

## Regulatory Appraisal

### The Adoption Support Services (Local Authorities) (Wales) Regulations 2004.

#### Purpose and intended effect

1. The purpose of these regulations is to implement in Wales the first phase of the adoption support provisions of the Adoption and Children Act 2002.
2. The Adoption and Children Act 2002 received Royal Assent on 7 November 2002. The Act set out to reform adoption law for the first time since the 1970's. It followed from the Prime Minister's Review of Adoption (July 2000) and the Government's White Paper '*Adoption – The Future*' December 2000.
3. The Act makes a wide range of changes to adoption legislation (summarised at pages 1 and 2 of the Explanatory Notes to the Act accessible at <http://www.legislation.hmsso.gov.uk/acts/en/2002en38.htm>)
4. Two key changes are in relation to adoption support services. These are
  - to place a duty on local authorities to include adoption support services (including financial support) within the adoption service they provide in their respective areas; and
  - to provide a new right to an assessment of needs for adoption support services for adoptive families and others.
5. The regulations require local authorities to provide:
  - Counselling, advice and information;
  - Financial support replacing local authority adoption allowances;
  - Self-help groups for adoptive families;
  - Support for contact arrangements between adopted children and their birth relatives;
  - Services to meet the therapeutic needs of adopted children;
  - Services to prevent adoption breakdown;
  - Provision of an adoption support services adviser.
6. This sets a base for the adoption support services that local authorities must plan for. Some of these services are main stream services already in existence but they lack consistency. A phased approach to the introduction of services will ensure that those local authorities currently providing a limited range of support services are able to move forward at a reasonable pace before being required to implement the full adoption support framework from 2005. The introduction of Phase 1 from October 2004 will not prevent local authorities that are in a position to do so from providing a greater range of services at an earlier date if they wish to.

7. Support services under Phase 1 will be targeted on meeting the needs of adoptive families created when children are adopted from care. They cover both new adoptions and existing adoptions where the adopted child is less than 18 years old. This will not prevent authorities from providing these services to all adoptive families during Phase 1 if they wish.

8. The following groups will be entitled to an assessment on request of their needs for adoption support services:

- prospective adopters who have been matched or had a child placed with them, adopters with an adopted child under the age of 18
- children who have been matched or placed with prospective adopters
- adopted children under the age of 18
- child of adopters/prospective adopters (eg adoptive sibling).

Similar requirements for adoption support services have been introduced in England under parallel regulations made by the Secretary of State for Education and Skills. As children from Wales may be adopted in England and vice versa it is important that consistent services are available.

### **Risk Assessment**

9. The UK Government's White Paper 'Adoption: A new Approach' December 2000 states:

" 6.26 Better, more comprehensive post-placement support will improve the success of adoptive placements.

6.27 To support the better deal for adopters, the Government will introduce new legislation to:

- Give all families adopting children, especially those who have been looked after, a new right to an assessment by their council for post-placement support. They will be able to request an assessment at any stage after the placement has been identified.
- Place a clear duty on local social services authorities to provide post-adoption support, including financial support, planned jointly with local education authorities and the NHS, and any other relevant agencies. This support will be available from the time a placement is made, for as long as it is needed.

6.28 Support services will be designed to promote the success of the placement, and should therefore meet the needs of the adopted children and their new families, for as long as they need help. Families will be able to ask for help if they start to have difficulties after adoption."

10. The Adoption Act 1976 does not specify what should be provided in terms of post adoption support. Existing adoption support services vary from area to area. Some have been limited to provision of counselling and adoption

allowances. Improvements have been taking place, but are patchy. Adopters need to be able to secure help where necessary in the child's interests – and on a consistent basis wherever they live - to sustain the adoptive placement. Ideally adopters should know beforehand what adoption support they are eligible to receive.

11. The risk is that without a fleshing out of the Act's provisions in regulations about adoption support services and entitlement to assessment of needs, a number of adoptive placements will fail.

## **Options**

12. Option 1 – to do nothing and rely on existing provisions. This would perpetuate a lack of clarity and consistency for prospective adopters - and the looked after children they might adopt could have to wait longer for a new permanent family. It is intended that the existing powers will be repealed when the Adoption and Children Act 2002 is fully implemented late in 2005.

13. Option 2 – rely on improvements introduced by statutory guidance. This lacks the force to amplify adequately the explicit duty in the Act. It is not as effective a vehicle and it would be more difficult for adopters to secure financial support, where an assessment so pointed, than provision made through a regulatory framework. Such guidance could not effect the necessary amendments to existing arrangements made under the Adoption Allowance Regulations 1991.

14. Option 3 – to bring forward regulations (consistent with those in force in England) so that wherever they live adopters may seek assessments of need for adoption support, including where appropriate financial support, within a clear legal framework and local authorities will be under a duty to provide services against assessed needs.

## **Benefits**

15. Option 1. None perceived. This would in effect undermine the outcome of the review of adoption, the White Paper and the Adoption and Children 2002.

16. Option 2. This would not produce the desired effect. It may leave too much to the discretion of individual local authorities and perpetuate one of the main criticisms of the current arrangements – a lack of consistency in support for adoptive families wherever they live.

17. Option 3. Will deliver in accordance with Parliament's intention, the underlying principles of which the Assembly has consistently agreed.

18. The number of adoptions in Wales has risen in the year ending 31/3/02. More and more sustainable adoptive placements could potentially be found for children who might otherwise be difficult to place without appropriate adoption support services. Local authorities would be able to contract with the specialist

adoption support providers in the voluntary sector to enable services to be delivered if that cannot be done in-house.

### **Costs**

19. There are no costs to business or the voluntary sector generally.

20. Local Authorities currently provide some adoption support services. Some Voluntary Organisation who have expertise may benefit from contractual arrangements to be made with Local Authorities.

21. Any additional costs that local authorities are likely to incur as a result of these Regulations are intended to be met from within the Services for Children budget. The Budget for 2003-04 provided funding of £25.2 m increasing to £31 m in 2004/05, and this includes additional funding to take forward implementation of the Adoption and Children Act 2002.

### **Consultation**

22. Extensive consultation has been undertaken across Wales with all Local Authorities, Voluntary Agencies and people who have adopted as well as those who have been adopted. Consultation occurred in two stages. In 2002, on the key issues and in 2003 on the draft regulations and guidance. The latter took account of the responses from the 2002 consultation.

23. The consultation document on draft regulations and guidance was broadly welcomed. The overriding theme which emerged from the responses was the need for a comprehensive and consistent approach to the provision of adoption support services.

### **Summary**

24. Option 3 is recommended. The provision of adoption support services on a consistent basis is welcomed by people involved in the adoption process.