

SL(5)338 – The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019

Background and Purpose

These Regulations are made under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) and set out the regulatory requirements and related provisions for providers of regulated adoption services and for those persons who are designated as the “responsible individuals” for such services.

Procedure

Affirmative.

Technical Scrutiny

Two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 2(1) includes the following definition:

“approved by the service” means approved by the service as suitable to be an adoptive parent in accordance with the Adoption Agencies (Wales) Regulations 2005.

The term “approved by the service” is used in several places in the Regulations, for example, paragraph 30 of Schedule 3 states:

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

However, it is unclear how “the service” can approve in this context. (This also raises the question of the use of “the service” at the end of that paragraph, which also arises in several other places in the Regulations.)

Failure to notify the area authority of the circumstances in paragraph 30 of Schedule 3 is a criminal offence. We therefore emphasise the need for clarity.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 7(4) deals with the issue of a “responsible individual” being unable to fulfil their duties. According to regulation 7(4)(c), where the responsible individual is unable to fulfil their duties, the service provider must ensure there are arrangements in place for the service to comply with the requirements of **Parts 3 to 10** of the Regulations.

However, Parts 11 to 15 of the Regulations impose very important requirements on responsible individuals. We therefore wonder why regulation 7(4)(c) does not require the service provider to ensure



there are arrangements in place for the service to comply with the requirements of **Parts 3 to 15** of the Regulations?

(We note that in the equivalent place in the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019, there is reference to Parts 3 to 15 of those Regulations.)

The same issue arises in respect of regulation 8(3) of these Regulations.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The Explanatory Memorandum to these Regulations states:

Section 27(4) of the Regulation and Inspection of Social Care Act (RISCA) provides that “Before making regulations under this section the Welsh Ministers must—(a) consult any persons they think appropriate, and (b) publish a statement about the consultation.” To discharge this requirement, a summary of the responses, together with a list of respondents will be published on the Welsh Government website:

<https://beta.gov.wales/new-regulatory-framework-adoption-services>

However, that webpage does not provide a summary of responses and does not list the respondents. At the time of preparing this report, the webpage includes the original consultation documents and was last updated on 27 November 2018, i.e. the day the consultation closed.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

5 March 2019

