

## REGULATORY IMPACT ASSESSMENT

### Title of the Regulatory Proposal

1. ***Regulations and national minimum standards for adoption services providers – voluntary adoption agencies.***

### Purpose and Intended Effect

#### *Issue*

2. At present voluntary organisations wishing to provide adoption agency functions in England and Wales must be approved every three years under the Adoption Act 1976. Approvals are now issued by the Secretary of State, for those organisations whose principal office is in England, or the National Assembly for Wales (Assembly), for those organisations whose principal office is in Wales. The voluntary adoption agency (VAA) must be inspected by the Social Services Inspectorate (SSI)/Social Services Inspectorate for Wales (SSIW) and meet the inspection standards and criteria before the Secretary of State/Assembly is able to approve their application.

#### *Objective*

3. To extend the remit of the registration authorities established under the Care Standards Act 2000 to include voluntary adoption agencies. The Care Standards Act 2000 applies to England and Wales, and separate arrangements apply in Scotland and Northern Ireland.
4. This proposal is intended to:
  - Bring the inspection and registration of VAAs in England and Wales into line with other services that are the subject of registration and inspection.
  - Provide a safe, effective and consistent service and
  - Ensure that all providers of adoption agency functions are required to meet broadly the same set of minimum standards.

#### *Risk Assessment*

5. The Adoption Act 1976 recognised that the sensitive nature of adoption for all the parties involved meant that services should be closely regulated and only be provided by statutory bodies and agencies approved by the Secretary of State/Assembly. This has ensured that services have been provided in the best interests of the children involved by only those who are qualified to do so.

### Options

#### Option One: Retain the present system

6. The SSI carry out inspections of services provided a VAA in England once every three years, and the SSIW carry out inspections in Wales on a three year cycle.

Option Two: Extend the responsibilities of the registration authorities to voluntary adoption agency functions

7. The national minimum standards (minimum standards) for adoption and Regulations will set out the minimum standards that VAAs are expected to meet in order to provide a safe, effective, and consistent adoption service. The registration authorities will inspect services once every three years to ensure that they meet the Regulations. They will also take account of the extent to which the minimum standards are complied with. VAAs that meet the requirements included in the Regulations and other relevant legislation such as the Adoption Act 1976 and the Adoption Agencies Regulations 1983 will be registered by the registration authorities and permitted to operate in England and Wales.

*Issues of equity and fairness*

8. The proposals will ensure that all voluntary adoption agencies (whether based in England and Wales) will be required to deliver services to consistent standards. They will ensure that services are provided consistently well across the country and that individuals will know what they can expect regardless of the provider they use.
9. The Regulations and minimum standards were subject to consultation and are not intended to increase the burden on agencies. They are based upon current statutory requirements, SSI/SSIW standards for VAAs, the National Adoption Standards for England and the draft National Adoption Standards for Wales.
10. Where voluntary organisations are refused registration, there will be a right of appeal to an independent Tribunal.

**Benefits**

Option One: Retain the present system

11. There are no perceived benefits beyond removing the need for VAAs to adapt to a change of regulatory regime.

Option Two: Extend the responsibilities of the registration authorities to voluntary adoption agency functions

12. Extending the responsibilities of the registration authorities to include voluntary adoption agency functions will achieve the objectives set out in paragraphs 3 and 4.

13. Introducing the new Regulations and minimum standards for adoption will mean that all VAA providers will be required to meet the equivalent minimum standards. This will protect those affected by adoption, particularly the children themselves.
14. Transferring the registration and inspection function to the registration authorities will also take advantage of the expertise and economies of scale offered by the registration authorities' wider inspection role.

#### *Quantifying and valuing the benefits*

15. It is not possible to quantify the benefits of the proposed change in monetary terms. The benefits are primarily to do with improved and greater consistency of services deriving from nationally applied Regulations and standards.

### **Compliance costs for business, charities and voluntary organisations**

#### *Introduction*

16. There would be no additional compliance costs associated with Option 1 since there would be no change. However, it would mean that the SSI/SSIW and the Secretary of State would continue to inspect and approve one small service when a much greater range of social care functions have been transferred to a single body. The registration authorities were established because it was shown that a piecemeal approach was not an efficient or effective way to carry out regulation.
17. We estimate that the cost to the Welsh Assembly Government of continuing to approve VAAs is £3,000 per annum, the cost for the one VAA based in Wales currently approved by the Assembly.
18. The compliance costs for Option 3 are assessed below.

#### *Business sectors affected*

19. Due to the vulnerability of those affected by adoption and the imperative to protect the rights of children and reduce the incidence of child trafficking, the Adoption Act 1976 prevents any organisation making arrangements for adoption from making a profit. To be approved as a VAA the organisation must be a not for profit incorporated body. There are 34 VAAs in England and Wales.

#### *Compliance costs for a typical VAA*

20. It is not possible to define a typical VAA because they range from very small single office operations to larger nationwide organisations with a number of branches. All VAAs can be expected to be meeting most of the minimum standards already as they reflect existing Regulations and current good practice which the SSI/SSIW judge VAAs against in their inspections, and can be expected to meet all of them without undue cost.

### *Total compliance costs*

21. Compliance costs for VAAs should be minimal, as the minimum standards reflect existing Regulations and current good practice. Transitional provisions allow additional time for VAAs to achieve the more challenging standards relating to staff qualifications and experience.
22. We have considered whether the requirement for background material for inspectors represents a major additional burden for VAAs. While unfamiliarity with the new procedures may mean that this initially takes slightly longer for VAAs to prepare than the information that is currently required of them by the SSIW, we do not anticipate that the requirements are significantly more onerous. It is anticipated that this will take around three days work for each VAA once every three years. We estimate that the total cost for all VAAs would be £22,000 per annum, although for the one, small VAA based entirely in Wales we expect this to be significantly less.

### *Fees*

23. Recognising concerns about the impact of fees on small agencies, the Government and the Assembly have proposed fee concessions for smaller agencies.
24. The consultation document *National minimum standards/regulations, voluntary adoption agencies England and Wales* clarified that branches of VAAs do not need to be separately registered, since a VAA must be an incorporated body. Thus there would be a one-off registration fee for all new VAAs of £1,100 payable in respect of each of the principal office and any branches. The fees payable where variations in the registration certificate for the VAA are required were similarly to be calculated on the basis of the number of branches that a VAA has that are affected by the change. Where the change was as a result of the VAA opening a new branch, the VAA would incur a variation fee of £1,100. The proposals, including the concessions for smaller agencies, are summarised in the table below.
25. The Government and the Welsh Assembly Government intend for VAAs approved by the Secretary of State/Assembly to have their registration transferred to the registration authorities automatically, and without an initial registration charge. The VAA would be liable for the annual fee which would fall due to be paid on the date of the transfer of the registration and each anniversary of that date. It is estimated that 33 VAAs currently approved by the Secretary of State, and a small number of potential additional providers wishing to become a VAA with their principal office in England, would be inspected by the NCSC. The Care Standards Inspectorate Wales (CSIW) will inspect the VAA and estimated 5 branches of VAAs in Wales.
26. At present VAAs are not subject to any charges and the costs of the SSI/SSIW are met centrally.

## Summary of Fee Proposals

	Now	Proposed
<b>Registration fees</b>		
The principal office of a VAA	£0	£1,100
Each branch of a VAA	£0	£1,100
Small principal office of a VAA	£0	£300
Each small branch of a VAA	£0	£300
<b>Variation fees</b>		
Minor variations involving a change in the certificate for the VAA, but no site visit	£0	£50
Variation where a new branch is added to a VAA	£0	£1,100
Variation where a new small branch is added to a VAA	£0	£300
Other variations to the registration of a VAA where site visit required, payable in respect of each branch and principal office affected	£0	£550
Other variations to the registration of a VAA where site visit required, payable in respect of each small principal office or small branch affected	£0	£300
<b>Annual fees</b>		
The principal office of a VAA	£0	£500
Each branch of a VAA	£0	£500
Small principal office of a VAA	£0	£250
Each small branch of a VAA	£0	£250

27. **Fee levels:** The major costs associated with compliance with the new arrangements are the fees payable to the NCSC, as outlined above. There were a number of concerns raised by VAAs in response to the consultation on draft Regulations and minimum standards about the level of fees proposed. VAAs are concerned that they will not be able to recoup the additional costs of regulation by passing them on to local authorities through an increase in the inter-agency fee. The proposed fee concessions for small agencies/branches were welcomed but felt by some to be insufficient.
28. Based on the responses to the consultation, it has been decided to increase the number of staff that may work in a small principal office or small branch from 4 to 8 full-time equivalent social workers. This will increase the number of VAAs that qualify for the reduced fees and reduce the overall impact of the introduction of regulatory fees.
29. **Government:** increased costs for the NCSC/CSIW from regulating and inspecting a further 227 bodies (local authorities, VAAs and branches of VAAs). The NCSC/CSIW regulation is expected to require fewer inspection days than the current SSI/SSIW inspections of VAAs. The full cost to the NCSC/CSIW is estimated at £0.3million per annum, but it is intended that their costs will be recovered from agencies over time (as discussed in paragraphs 47 and 48 above). It is anticipated that the proposed fee structure will raise

£0.1million towards the NCSC/CSIW costs in 2003-04. The balance will come direct from central government

*Potential costs identified in response to the consultation*

30. The consultation yielded little response to the question of costs. However, there was broad agreement from respondents on the requirements which would result in (unquantified) increased costs.
31. Training and qualifications: Agencies identified that there would be costs associated with the requirements for managers to receive management training and social workers to receive training for the Post Qualifying Child Care Award. These would arise both from the costs of the training courses and the loss of revenue/need for cover while staff are studying for qualifications.
32. Standard 2.2 of the draft minimum standards said that the manager of a VAA should have by 2005, a qualification at level 4 NVQ in management or another qualification which matches the competencies required by the NVQ Level 4.
33. Standard 8.7 of the draft minimum standards said that by 2006 at least two social workers should be in the course of obtaining the Post Qualifying Child Care Award (PQCCA).
34. The Welsh Assembly Government is committed to the development of a professional social care workforce and is providing funding for social care training, including the training of managers.
35. In England, the Government has set a target for 7,000 child care social workers to have achieved the PQCCA by 2006. In Wales, the Welsh Assembly Government expects local targets for achievement of the awards to be set by employers. Funding for these courses has been made available to local authorities through the Training Support Programme specific grant in England and Wales to enable these targets to be achieved. Local authorities are able to pass this funding on to voluntary organisations with whom they have a contract, which would include an arrangement for an inter-agency placement.
36. It is estimated that there will be a one-off cost for managers of principal offices and branches of VAAs in obtaining the required management qualifications. The cost of this will depend on the experience and qualifications of the manager, and may include external training. Smaller agencies may find this more difficult to absorb than larger ones, but the standards allow time to get up to speed. It is estimated that the one-off cost of obtaining the necessary management qualifications will be £0.2million across England and Wales.
37. It is estimated that the average course fee for a PQCCA is £2,000 and will, on average, require a member of staff to undertake 10 weeks of study over a 12 month period at an estimated cost of £5,000. The actual time required will

vary depending on the experience of the individual concerned. It is estimated that the one-off cost of 20% of social workers employed by VAAs obtaining the PQCCA will be £0.5million across England and Wales.

38. Administrative requirements: One respondent highlighted that additional administrative costs would arise from the need to maintain up-to-date CRB checks upon staff, notify changes to the registration authority and retain personnel records. In part they appeared to have misunderstood the circumstances that would lead to the charging of a variation fee, which would be payable in relation to a change that required an amendment to the certificate of registration or entry in the register in respect of the registered provider. In addition, since only one VAA raised these concerns, this tends to support our assessment that VAAs are generally already meeting these requirements.
39. VAAs and independent fostering agencies: One respondent was concerned that VAAs placing voluntarily relinquished infants for adoption may need to be registered both as a VAA and an independent fostering agency. Under the Fostering Services Regulations 2002, this would arise if a VAA placed the infant with short-term foster carers (under section 59(1) of the Children Act 1989) prior to the placement for adoption. This is not therefore a consequence of the draft Regulations issued for consultation. In the interests of children's safety and welfare, it is important that all agencies providing foster care are regulated to the same standards. This was the principal aim of the Fostering Services Regulations 2002. The Government considers that it would not be in the best interests of children, or consistent with the clearly stated intention to create a level playing field for all providers of services, to exempt VAAs placing children with, or assessing, foster carers from the requirement to register as independent fostering agencies.

### **Impact on small businesses**

40. There is no impact on small businesses. Due to the vulnerability of those affected by adoption and the international conventions that seek to protect the rights of children and reduce the incidence of child trafficking, the Adoption Act 1976 prevents any organisation making arrangements for adoption from making a profit. To be approved as a VAA the organisation must be a not for profit incorporated body.
41. However, we have considered the impact on small VAAs. Compliance costs should be minimal, as the minimum standards reflect existing Regulations and current good practice. Transitional provisions allow additional time for VAAs to achieve the more challenging standards relating to staff qualifications and experience. Local authorities as the major purchasers of services from VAAs will absorb the majority of increased regulatory costs, eg fees. In addition, specific fee concessions have been made for small VAAs. This will further reduce the impact on small voluntary organisations.

## **Results of consultations**

42. The draft Regulations and minimum standards were published for consultation in October 2002. The vast majority of respondents are in favour of the proposals.
43. Respondents identified a number of key areas of concern with the proposals. These related to the regulatory fees, the requirement for managers to have experience and qualifications in both management and working with children, training costs and loss of staff time while they gained qualifications and, particularly for local authorities, difficulty in recruiting professionally qualified social workers. These concerns have been considered and where appropriate addressed through amendments in finalising the Regulations and minimum standards.

## **Competition Assessment**

44. We have considered the market for VAAs and found that there are 34 VAAs in England and Wales. Despite a small increase in the costs of VAAs, it is not expected to result in any VAAs exiting the market, and barriers to entry should remain at around their present levels. No significant impact on competition was identified and as such, it was not necessary to carry out a detailed assessment.

## **Enforcement, sanctions, monitoring and review**

45. Implementation of the Regulations and minimum standards will be carried out by the registration authorities, which will take enforcement action and review compliance. VAAs that fail to meet the minimum standards and Regulations will not be registered.
46. The Department of Health and the Assembly will monitor the effectiveness of the Regulations and minimum standards including seeking advice from the NCSC/CSIW and those affected. The Department of Health and the Assembly will make such changes as may be necessary to reflect advice received from the NCSC/CSIW, changes in legislation, policy and practice. The Government and the Assembly have pledged that where significant amendments are proposed there will be a new consultation process to ensure that the views of all those with an interest are fully taken into account. This is underpinned by the duty to consult (Sections 23(3) and 49(1) of the Care Standards Act 2000) if a substantial change to the minimum standards is proposed.

## **Summary and recommendations**

47. The Government and the Welsh Assembly Government are committed to delivering safe, effective and consistent adoption services across England and Wales. To protect the vulnerable individuals involved and comply with primary legislation it is essential to ensure that services are provided by voluntary sector providers that have been inspected and registered.



48. The consensus response to the consultation documents was to welcome this move. Continuing with the status quo (Option 1) would not deliver this improvement.
49. In our view, Option 2 will deliver the objectives outlined in paragraphs 3 and 4.