

## **Explanatory Memorandum to The Adoption Support Services (Wales) Regulations 2019.**

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

### **Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Adoption Support Services (Wales) Regulations 2019 and I am satisfied that the benefits justify the likely costs.

Julie Morgan

**Deputy Minister for Health and Social Services**

19 February 2019

## **PART 1**

### **1. Description**

These Regulations are made under the Adoption and Children Act 2002 (“the 2002 Act”). Section 2(6) of the 2002 Act provides that counselling, advice and information, *and any other services prescribed by regulations*, in relation to adoption, are adoption support services. Regulation 3(1) of The Adoption Support Services (Wales) Regulations 2019 (‘the Regulations’) prescribes those additional services which are ‘adoption support services’.

### **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

### **3. Legislative background**

The content of these Regulations was consulted upon – from 4 September to 27 November 2018 – within the draft Adoption Services (Service Providers and Responsible Individuals) and Local Authority Adoption Services (Wales) Regulations 2019. However, those draft Regulations were subsequently separated out into three statutory instruments due to their differing enabling Acts and procedures for scrutiny.

These are:

- The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019
- The Local Authority Adoption Services (Wales) Regulations 2019
- **The Adoption Support Services (Wales) Regulations 2019**

The Adoption Support Services (Wales) Regulations 2019 are being made under the National Assembly for Wales’ negative resolution procedure.

### **4. Purpose and intended effect of the legislation**

These Regulations, made under section 2(6) of the 2002 Act, prescribe additional types of adoption support services to be included within the meaning of ‘adoption support services’. These largely replicate the current adoption support services prescribed in regulation 2 of the Adoption Support Agencies (Wales) Regulations 2005 (these 2005 Regulations are to be replaced under the implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) but also prescribe two further types of adoption support services:

- services to enable groups of adoptive children, adoptive parents and birth parents or former guardians of an adoptive child to discuss matters relating to adoption; and

- respite care.

## **5. Consultation**

A 12-week consultation ran between 4 September and 27 November 2018, with 9 responses received in total (including one composite response, co-ordinated by the National Adoption Service). All responses have been analysed and considered by officials who have taken into account feedback received at the consultation events (held on 6 November in Cardiff and 8 November in Wrexham) and through wider engagement with the sector. Prior to consultation, the draft Regulations were developed and tested with the assistance of a stakeholder technical group which met several times in autumn/winter 2017-18.

A consultation summary report together with a list of respondents will be published on the Welsh Government website:

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

## **6. Regulatory Impact Assessment (RIA)**

Officials have considered the need for a Regulatory Impact Assessment to accompany these Regulations. However given the limited impact that these regulations pose it has been decided that it is more appropriate to refer to the Explanatory Memorandum and the Regulatory Impact Assessment that has been completed for The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 and The Local Authority Adoption Services (Wales) Regulations 2019.

These Regulations add another two types of adoption support services, which were not in the original regulations which are to be replaced under the implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”). One of these is “services to enable groups of adoptive children, adoptive parents and birth parents or former guardians of an adoptive child to discuss matters relating to adoption”. The other is “respite care”.

In principle, where adoption support services are provided to individuals, the provider will be required to register as an adoption service under the 2016 Act and be subject to the provisions within the Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the 2019 Regulations”).

An Explanatory Memorandum and fully scoped Regulatory Impact Assessment to support the 2019 Regulations has been completed and will accompany the laid regulations to be found here:

<http://www.assembly.wales/en/bus-home/Pages/Plenary.aspx?assembly=5&category=Laid%20Document>

If either of these two additional types of adoption support services is also provided as part of the service provided by an adoption service then they will already be subject to the requirements within the 2019 Regulations.

However, a provider will not be required to register as an adoption service if it only provides services to enable groups of adoptive children, adoptive parents and birth parents or former guardians of an adoptive child to discuss matters relating to adoption. This is by virtue of the exception set out in regulation 3 of the 2019 Regulations. Also by virtue of regulation 3 of the 2019 Regulations, if the provision of respite care is as part of a registered care home/domiciliary care service or a child minding/day care service, the provider of these registered services will not be required to separately register as an adoption service.