

**2005 No. 433**

**CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES**

**FAMILY LAW, ENGLAND AND WALES**

**The Children and Family Court Advisory and Support Service  
(Membership, Committee and Procedure) Regulations 2005**

<i>Made</i> - - - -	<i>1st March 2005</i>
<i>Laid before Parliament</i>	<i>10th March 2005</i>
<i>Coming into force</i> - -	<i>1st April 2005</i>

The Secretary of State for Education and Skills, in exercise of the powers conferred on her by section 76 of, and paragraphs 2 and 4 of Schedule 2 to, the Criminal Justice and Court Services Act 2000(a), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Children and Family Court Advisory and Support Service (Membership, Committee and Procedure) Regulations 2005 and come into force on 1st April 2005.

**Interpretation**

2. In these Regulations—

“co-opted member” means a member co-opted by the Service;

“appointed member” means a member appointed by the Secretary of State;

“member” means a member of the Service; and

“the Service” means the Children and Family Court Advisory and Support Service.

**Revocation**

3. The Children and Family Court Advisory and Support Service (Membership, Committee and Procedure) Regulations 2000(b) and the Children and Family Court Advisory and Support Service (Membership, Committee and Procedure) (Amendment) Regulations 2001(c) are hereby revoked.

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(a) 2000 c. 43; Schedule 2 was amended by paragraph 4(4) of the Schedule to S.I. 2003/3191 and by paragraph 14 of Schedule 3 to the Children Act 2004 (c.31).

(b) S.I. 2000/3374, amended by S.I. 2001/699.

(c) S.I.2001/699.

### **Chairman and other appointed members**

4.—(1) The Secretary of State is to appoint the chairman of the Service and ten other appointed members.

(2) In making an appointment under paragraph (1), the Secretary of State must have regard to the desirability of ensuring that the Service includes members with expertise in or knowledge of—

- (a) management,
- (b) business and finance,
- (c) social conditions relating to children and families, and
- (d) the work of the courts.

(3) After the amendment to paragraph 1 of Schedule 2 to the Criminal Justice and Court Services Act 2000 made by paragraph 14 of Schedule 3 to the Children Act 2004<sup>(a)</sup> has come into force, paragraph (1) has effect as if “ten” were replaced by “nine”.

### **Co-opted members**

5. The Service may co-opt up to five co-opted members to provide expertise to the Service.

### **Eligibility to be a member**

6. None of the following persons may be a member—

- (a) an officer or employee of the Service,
- (b) a person who has served as a member for a total period exceeding eight years,
- (c) an undischarged bankrupt, or
- (d) a person in respect of whom a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A of the Insolvency Act 1986<sup>(b)</sup> has effect.

### **Deputy chairman**

7.—(1) The Service must appoint one of the appointed members as deputy chairman.

(2) An appointment under paragraph (1) requires the Secretary of State’s approval.

(3) The Service may postpone making an appointment under paragraph (1) for a period of up to three months from the date on which the office of deputy chairman becomes vacant.

(4) The Service may by resolution remove the deputy chairman from the office of deputy chairman (but not from office as a member), and the office then becomes vacant.

(5) A resolution under paragraph (4) requires the Secretary of State’s approval.

### **Members’ tenure of office**

8.—(1) Except as provided in these Regulations, members hold and vacate office in accordance with their terms of appointment and, on ceasing to hold office, are eligible for re-appointment.

(2) An appointed member must not be appointed for a term of more than four years, and a co-opted member for a term of more than two years.

(3) If after becoming a member a person becomes ineligible under regulation 6, he ceases to hold office as member, and the office then becomes vacant.

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<sup>(a)</sup> c. 31.

<sup>(b)</sup> c. 45. Schedule 4A was inserted by section 257(2) of the Enterprise Act 2002 (c. 40).

## **Resignation**

9.—(1) A person may at any time by notice in writing to the Secretary of State and to the Service resign his office as a member, chairman or deputy chairman.

(2) If the chairman resigns his office as chairman, that resignation has effect also in respect of his office as a member.

## **Removal of member by Secretary of State**

10.—(1) If the Secretary of State is satisfied that—

- (a) a member has been absent from meetings of the Service for a period longer than four consecutive months without the permission of the Service,
- (b) it is not in the interests or conducive to the good management of the Service that a member should continue to hold office, or
- (c) a member is unable or unfit to discharge the functions of a member,

she may by notice in writing to the member remove him from office, and the office then becomes vacant.

(2) Before exercising her power under paragraph (1), the Secretary of State must consult the chairman or, if paragraph (3) applies, either the chief executive or such member other than the chairman as she considers appropriate.

(3) This paragraph applies if—

- (a) the Secretary of State considers it inappropriate to consult the chairman,
- (b) there is no chairman currently in office, or
- (c) the chairman has been suspended from the exercise of his functions as a member.

(4) If the Secretary of State is considering exercising her power under paragraph (1), she may by notice in writing to the member suspend him from the exercise of his functions as a member.

(5) The Secretary of State may by notice in writing to the member revoke any suspension under paragraph (4).

## **Removal of co-opted member by Service**

11.—(1) If the Service is satisfied that regulation 10(1)(a), (b) or (c) applies in the case of a co-opted member, it may by resolution remove him from office, and the office then becomes vacant.

(2) If the Service is considering exercising its power under paragraph (1), it may by resolution suspend the co-opted member from the exercise of his functions as a member.

(3) The Service may by notice in writing to the member revoke any suspension under paragraph (2).

## **Effect of removal, etc. as member on office of chairman and deputy chairman**

12. If the chairman or deputy chairman is removed from, or ceases to hold, office as a member, or is suspended from the exercise of his functions as a member, that removal, cessation or suspension has effect also in respect of the office of chairman or deputy chairman.

## **Frequency of meetings**

13. The Service must meet at least once every three months but may meet more frequently if it so decides.

## **Quorum**

14.—(1) Except as provided in paragraph (2), the quorum of the Service is one half (rounded up to a whole number) of the members currently in office.

(2) If there are fewer than six members currently in office, the quorum of the Service is three.

### **Member to preside at meetings**

**15.**—(1) The chairman is to preside at meetings of the Service.

(2) If the chairman is absent from, or is otherwise unable to preside at, any meeting or any part of a meeting, the deputy chairman is to preside.

(3) If both the chairman and the deputy chairman are absent from, or are otherwise unable to preside at, any meeting or any part of a meeting, a member chosen by the Service (who must be present and able to preside) is to preside.

### **Voting**

**16.**—(1) Every question to be decided by the Service is to be determined by a majority of the votes of the members present and voting on the question at a meeting.

(2) Except as provided in these Regulations, each member present at the meeting has one vote.

(3) Where there is an equality of votes, the member presiding at the meeting has an additional, casting vote.

### **Members suspended from the exercise of their functions**

**17.** A member suspended from the exercise of his functions as a member—

- (a) does not count towards a quorum,
- (b) may not take part in any meeting or decision of the Service, and
- (c) may not preside at meetings of the Service.

### **Co-opted members not to take part in certain decisions**

**18.** A co-opted member may not take part in any decision of the Service under regulation 5, 7 or 11 or preside during any part of a meeting at which such a decision is made.

### **Members' interests**

**19.**—(1) A member who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Service must disclose the nature of his interest to the meeting.

(2) If such a disclosure is made—

- (a) the disclosure must be recorded in the minutes of the meeting, and
- (b) the member must not take part in any deliberation or decision of the Service with respect to that matter or preside during any part of a meeting at which that matter is discussed.

(3) If a member is not present at a meeting at which a matter in which he is interested is brought up for consideration, paragraph (1) only applies to him if he was aware that the matter would be brought up for consideration at the meeting.

(4) For the purposes of paragraph (1), a general notification given at a meeting by a member to the effect that he—

- (a) has an interest in a specified company, firm or other organisation, and
- (b) is to be regarded as interested in any matter involving that company, firm or other organisation,

shall be regarded as sufficient disclosure of his interest in relation to any such matter.

(5) A member need not attend in person at a meeting in order to make a disclosure which he is required to make under this regulation if he takes reasonable steps to secure that the disclosure is made by a notice in writing to the Service which is read and considered at the meeting.

### **Validity of proceedings**

20. The validity of any proceedings of the Service is not affected by any vacancy among the members or by any defect in the appointment of a member.

### **Minutes of meetings**

21.—(1) Minutes (including the names of those present) are to be taken of the proceedings of each meeting of the Service and are to be signed by the member presiding at the next meeting of the Service.

(2) The minutes are to be open to public inspection in such manner as the Service shall decide.

(3) Paragraph (2) does not apply to minutes which relate to—

- (a) officers or employees of the Service,
- (b) the remuneration of officers or employees of the Service,
- (c) individual cases,
- (d) matters which the Service considers to be commercially confidential or sensitive, or
- (e) legal advice obtained by the Service.

(4) Paragraph (3) is without prejudice to any obligation imposed on the Service otherwise than under this regulation.

### **Public meetings**

22.—(1) The Service must admit members of the public to its meetings on at least two occasions every calendar year and present its annual report at one of those meetings.

(2) But members of the public may not be admitted to any part of a meeting during which any of the matters listed in regulation 21(3) is discussed.

### **Entitlement of Secretary of State's representative to attend meetings**

23.—(1) A representative of the Secretary of State is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Service.

(2) The Service must provide the Secretary of State with such copies of any documents distributed to members for the purpose of such meetings as she may require.

(3) This regulation is without prejudice to—

- (a) any other rights the Secretary of State may require to be accorded to her as a condition of any grants made to the Service, or
- (b) any obligation imposed on the Service otherwise than under this regulation.

### **Entitlement of chief executive to attend meetings**

24.—(1) The chief executive is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Service.

(2) The Service must provide the chief executive with such copies of any documents distributed to members for the purpose of such meetings as he may require.

(3) This regulation does not apply to any part of a meeting or of a document which concerns the appointment to office of the chief executive, his remuneration or disciplinary action against him.

(4) Paragraph (3) is without prejudice to any obligation imposed on the Service otherwise than under this regulation.

### **Composition of audit committee**

25. The Service must appoint at least five of its members as its audit committee and appoint one of those to be chairman.

### **Removal from audit committee**

26. A person ceases to form part of the audit committee if—
- (a) he is suspended from the exercise of his functions as a member,
  - (b) he ceases to be a member, or
  - (c) the Service resolves to remove him from the audit committee.

### **Functions of audit committee**

27. The functions of the audit committee are—
- (a) to receive and approve all audit plans and reports,
  - (b) to review audit activity and agree any changes from the plans,
  - (c) to co-ordinate the Service's response to any recommendations in audit reports,
  - (d) to ensure that the Service has in place procedures which will facilitate financial probity and, when making decisions, the consideration of both quality and effectiveness,

and generally to advise the Service in relation to the oversight of its financial management.

### **Frequency of meetings of audit committee**

28. The audit committee must meet at least once every three months but may meet more frequently if the Service or the audit committee so decides.

### **Quorum of audit committee**

29. The quorum of the audit committee is three.

### **Procedure of audit committee**

30.—(1) Except as provided in paragraph (2), regulations 15, 16, 19, 20, 21, 23 and 24 apply to meetings and proceedings of the audit committee as they do to meetings and proceedings of the Service.

(2) For the purpose of this regulation, regulation 15 applies as if in paragraph (2) “the deputy chairman” were replaced by “a member chosen by the audit committee (who must be present and able to preside)” and as if paragraph (3) were omitted.

1st March 2005

*Filkin*  
Parliamentary Under Secretary of State  
Department for Education and Skills

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

These regulations replace the provision made in the Children and Family Court Advisory and Support Service (Membership, Committee and Procedure) Regulations 2000 for the membership and procedure of the Children and Family Court Advisory and Support Service (“the Service”).

The principal changes introduced are as follows. The number of members appointed by the Secretary of State in addition to the chairman is to be reduced from ten to nine, once the amendment to paragraph 1 of Schedule 2 to the Criminal Justice and Court Services Act 2000 comes into force (regulation 4). There is no longer a requirement for a member to reside in Wales. An officer or employee of the Service may not be a member (regulation 6). The Secretary of State has a new power to suspend a member from office in addition to being able to remove him (regulation 10). The Service has similar powers in respect of members it has co-opted (regulation 11). Members who have an interest in a matter brought up for consideration at meetings of the Service must now disclose that interest and must not participate in meetings of the Service at which that matter is discussed (regulation 19). Provision is made for a representative of the Secretary of State and for the chief executive to attend meetings of the Service and to receive copies of documents distributed prior to such meetings (regulations 23 and 24). The Service is no longer required to have a finance committee.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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