
WELSH STATUTORY INSTRUMENTS

2018 No. 1333

**The Fostering Panels (Establishment and
Functions) (Wales) Regulations 2018**

Assessment of prospective foster parents

7.—(1) Where a person applies to become a foster parent and the fostering services provider decides to assess that person's suitability to become a foster parent, any such assessment must be carried out in accordance with this regulation.

(2) Subject to paragraph (3), the fostering services provider—

- (a) must, as soon as reasonably practicable, obtain the information specified in Part 1 of Schedule 1 relating to the person and other members of the person's household and family,
- (b) where the person has been a foster parent within the preceding three years and was approved as such by another fostering services provider or by a fostering services provider in England, must request a written reference from that other fostering services provider,
- (c) except in a case where sub-paragraph (b) applies and the other fostering services provider provides the reference requested, must interview at least two individuals nominated by the person to provide personal references for them, and prepare written reports of the interviews,
- (d) except where the fostering services provider is a local authority and the person lives in the area of that authority, must consult, and take into account the views of, the local authority in whose area the person lives,
- (e) may, where the person was approved as a foster parent by another fostering services provider and consents, request access to the relevant records compiled by that other fostering services provider in relation to the person, and
- (f) may, where the person has been approved as a prospective adopter by an adoption agency and consents, request access to the relevant records compiled by that adoption agency in relation to that person.

(3) Where—

- (a) having regard to any information obtained under paragraph (2), the fostering services provider decides that the person is not suitable to become a foster parent, or
- (b) the person is not suitable to become a foster parent by virtue of paragraphs (8) to (10), and paragraph (11) does not apply,

the fostering services provider must notify the person in writing that they are not suitable to be a foster parent, giving the reasons for that decision.

(4) The notification in paragraph (3)—

- (a) is not a determination in respect of which the person may apply to the Welsh Ministers for a review by an independent review panel,
- (b) may be given notwithstanding that the fostering services provider has not obtained all the information set out in paragraph (2), and

- (c) may not be given more than 10 working days after the fostering services provider has obtained all the information set out in paragraph (2).
- (5) Where the fostering services provider has obtained all the information set out in paragraph (2) and has not given the notification in paragraph (3) within 10 working days of doing so, the fostering services provider must, subject to paragraph (6)—
- (a) obtain the information specified in Part 2 of Schedule 1 relating to the person and other members of the person’s household and any other information considered relevant,
 - (b) consider whether the person is suitable to be a foster parent and whether the person’s household is suitable for any child,
 - (c) prepare a written report on the person which includes the following matters—
 - (i) the information required by Schedule 1 and any other information the fostering services provider considers relevant,
 - (ii) the assessment of the fostering services provider of the person’s suitability to be a foster parent, and
 - (iii) the proposals of the fostering services provider about any terms of approval, and
 - (d) notify the person that the case is to be referred to the fostering panel, and give the person a copy of the report prepared under sub-paragraph (c) inviting the person to send any observations in writing to the fostering services provider within 10 working days beginning with the date on which the notification is sent.
- (6) Where, having regard to any information obtained under paragraph (5)(a), the fostering services provider decides that the person is unlikely to be considered suitable to become a foster parent, it may proceed to prepare a written report under paragraph (5)(c) notwithstanding that it may not have obtained all the information about the person which is required by paragraph (5)(c).
- (7) At the end of the 10 working days referred to in paragraph (5)(d) (or when the person’s observations are received, whichever is sooner), the fostering services provider must send—
- (a) the report prepared under paragraph (5)(c),
 - (b) the person’s observations on that report, if any, and
 - (c) any other relevant information obtained by the fostering services provider,
- to the fostering panel.
- (8) Subject to paragraph (11), the person is not suitable to be a foster parent if the person, or any member of the person’s household aged 18 or over—
- (a) has been convicted of a specified offence committed at the age of 18 or over, or
 - (b) has been cautioned by a constable in respect of any such offence.
- (9) In paragraph (8), “specified offence” (“*trosedd benodedig*”) means—
- (a) an offence against a child,
 - (b) an offence specified in Part 1 of Schedule 2,
 - (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979⁽¹⁾ in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876⁽²⁾ (prohibitions and restrictions) where the prohibited goods included indecent photographs of children under the age of 16,
 - (d) any other offence involving bodily injury to a child, other than an offence of common assault or battery, and

(1) 1979 c. 2.

(2) 1876 c. 36. Section 42 was amended by Part 9 of Schedule 1 to the Statute Law (Repeals) Act 1993 (c. 50), and paragraph 1 of Schedule 2 to the Statute Law (Repeals) Act 2008 (c. 12) and by other provisions which are not relevant to these Regulations.

the expression “offence against a child” (“*trosedd yn erbyn plentyn*”) has the meaning given to it by section 26(1) of the Criminal Justice and Court Services Act 2000⁽³⁾, notwithstanding that that provision has been repealed⁽⁴⁾, except that it does not include an offence contrary to section 9 of the Sexual Offences Act 2003⁽⁵⁾ (sexual activity with a child) in a case where the offender was under the age of 20 at the time the offence was committed and the child was aged 13 or over.

(10) Subject to paragraph (11), a person is not suitable to be a foster parent if the person, or any member of the person’s household aged 18 or over—

- (a) has been convicted of an offence specified in paragraph 11 of Part 2 of Schedule 2 committed at the age of 18 or over, or has been cautioned by a constable in respect of any such offence, or
- (b) falls within paragraph 12 or 13 of Part 2 of Schedule 2,

notwithstanding that the statutory offences in Part 2 of Schedule 2 have been repealed.

(11) The fostering services provider may regard a person who falls within paragraph (8) or (10) as suitable to be a foster parent in relation to a particular child (or children), if the fostering services provider is satisfied that the welfare of that child (or those children) requires it, and either—

- (a) the person, or a member of their household, is a relative of the child, or
- (b) the person is already acting as a foster parent for the child.

(12) In this regulation, regulation 9 and Schedule 1, a person who is living in the person’s household in parent and child arrangements is a member of the person’s household.

⁽³⁾ 2000 c. 43.

⁽⁴⁾ See Schedule 10 to the Safeguarding Vulnerable Groups Act 2006 (c. 47).

⁽⁵⁾ 2003 c. 42.