
WELSH STATUTORY INSTRUMENTS

2010 No. 746

**The Independent Review of Determinations
(Adoption and Fostering) (Wales) Regulations 2010**

PART 2

PANELS

Constitution of panels

5.—(1) The Welsh Ministers must, on receipt of an application made by an applicant in accordance with regulation 19, 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 must be drawn from a list of persons (in these Regulations referred to as “the central list”) kept by the Welsh Ministers, who are considered by the Welsh Ministers to be suitable, by virtue of their skills, qualifications or experience, to be members of a panel.

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

- (a) social workers who have at least three years' post-qualifying experience in adoption and family placement work;
- (b) social workers who have at least three years' post-qualifying experience in child care social work including direct experience of fostering work;
- (c) registered medical practitioners, and
- (d) other persons who are considered by the Welsh Ministers to be suitable as members 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.

Membership of a panel to review an adoption suitability determination

6.—(1) Where the qualifying determination being reviewed is an adoption suitability determination, the number of people who must be appointed to a panel is five and the panel must include at least —

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

Membership of a panel to review a disclosure determination

7.—(1) Where the qualifying determination being reviewed is a disclosure determination, the number of people who must be appointed to a panel is five and the panel must include at least —

- (a) two persons falling within regulation 5(3)(a); and
- (b) three persons from the central list.

Membership of a panel to review a fostering determination

8.—(1) Where the qualifying determination to be reviewed is a fostering determination, the number of people who must be appointed to a panel is five and the panel must include at least —

- (a) two persons falling within regulation 5(3)(b); and
- (b) three other persons from the central list including, where reasonably practicable, at least one person who is, or within the previous two years has been, a local authority foster parent.

Panel advisers

9.—(1) A panel must be advised by a social worker with appropriate qualifications, skills and experience.

- (2) A panel may, where the panel considers it appropriate, be advised by —
 - (a) a legal adviser with knowledge and expertise in adoption and fostering legislation;
 - (b) a registered medical practitioner with relevant expertise in adoption or fostering work, whichever is appropriate to the qualifying determination being considered;
 - (c) any other person whom the panel considers has relevant expertise in relation to the determination being considered.
- (3) The panel advisers referred to in paragraphs (1) and (2) must be members of the central list.

Appointment of a panel chair

10. The Welsh Ministers must appoint to chair a panel a person who has the skills and experience necessary for chairing a panel.

Disqualification of panel members

- 11.—(1) A person (“P”) must not be appointed to a panel if —
- (a) P is a member of the adoption panel or 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; or
 - (g) P knows the applicant in a personal or professional capacity.
- (2) In this regulation —
- (a) “employed” (“*cyflogedig*”) 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 another 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 panel constituted to review an adoption suitability determination

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

(2) A panel constituted in accordance with regulation 6 must 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 26(4) and, where applicable, regulation 26(5) of the Agencies Regulations 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 26(4) and, where applicable, regulation 26(5) of the Agencies Regulations.

(4) This paragraph applies where the prospective adopter’s report, in accordance with regulation 26(4) and, where applicable, regulation 26(5) of the Agencies Regulations, did not include all of the information required by regulation 26(4) or, where applicable, regulation 26(5) of the Agencies Regulations.

(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 29 of the Agencies 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 advice from the advisers referred to in regulation 9 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 panel constituted to review a disclosure determination

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

(2) A panel constituted in accordance with regulation 7 must 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 13A 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;
- (c) may obtain such advice from the advisers referred to in regulation 9 as it considers necessary in relation to the case; and
- (d) must consider the welfare of any adopted person and if the person is an adopted child, that child's welfare must be paramount. In the case of any other child the panel must have particular regard to their welfare.

Functions of a panel constituted to review a fostering determination

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

(2) A panel constituted in accordance with regulation 8 must 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 Fostering Regulations;
- (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 advice from the advisers referred to in regulation 9 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.

Power to Adjourn Panels

15.—(1) The panel can adjourn the panel hearing in the following circumstances —

- (a) the panel considers that it has insufficient information to enable it to make a recommendation to the relevant organisation in accordance with regulations 12(2), 13(2) and 14(2); and
- (b) the panel wishes to request further information.

(2) The panel must be reconvened as soon as reasonably practicable when the information referred to in paragraph (1)(b) is available, but in any event no later than 28 calendar days from the date of the adjourned panel hearing.

Administration of Panels

16. The panel must be administered by the Welsh Ministers who must make suitable provision for clerking arrangements to the panel.

Fees of panel members

17. The Welsh Ministers may pay to any member of a panel such fees as the Welsh Ministers consider to be reasonable.

Records

18. The Welsh Ministers must 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 5 years from the date on which the recommendation is made; and
- (b) in conditions of appropriate security.