
STATUTORY INSTRUMENTS

2009 No. 395

**The Independent Review of Determinations
(Adoption and Fostering) Regulations 2009**

PART 2

PANELS

Constitution of panels

5.—(1) The Secretary of State shall, on receipt of an application made by an applicant in accordance with regulation 17, constitute a panel in accordance with regulation 6, 7 or 8, as the case may be, for the purpose of reviewing the qualifying determination.

(2) The members of the panel shall be appointed by the Secretary of State from a list of persons (“the central list”) kept by the Secretary of State.

(3) The members of the central list shall include—

- (a) social workers who have at least three years’ post-qualifying experience in child care social work including direct experience in adoption work;
- (b) social workers who have at least three years’ post-qualifying experience in child care social work including direct experience in fostering work;
- (c) registered medical practitioners; and
- (d) other persons who are considered by the Secretary of State to be suitable as members of a panel including, where reasonably practicable, persons with personal experience of adoption and persons who are, or within the previous two years have been, a local authority foster parent⁽¹⁾.

Membership of a panel to review an adoption suitability determination

6. Where the qualifying determination being reviewed is an adoption suitability determination, the maximum number of people who may be appointed to a panel is ten and the panel shall include at least—

- (a) two persons falling within regulation 5(3)(a);
- (b) one person falling within regulation 5(3)(c); and
- (c) four other persons falling within regulation 5(3)(d) including where reasonably practicable at least two persons with personal experience of adoption.

(1) “Local authority foster parent” is defined in section 23(3) of the 1989 Act.

Membership of a panel to review a disclosure determination

7. Where the qualifying determination being reviewed is a disclosure determination, the number of people who shall be appointed to a panel is three and the panel shall include at least two persons falling within regulation 5(3)(a).

Membership of a panel to review a fostering determination

8. Where the qualifying determination being reviewed is a fostering determination, the maximum number of people who may be appointed to a panel is ten and the panel shall include at least—

- (a) two persons falling within regulation 5(3)(b); and
- (b) four other persons falling within regulation 5(3)(d) including where reasonably practicable at least two persons who are, or within the previous two years have been, a local authority foster parent.

Appointment of panel chair

9. The Secretary of State shall—

- (a) appoint to chair the panel one of the members of the panel who has the skills and experience necessary for chairing a panel; and
- (b) in the case of a panel constituted to review an adoption suitability determination or a fostering determination, appoint one of the members of the panel as vice chair to act as chair if the person appointed to chair the panel is absent or if the office of chair is vacant.

Disqualification of panel members

10.—(1) A person (“P”) shall not be appointed to a panel if—

- (a) P is a member of an adoption panel or a fostering panel of the organisation which made the qualifying determination;
- (b) where the organisation which made the qualifying determination is a local authority, P is, or has been within the period of one year prior to the date on which the qualifying determination was made—
 - (i) employed by that authority in their children and family social services, or
 - (ii) a member of that authority;
- (c) where the organisation which made the qualifying determination is not a local authority, P is, or has been within the period of one year prior to the date on which the qualifying determination was made, an employee or a trustee of that organisation;
- (d) P is related to a person falling within sub-paragraph (a), (b) or (c);
- (e) the organisation which made the qualifying determination has placed a child for adoption with P or placed a child with P as a local authority foster parent;
- (f) where P was adopted or fostered as a child, the organisation which made the qualifying determination was the organisation which arranged P’s adoption or fostering;
- (g) P was approved as a foster parent in accordance with the FSR or as a prospective adopter by the organisation which made the qualifying determination; or
- (h) P knows the applicant in a personal or professional capacity.

(2) In this regulation—

- (a) “employed” includes employed whether or not for payment and whether under a contract of service or a contract for services or as a volunteer; and

- (b) P is related to a person (“A”) if P is—
 - (i) a member of the household of, or married to or the civil partner of, A;
 - (ii) the son, daughter, mother, father, sister or brother of A; or
 - (iii) the son, daughter, mother, father, sister or brother of the person to whom A is married or with whom A has formed a civil partnership.

Functions of a panel constituted to review an adoption suitability determination

11.—(1) This regulation applies where the qualifying determination being reviewed is an adoption suitability determination.

(2) A panel constituted in accordance with regulation 6 shall review the adoption suitability determination and—

- (a) where paragraph (3) applies, make to the adoption agency that made the adoption suitability determination a recommendation as to whether or not the applicant is suitable to adopt a child; or
- (b) where paragraph (4) applies, make to the adoption agency that made the adoption suitability determination a recommendation that—
 - (i) it should prepare a prospective adopter’s report in accordance with regulation 25(5) of the AAR to include all of the information required by that regulation; or
 - (ii) the applicant is not suitable to adopt a child.

(3) This paragraph applies where the prospective adopter’s report included all of the information required by regulation 25 of the AAR.

(4) This paragraph applies where the prospective adopter’s report, in accordance with regulation 25(7) of the AAR, did not include all of the information required by regulation 25 of the AAR.

(5) In considering what recommendation to make, the panel—

- (a) must consider and take into account all of the information passed to it in accordance with regulation 28 of the AAR;
- (b) may request the adoption agency to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and
- (c) may obtain such legal advice as it considers necessary in relation to the case.

(6) Where the panel makes a recommendation that the applicant is suitable to adopt a child, the panel may consider and give advice to the adoption agency about the number of children the applicant may be suitable to adopt, their age range, sex, likely needs and background.

Functions of a panel constituted to review a disclosure determination

12.—(1) This regulation applies where the qualifying determination being reviewed is a disclosure determination.

(2) A panel constituted in accordance with regulation 7 shall review the disclosure determination and make to the adoption agency that made the disclosure determination a recommendation as to whether or not the agency should proceed with its original determination.

(3) In considering what recommendation to make, the panel—

- (a) must consider and take into account all of the information passed to it in accordance with regulation 15(3) of the Disclosure Regulations;
- (b) may request the adoption agency to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and

- (c) may obtain such legal advice or advice from a registered medical practitioner included in the central list as it considers necessary in relation to the case.

Functions of a panel constituted to review a fostering determination

13.—(1) This regulation applies where the qualifying determination being reviewed is a fostering determination.

(2) A panel constituted in accordance with regulation 8 shall review the fostering determination and make to the fostering service provider that made the fostering determination—

- (a) a recommendation as to whether or not the applicant is suitable to act as a foster parent; or
 - (b) where the qualifying determination relates to the terms of the approval of the applicant as suitable to act as a foster parent, a recommendation to the fostering service provider as to those terms.
- (3) In considering what recommendation to make, the panel—
- (a) must consider and take into account all of the information passed to it in accordance with regulation 29A of the FSR;
 - (b) may request the fostering service provider to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and
 - (c) may obtain such legal advice or advice from a registered medical practitioner included in the central list as it considers necessary in relation to the case.

(4) Where the panel makes a recommendation that the applicant is suitable to act as a foster parent, the panel may also make a recommendation to the fostering service provider as to the terms of any approval.

Fees of panel members

14. The Secretary of State may pay to any member of a panel such fees as the Secretary of State considers to be reasonable.

Meetings of panels

15.—(1) Where the qualifying determination being reviewed is a disclosure determination, the proceedings of the panel will be invalidated unless all three members are present.

(2) Where the qualifying determination being reviewed is an adoption suitability determination or a fostering determination, the proceedings of the panel will be invalidated unless at least five of its members are present including—

- (a) the chair or vice chair; and
- (b) in the case of an adoption suitability determination, a person falling within regulation 5(3) (a) or, in the case of a fostering determination, a person falling within regulation 5(3)(b).

Records

16. The Secretary of State shall ensure that a written record of a panel's review of a qualifying determination, including the reasons for its recommendation and whether the recommendation was unanimous or that of a majority, is retained—

- (a) for a period of 12 months from the date on which the recommendation is made; and
- (b) in conditions of appropriate security.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
