2015.

Enquiries

Enquiries about these directions should be directed to Elizabeth Lockwood, Head of Placements Branch, Delivering Policy for Children and Adults Division, Department for Health and Social Services, Welsh Government. Telephone: 029 20 821695. Email: elizabeth.lockwood@wales.gsi.gov.uk.

The Welsh Ministers in exercise of the powers conferred by section 3A Adoption and Children Act 2002⁽¹⁾ (“the Act”), and having consulted the local authorities in Wales, make the following Directions.

Title and coming into force

1. These Directions may be cited as the Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) Directions 2015 and come into force on 13 March 2015.

The broad aims of the Joint Adoption Arrangements in Wales

2. The broad aims of the joint adoption arrangements are as follows—

- (a) the consistent delivery of high quality adoption services throughout Wales;
- (b) keeping delay to a minimum in the placement of children for adoption;
- (c) ensuring the widest choice possible of placements for adoption for children;
- (d) ensuring that high quality and timely training and assessment for prospective adopters is consistently available;
- (e) improving the process of matching children with prospective adopters;
- (f) the streamlining of adoption processes and ensuring improved liaison between social workers involved in adoption cases;
- (g) keeping adoption breakdown to a minimum by the provision of comprehensive adoption support services according to assessed need; and
- (h) collaborative working between local authorities, registered adoption societies, NHS Trusts and education services.

Interpretation

3.—(1) In these Directions —

“the Act” (“*y Ddeddf*”) means the Adoption and Children Act 2002;

“the Advisory Group” (“*y Grŵp Cyngori*”) means the group with the functions set out in paragraph 11 and the membership set out in paragraph 12;

(1) 2002 c.38 inserted by section 170 Social Services and Well-being (Wales) Act 2014.

“the Governance Board” (*“Bwrdd Llywodraethu”*) means the board with the functions set out in paragraph 9 and the membership set out in paragraph 10;

“the Host Authority (*“yr Awdurdod Lletyol”*) is the local authority designated in accordance with paragraph 8(3);

“the National Adoption Service” (*“y Gwasanaeth Mabwysiadu Cenedlaethol”*) means the Governance Board, the Advisory Group, the Director of Operations, the Regional Collaboratives and the local authorities exercising the functions specified in these Directions;

“partnership functions” (*“swyddogaethau partneriaeth”*) has the meaning given in paragraph 7(4)(a)(ii);

“registered adoption society” (*“cymdeithas fabwysiadu cofrestredig”*) means a voluntary organisation which is an adoption society registered under Part 2 of the Care Standards Act 2000⁽¹⁾.

“WLGA” is used to refer to the Welsh Local Government Association (*“Cymdeithas Llywodraeth Leol Cymru”*).

Specified services

4.—(1) The services maintained by local authorities under section 3(1) of the Act which are specified for the purposes of these Directions are services designed to meet the needs, in relation to adoption, of —

- (a) children who may be adopted, their parents or guardians;
- (b) persons wishing to adopt a child; and
- (c) adopted persons, their parents, natural parents and former guardians.

(2) The services maintained by local authorities under section 3(1) of the Act which are specified for the purposes of these Directions include services designed to meet the needs, in relation to adoption support services, of —

- (a) children who are siblings of an adoptive child (including a person who is in that relationship by virtue of a marriage or civil partnership or an enduring family relationship) ; and
- (b) relatives of adoptive children, adoptive parents and natural parents of an adoptive child, limited to arrangements for contact between an adoptive child and a natural parent or a related person of the adoptive child.

(1) 2000 c.14.

(3) In this paragraph “relative”, in relation to a child, means a step-parent, grandparent, brother, sister, uncle or aunt (including any person who is in that relationship by virtue of a marriage or civil partnership or an enduring family relationship).

(4) In paragraph 4(2)(b) “related person” means—

- (a) a relative within the meaning of paragraph 4(3); or
- (b) any person with whom the adoptive child has a relationship which appears to the local authority to be beneficial to the welfare of the child having regard to matters referred to in sub-paragraphs (i) to (iii) of section 1(4)(f) of the Act.

Duty under section 3(1) of the Adoption and Children Act 2002

5. The steps taken to implement the arrangements specified in these Directions must be consistent with the local authority’s duty to maintain an adoption service in accordance with section 3(1) of the Adoption and Children Act 2002.

Requirement for local authorities to collaborate with each other

6. Each local authority must enter into arrangements to carry out its adoption functions—

- (a) in collaboration with other authorities in a regional collaborative to the extent specified in partnership agreements drawn up in accordance with paragraph 7 of these Directions, and
- (b) in collaboration with all local authorities in Wales to provide management and oversight of those functions as required by paragraphs 8 to 14 of these Directions.

Regional collaboration - partnership between local authorities

7.—(1) Each local authority must enter into a written partnership agreement with the other local authorities in the regional collaborative of which it is a part.

(2) The local authorities with which each local authority must collaborate are set out in Schedule 1.

(3) A partnership agreement must contain details about the matters set out in sub-paragraph (4) and may include additional provisions relevant to local circumstances.

(4) The matters which must be contained in a partnership agreement are as follows—

- (a) the functions in relation to the maintenance of both a domestic and inter-country adoption service, including post-adoption services—
 - (i) which the local authorities will continue to carry out individually; and
 - (ii) which the local authorities will carry out collaboratively as part of the partnership arrangements (referred to as “the partnership functions”);
- (b) arrangements to establish a management committee to manage and have oversight of the regional collaborative’s operations;
- (c) arrangements for each local authority to nominate a representative to participate on the management committee with sufficient authority to take decisions so that the partnership arrangements operate effectively;
- (d) arrangements for the appointment of a representative from one of the local authorities to represent the regional collaborative on the Advisory Group;
- (e) arrangements for the appointment of a representative from one of the local authorities to represent the regional collaborative on the Governance Board;
- (f) staffing arrangements to ensure that there are suitable staff in sufficient numbers to carry out the partnership functions;
- (g) arrangements to ensure that sufficient and appropriate equipment, services and accommodation are available to carry out the partnership functions;
- (h) arrangements for determining the amount of payment or other contribution to be made by the local authorities towards the cost of carrying out the partnership functions;
- (i) arrangements for accounting and auditing in respect of expenditure relating to the partnership functions;
- (j) arrangements setting out which local authorities within the regional collaborative take responsibility for particular aspects of the operational requirements such as the provision of premises;
- (k) arrangements for working with registered adoption societies and to provide for their representation on the management committee of the regional collaborative;
- (l) arrangements to ensure that the views and the experience of service users are taken into account in carrying out the partnership functions;

- (m) arrangements for working with local authority education departments and to provide for their representation on the management committee of the regional collaborative;
- (n) arrangements for working with Local Health Boards and National Health Service Trusts and to provide for their representation on the management committee of the regional collaborative;
- (o) arrangements to ensure that the individual local authorities share relevant information to enable the regional collaborative to comply with the requirements of these directions;
- (p) a provision that notice by a local authority of intention to withdraw from the agreement will take effect no less than 12 months from the receipt of written notice to both the chairperson of the management committee of the regional collaborative in question and the chairperson of the Governance Board;
- (q) arrangements for resolving complaints arising out of the exercise of partnership functions, including how to complain and to whom any complaint should be addressed;
- (r) arrangements for determining disputes between local authorities arising out of the exercise of partnership functions;
- (s) arrangements for sharing information arising out of the exercise of partnership functions;
- (t) arrangements for ensuring that due consideration is given to the need for Welsh language services in planning and delivery of the adoption service through the partnership functions;
- (u) provision for review of the partnership agreement 12 months from the date of this agreement and every 2 years thereafter.

Management and oversight of the arrangements at national level

8.—(1) The local authorities must make arrangements for oversight of the regional collaboratives by —

- (a) establishing and maintaining a Governance Board (‘the Governance Board’) with the functions set out in paragraph 9 and membership as set out in paragraph 10;
- (b) establishing and maintaining an Advisory Group (‘the Advisory Group’) with the functions set out in paragraph 11 and membership as set out in paragraph 12 ;
- (c) the appointment of a Director of Operations.

(2) The local authorities must formulate terms of reference for the Governance Board and the Advisory Group which are consistent with these Directions and must review them annually.

(3) The local authorities must make arrangements for one of the local authorities to be designated as the Host Authority for the purpose of the management and oversight of arrangements at national level.

(4) The local authorities must make arrangements with respect to the declaration and management of conflicts of interest in the running of the Governance Board and Advisory Group.

The Governance Board

9.—(1) The functions of the Governance Board include the following —

- (a) provision of strategic direction in the development and delivery of the National Adoption Service, having regard to any advice from the Advisory Group and the Director of Operations;
- (b) approval of the annual work programme prepared by the Director of Operations in accordance with paragraph 13(2)(a);
- (c) ensuring that the views of all stakeholders are represented effectively;
- (d) monitoring and oversight of —
 - (i) the performance of the National Adoption Service against the performance measures in the National Performance Management Framework;
 - (ii) the quality of engagement with registered adoption societies and service user representatives within the National Adoption Service both at central and regional levels;
 - (iii) the budget and financial management of the Governance Board itself, the Advisory Group and the Director of Operations; and
 - (iv) compliance with these Directions;
- (e) ensuring due consideration is given to the need for Welsh language services in planning and delivery of adoption services throughout Wales;
- (f) providing a copy of the reports required by paragraphs 13(2)(a) and 13(2)(d) to the Welsh Ministers once these have been approved by the Governance Board; and
- (g) notifying the Welsh Ministers of any issues regarding the National Adoption Service

which, in its view, need to be drawn to their attention.

Membership of the Governance Board

10.—(1) The local authorities must ensure that the Governance Board is made up of—

- (a) a representative of each of the regional collaboratives appointed in accordance with arrangements made under paragraph 7(4)(e); and
- (b) a chairperson.

(2) The local authorities must invite, and use their best endeavours to ensure that the following become members of the Governance Board, subject to their agreement—

- (a) a WLGA spokesperson for Health and Social Services;
- (b) a WLGA deputy spokesperson for Health and Social Services;
- (c) the mayor or the executive leader (as the case may be), (or a deputy in respect of one of these roles), of the Host Authority;
- (d) the independent chairperson of the Advisory Group; and
- (e) a representative on behalf of the registered adoption societies.

(3) “Mayor” and “executive leader” have the same meaning as in section 11 of the Local Government Act 2000(1).

The Advisory Group

11. The functions of the Advisory Group include the following —

- (a) drafting terms of reference for the Advisory Group and submitting them to the Governance Board for approval;
- (b) the provision of professional advice and support to the Governance Board in order to inform the overall strategic direction of the National Adoption Service;
- (c) supporting the effective operation of the National Adoption Service to ensure that it promotes best practice;
- (d) notifying the Welsh Ministers of any issues regarding the National Adoption Service which, in its view, need to be drawn to their attention.

(1) 2000 c.22.

Membership of the Advisory Group

12.—(1) The local authorities must ensure that the Advisory Group is made up of—

- (a) a representative of each of the regional collaboratives appointed in accordance with arrangements made under paragraph 7(4)(d) ; and
- (b) an independent chairperson.

(2) The local authorities must invite, and use their best endeavours to ensure that, the following become members of the Advisory Group —

- (a) a representative of the Association of Directors of Social Services Cymru;
- (b) a representative of the Association of Directors of Education in Wales;
- (c) a representative of the WLGA;
- (d) three representatives from registered adoption societies;
- (e) a legal adviser from the Host Authority;
- (f) a Designated Doctor⁽¹⁾ appointed by the Public Health Wales National Health Service Trust, with specific responsibilities in relation to safeguarding the welfare of children, and in relation to children looked after by a local authority pursuant to section 22 Children Act 1989⁽²⁾;
- (g) a medical adviser appointed by an adoption agency pursuant to regulation 8(3) of the Adoption Agencies (Wales) Regulations 2005⁽³⁾;
- (h) a representative of the Child and Adolescent Mental Health Service;
- (i) a service user representative; and
- (j) a representative from a Social Research Centre.

(3) A person is independent for the purpose of sub-paragraph 1(b) if—

- (a) the person does not perform a role, pursuant to a contract, which includes any management or budgetary responsibility for—
 - (i) any matter relating to the maintenance of a service referred to in paragraph 4;
 - (ii) any matter relating to the making arrangements for the adoption of children by a registered adoption society;

(1) Safeguarding Children: Working Together under the Children Act 2004, Welsh Government Guidance 2006.

(2) 1989 civ 41.

(3) S.I. 2005/1313.

- (iii) the Wales Adoption Register; or
- (iv) independent reviews of determinations pursuant to the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010⁽¹⁾;
- (v) any aspect of compliance with these Directions except in fulfilment of the role of chairperson of the Advisory Group.

(4) In 12(2)(i), “service user” means—

- (a) a person who has adopted a child,
- (b) an adopted person,
- (c) the natural parent of an adopted child,
- (d) a person who has sought approval or is seeking approval as a prospective adopter,
- (e) a child for whom an adoptive placement is being sought.

The Director of Operations

13.—(1) The Host Authority must make arrangements for the appointment of a Director of Operations.

(2) The functions of the Director of Operations must include —

- (a) production of an annual work programme for the National Adoption Service, and the Advisory Group which must include—
 - (i) priorities and targets for the coming financial year;
 - (ii) financial plans and a budget for the coming financial year;
- (b) monitoring and analysis of performance data received from the regional collaboratives;
- (c) determining the actions to take to address any issues which require improvement;
- (d) submission to the Governance Board of a six monthly interim progress report on 31 December and an annual progress report on 30 June each year which must include—
 - (i) an analysis of the implementation of the annual work programme approved by the Governance Board under paragraph 9(b);
 - (ii) a financial report, including analysis of expenditure in relation to the budget for the financial year in question for the central elements of the National Adoption Service;

⁽¹⁾ S.I. 2010/746.

- (iii) an analysis of reports from the management committees of the regional collaboratives and performance of the regional partnership arrangements against the National Performance Framework;
- (iv) any aspects of the joint adoption arrangements which, in the view of the Director of Operations, need to be improved, with proposals on how this is to be achieved;
- (v) plans to develop the National Adoption Service in accordance with the broad aims stated at paragraph 2;
- (e) promotion of best practice and a culture of continuous improvement throughout the National Adoption Service;
- (f) establishing and maintaining a website for the National Adoption Service;
- (g) the co-ordination of pre-approval training courses for prospective adopters;
- (h) the co-ordination of adoption support services;
- (i) managing the staff who are required to assist in carrying out the functions of the Director of Operations.

(3) The Director of Operations must promptly notify the chairperson of the Governance Board, the chairperson of the Advisory Group and the Welsh Ministers of any matter he or she considers necessary in order to ensure the development and delivery of adoption services in accordance with the broad aims in paragraph 2.

Funding

14. The local authorities must enter into arrangements to ensure that—

- (a) the Governance Board, the Advisory Group and the Director of Operations have sufficient resources to perform their functions and to facilitate achievement of the broad aims in paragraph 2; and
- (b) there are adequate financial and accounting procedures.

Regional collaboratives – reporting

15.—(1) The local authorities in a regional collaborative must provide information about the exercise of their partnership functions to the Director of Operations, the Advisory Group and to the Governance Board when requested.

(2) In addition each regional collaborative must provide the following to the Director of Operations—

- (a) an annual work programme for the regional collaborative, to be submitted by 31 March each year;
- (b) a quarterly report at the end of each of the first three quarters of the financial year setting out the performance of the partnership arrangements against the National Performance Framework;
- (c) an annual report to be submitted by 31 May each year, to include—
 - (i) the performance of the regional collaborative against the performance measures in the National Performance Management Framework;
 - (ii) information regarding the resolution of complaints and determination of disputes at local and regional level and any impact on the provision of adoption services;
 - (iii) an analysis of the implementation of the annual work programme;
 - (iv) plans to address any under-performance; and
 - (v) plans to develop the adoption service within the region in accordance with the broad aims stated at paragraph 2.

Regional arrangements – matching

16.—(1) Where a local authority is seeking an adoptive placement for a child and —

- (a) three months have elapsed since the date on which the local authority was authorised to place the child for adoption; and
- (b) the local authority has not made a decision to match the child with prospective adopters,

the local authority must provide the child's details to the Wales Adoption Register established by the Welsh Ministers.

(2) In 16(1)(a), 'authorised to place the child for adoption' means either —

- (i) authorised to place for adoption pursuant to parental consent under section 19 of the Adoption and Children Act 2002; or
- (ii) authorised to place for adoption pursuant to a placement order made pursuant to section 21(1) of the Adoption and Children Act 2002.

(3) Where a local authority has approved a person as a prospective adopter and —

- (a) three months have elapsed since the date of approval; and
- (b) the local authority has not made a decision to match the prospective adopter with a child for adoption,

the local authority must provide details of the prospective adopter to the Wales Adoption Register established by the Welsh Ministers.

A handwritten signature in dark ink, appearing to read 'Mark Drakeford'. The signature is written in a cursive, slightly slanted style.

Signed by Professor Mark Drakeford, Minister for Health and Social Services, on behalf of the Welsh Ministers

Dated: 12 March 2015

SCHEDULE 1 Paragraph 7(2)

Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) Directions 2015

The regional collaboratives for the purpose of the National Adoption Service in Wales are to be comprised of the following local authorities—

1. North Wales: Conwy and Wrexham County Borough Councils, Gwynedd, Denbighshire Flintshire and Anglesey County Councils;

2. South East Wales: Blaenau Gwent, Caerphilly, Monmouth, Newport and Torfaen County Borough Councils and Monmouthshire County Council;

3. Mid and West Wales: Ceredigion, Carmarthenshire, Pembrokeshire and Powys County Councils;

4. Western Bay: Bridgend and Neath Port Talbot County Borough Councils and Swansea County Council; and

5. Vale, Valleys and Cardiff: Cardiff City and County Council, Vale of Glamorgan, Merthyr Tydfil and Rhondda-Cynon-Taff County Borough Councils.