
STATUTORY INSTRUMENTS

2005 No. 389

The Adoption Agencies Regulations 2005

PART 3

**DUTIES OF ADOPTION AGENCY WHERE THE
AGENCY IS CONSIDERING ADOPTION FOR A CHILD**

Application of regulations 11 to 17

11. Regulations 11 to 17 apply where the adoption agency is considering adoption for a child.

Requirement to open the child's case record

12.—(1) The adoption agency must set up a case record (“the child’s case record”) in respect of the child and place on it—

- (a) the information and reports obtained by the agency by virtue of this Part;
- (b) the child’s permanence report;
- (c) the written record of the proceedings of the adoption panel under regulation 18, its recommendation and the reasons for its recommendation and any advice given by the panel to the agency;
- (d) the record of the agency’s decision and any notification of that decision under regulation 19;
- (e) any consent to placement for adoption under section 19 of the Act (placing children with parental consent);
- (f) any consent to the making of a future adoption order under section 20 of the Act (advance consent to adoption);
- (g) any form or notice withdrawing consent under section 19 or 20 of the Act or notice under section 20(4)(a) or (b) of the Act;
- (h) a copy of any placement order⁽¹⁾ in respect of the child; and
- (i) any other documents or information obtained by the agency which it considers should be included in that case record.

(2) Where an adoption agency places on the child’s case record a notice under section 20(4)(a) or (b) of the Act, the agency must send a copy of that notice to a court which has given the agency notice of the issue of an application for an adoption order.

Requirement to provide counselling and information for, and ascertain wishes and feelings of, the child

13.—(1) The adoption agency must, so far as is reasonably practicable—

(1) See section 21 of the Act.

- (a) provide a counselling service for the child;
- (b) explain to the child in an appropriate manner the procedure in relation to, and the legal implications of, adoption for the child and provide him with appropriate written information about these matters; and
- (c) ascertain the child's wishes and feelings regarding—
 - (i) the possibility of placement for adoption with a new family and his adoption;
 - (ii) his religious and cultural upbringing; and
 - (iii) contact with his parent or guardian or other relative or with any other person the agency considers relevant.

(2) Paragraph (1) does not apply if the adoption agency is satisfied that the requirements of that paragraph have been carried out in respect of the child by another adoption agency.

Requirement to provide counselling and information for, and ascertain wishes and feelings of, the parent or guardian of the child and others

14.—(1) The adoption agency must, so far as is reasonably practicable—

- (a) provide a counselling service for the parent or guardian of the child;
- (b) explain to him—
 - (i) the procedure in relation to both placement for adoption and adoption;
 - (ii) the legal implications of—
 - (aa) giving consent to placement for adoption under section 19 of the Act;
 - (bb) giving consent to the making of a future adoption order under section 20 of the Act; and
 - (cc) a placement order; and
 - (iii) the legal implications of adoption,
 and provide him with written information about these matters; and
- (c) ascertain the wishes and feelings of the parent or guardian of the child and, of any other person the agency considers relevant, regarding—
 - (i) the child;
 - (ii) the placement of the child for adoption and his adoption, including any wishes and feelings about the child's religious and cultural upbringing; and
 - (iii) contact with the child if the child is authorised to be placed for adoption or the child is adopted.

(2) Paragraph (1) does not apply if the agency is satisfied that the requirements of that paragraph have been carried out in respect of the parent or guardian and any other person the agency considers relevant by another adoption agency.

(3) This paragraph applies where the father of the child does not have parental responsibility for the child and the father's identity is known to the adoption agency.

(4) Where paragraph (3) applies and the adoption agency is satisfied it is appropriate to do so, the agency must—

- (a) carry out in respect of the father the requirements of paragraph (1)(a), (b)(i) and (iii) and (c) as if they applied to him unless the agency is satisfied that the requirements have been carried out in respect of the father by another agency; and
- (b) ascertain so far as possible whether the father—

- (i) wishes to acquire parental responsibility for the child under section 4 of the 1989 Act (acquisition of parental responsibility by father)(2); or
- (ii) intends to apply for a residence order or contact order with respect to the child under section 8 of the 1989 Act (residence, contact and other orders with respect to children) or, where the child is subject to a care order, an order under section 34 of the 1989 Act (parental contact etc. with children in care).

Requirement to obtain information about the child

15.—(1) The adoption agency must obtain, so far as is reasonably practicable, the information about the child which is specified in Part 1 of Schedule 1.

(2) Subject to paragraph (4), the adoption agency must—

- (a) make arrangements for the child to be examined by a registered medical practitioner; and
- (b) obtain from that practitioner a written report (“the child’s health report”) on the state of the child’s health which shall include any treatment which the child is receiving, any need for health care and the matters specified in Part 2 of Schedule 1,

unless the agency has received advice from the medical adviser that such an examination and report is unnecessary.

(3) Subject to paragraph (4), the adoption agency must make arrangements—

- (a) for such other medical and psychiatric examinations of, and other tests on, the child to be carried out as are recommended by the agency’s medical adviser; and
- (b) for written reports of such examinations and tests to be obtained.

(4) Paragraphs (2) and (3) do not apply if the child is of sufficient understanding to make an informed decision and refuses to submit to the examinations or other tests.

Requirement to obtain information about the child’s family

16.—(1) The adoption agency must obtain, so far as is reasonably practicable, the information about the child’s family which is specified in Part 3 of Schedule 1.

(2) The adoption agency must obtain, so far as is reasonably practicable, the information about the health of each of the child’s natural parents and his brothers and sisters (of the full blood or half-blood) which is specified in Part 4 of Schedule 1.

Requirement to prepare child’s permanence report for the adoption panel

17.—(1) The adoption agency must prepare a written report (“the child’s permanence report”) which shall include—

- (a) the information about the child and his family as specified in Parts 1 and 3 of Schedule 1;
- (b) a summary, written by the agency’s medical adviser, of the state of the child’s health, his health history and any need for health care which might arise in the future;
- (c) the wishes and feelings of the child regarding the matters set out in regulation 13(1)(c);
- (d) the wishes and feelings of the child’s parent or guardian, and where regulation 14(4) (a) applies, his father, and any other person the agency considers relevant, regarding the matters set out in regulation 14(1)(c);

(2) Section 4 was amended by section 111 of the Act.

- (e) the views of the agency about the child’s need for contact with his parent or guardian or other relative or with any other person the agency considers relevant and the arrangements the agency proposes to make for allowing any person contact with the child;
 - (f) an assessment of the child’s emotional and behavioural development and any related needs;
 - (g) an assessment of the parenting capacity of the child’s parent or guardian and, where regulation 14(4)(a) applies, his father;
 - (h) a chronology of the decisions and actions taken by the agency with respect to the child;
 - (i) an analysis of the options for the future care of the child which have been considered by the agency and why placement for adoption is considered the preferred option; and
 - (j) any other information which the agency considers relevant.
- (2) The adoption agency must send—
- (a) the child’s permanence report;
 - (b) the child’s health report and any other reports referred to in regulation 15; and
 - (c) the information relating to the health of each of the child’s natural parents,
- to the adoption panel.
- (3) The adoption agency must obtain, so far as is reasonably practicable, any other relevant information which may be requested by the adoption panel and send that information to the panel.

Function of the adoption panel in relation to a child referred by the adoption agency

18.—(1) The adoption panel must consider the case of every child referred to it by the adoption agency and make a recommendation to the agency as to whether the child should be placed for adoption.

(2) In considering what recommendation to make the adoption panel must have regard to the duties imposed on the adoption agency under section 1(2), (4), (5) and (6) of the Act (considerations applying to the exercise of powers in relation to the adoption of a child) and—

- (a) must consider and take into account the reports and any other information passed to it in accordance with regulation 17;
- (b) may request the agency to obtain any other relevant information which the panel considers necessary; and
- (c) must obtain legal advice in relation to the case.

(3) Where the adoption panel makes a recommendation to the adoption agency that the child should be placed for adoption, it must consider and may at the same time give advice to the agency about—

- (a) the arrangements which the agency proposes to make for allowing any person contact with the child; and
- (b) where the agency is a local authority, whether an application should be made by the authority for a placement order in respect of the child.

Adoption agency decision and notification

19.—(1) The adoption agency must take into account the recommendation of the adoption panel in coming to a decision about whether the child should be placed for adoption.

(2) No member of the adoption panel shall take part in any decision made by the adoption agency under paragraph (1).

(3) The adoption agency must, if their whereabouts are known to the agency, notify in writing the parent or guardian and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child of its decision.

Request to appoint an officer of the Service or a Welsh family proceedings officer

20. Where the parent or guardian of the child is prepared to consent to the placement of the child for adoption under section 19 of the Act and, as the case may be, to consent to the making of a future adoption order under section 20 of the Act, the adoption agency must request the CAFCASS to appoint an officer of the Service⁽³⁾ or the National Assembly for Wales to appoint a Welsh family proceedings officer⁽⁴⁾ for the purposes of the signification by that officer of the consent to placement or to adoption by that parent or guardian and send with that request the information specified in Schedule 2.

(3) See section 11(3) of the Criminal Justice and Courts Services Act 2000 (c. 43).

(4) See section 35(4) of the Children Act 2004 (c. 31).