



Llywodraeth Cymru
Welsh Government

Welsh Government Integrated Impact Assessment Summary

Title of proposal:

The Adoption Agencies (Wales) (Amendment) Regulations 2020 and The Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020

Department:

Health and Social Services

Minister responsible:

Deputy Minister for Health and Social Services

Start Date:

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What action is the Welsh Government considering and why?

The past five years have seen the creation of a new consolidated legal framework for social services in Wales, with the passing of two landmark pieces of legislation.

The Social services and Well-being (Wales) Act 2014 (“the 2014 Act”), which came into force on 6 April 2016, establishes a new framework that brings together and modernises the law in relation to most local authority social services in Wales.

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) received Royal Assent on 18 January 2016. It sets the new statutory framework for the regulation and inspection of social care services and reforms the regulation of the social care workforce in Wales. Therefore it replaces relevant systems previously put in place under the Care Standards Act 2000. Both of these Acts enable the Welsh Ministers to put in place a number of items of subordinate legislation through the making of regulations, together with the publication of statutory guidance and the issuing of codes of practice.

When it comes to adoption, processes are primarily governed by The Adoption Act 1976 and particularly The Adoption and Children Act 2002 (“the 2002 Act”) which also provides a number of regulation making powers.

As part of this programme of reform of social care law, it is intended that The Adoption Agencies (Wales) (Amendment) Regulations 2020 (“the Amendment Regulations”) will amend the Adoption Agencies (Wales) Regulations 2005 (“the 2005 Regulations”) by substituting a new Part 4 which makes provision for the assessment and approval of prospective adopters by adoption agencies and is amended to introduce a new two-stage process for that assessment and approval. In Stage One (the pre-assessment process, which is limited to two months) all prescribed checks, including criminal record and health checks, are conducted. In Stage Two (the assessment decision, which is limited to four months) the adoption agency reaches a decision about the suitability of the prospective adopters.

The Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020, (“the No.2 Regulations”) place an additional requirement on adoption agencies in stage two of the assessment process when assessing the suitability of a couple to adopt a child, to have a proper regard to the need for stability and permanence in the couple’s relationship.

The Amendment Regulations will also introduce a requirement on adoption agencies to refer a child to the Adoption Register for Wales within one month of the date on which the adoption agency was authorised to place the child for adoption; and to refer a prospective adopter to the Adoption Register within one month of the date on which the agency decided that the prospective adopter was suitable to adopt a child.

These regulations form part of Phase 3 implementation of the 2016 Act. Phase 3 implementation also covers advocacy services, adult placement services, and fostering. The effect, in respect to adoption, is that the remaining parts of the Fostering Services (Wales) regulations 2003, and the associated National Minimum Standards (NMS) will be replaced. Phase 3 implementation forms the final part of a major Welsh Government programme, initiated by Sustainable Social Services White

Paper 201, to revise and consolidate social services legislation in Wales. The rationale for this legislative programme can be found in the Regulatory Impact Assessments (RIAs) for the 2014 and 2016 Acts, and the approach to be taken in respect of adoption will be set out in the RIA accompanying the relevant regulations and guidance / code of practice.

Conclusion

1. How have people most likely to be affected by the proposal been involved in developing it?

A 12 week consultation on these regulations was undertaken from 3 October 2018 to 9 January 2019. Further details on the consultation process are set out in the Regulatory Impact Assessment laid alongside the Regulations. A Technical Group made up of adoption service providers and other stakeholders was established to advise on the development of the regulations and statutory guidance which will accompany these regulations.

Two consultation events were held; one in North Wales and the other in South Wales as part of the consultation process. A range of public, private, voluntary and third sector organisations were represented, which included a number of service providers.

2. What are the most significant impacts, positive and negative?

These Regulations set out to amend the Adoption Agencies (Wales) Regulations 2005 (“the 2005 Regulations”) to allow for a two-stage process for the assessment and approval of prospective adopters. This change would enable an adoption agency to make an early decision “not to proceed” with an individual’s full application to become an adopter. The regulations will also:

- Require adoption agencies to refer to the national Adoption Register for Wales the details of all prospective adopters once they are approved, and of all children for whom a decision has been made that they should be placed for adoption, within one month of the final decision being made.
- Amend regulation 20 of the 2005 regulations to make clear that an adoption agency can request that Cafcass Cymru appoint an officer to obtain consent to the placement or adoption of a child in their care only where the parent or guardian resides in England and Wales; and
- introduce a regulation which requires an adoption agency to arrange for the appointment of an ‘authorised person’ to act as a witness to the consent of a parent or guardian to the placement or adoption of a child in their care where the parent or guardian resides outside England and Wales.

The Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2019, preserve the requirement for an adoption agency to take into account the need for stability and permanence in a couple’s relationship when they are seeking to adopt and to include this information in the agency’s report about the suitability of prospective adopters. The current prospective adopter approval process often takes too long and can be bureaucratic and inflexible which can potentially put a lot of adopters off in completing the adoption approval process. The two stage system will benefit them by speeding up the initial enquiry process through to assessment and at the same time to improve the quality of the service received by, and experience of, prospective adopters. The two stage process will (in most cases) also for second time adopters and foster carer to ‘skip’ stage one of the process and proceed to stage two. This will allow them to receive a specially tailored assessment (determined by each individual case) which will include any necessary additional training. The purpose of adopting these provisions is to reduce unnecessary bureaucracy whilst maintaining appropriate levels of safeguarding.

3. In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals; and/or,
- avoid, reduce or mitigate any negative impacts?

A prosperous Wales – neutral impact

A resilient Wales – neutral Impact

A healthier Wales – proposals will have a small positive impact on the mental health and lifestyles of people using adoption services under section 174 and 176 of the Social Services and Well-being (Wales) Act 2014 by enhancing the regulation of those services provided.

A more equal Wales – access to high quality, regulated adoption services will enable affected groups to fulfil their potential.

A Wales of vibrant culture and thriving Welsh language – neutral impact

A globally responsible Wales – neutral impact

The Proposal will ensure that the information and documentation provided which will give Care Inspectorate Wales (CIW) the ability to make a full and informed decision as to whether an applicant is fit to manage a service. This enhances CIW's ability to ensure poor providers are not registered and as such protects people using the services.

4. How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

Officials will monitor implementation in consultation with the sector and with Care Inspectorate Wales to ensure that provision of the service remains robust. In addition the outcomes of these Regulations will be measured as part of the wider programme of work to measure the outcomes of the wider 2016 Act.