

Explanatory Memorandum

The Adult Placement Schemes (England) Regulations 2004 No.2071

Laying authority and responsible department

This explanatory memorandum is laid before Parliament by Command of Her Majesty. The Memorandum contains information for the Joint Committee on Statutory Instruments. The memorandum is the responsibility of the Department of Health.

Description

This Statutory Instrument will move the focus of regulation from individual Adult Placement Carers (AP Carers) who are presently regulated as care homes under the Care Standards Act 2000 to the Adult Placement Schemes (AP Schemes) which have not been regulated previously. The Regulations will be accompanied by revised National Minimum Standards drawn up under section 23 of that Act. Existing National Minimum Standards for Adult Placement Carers will no longer apply.

Matters of special interest

The proposed Regulations involve the use of powers set out in section 43 of the CSA to extend the application of Part 2 of the Care Standards Act 2000 to Adult Placement Schemes and modifying certain provisions of that Act as a consequence.

Legislative background

The Regulations are made under Part 2 of the Care Standards Act 2000, and, in particular, section 22 of that Act. These permit the making of Regulations governing the carrying on of establishments and agencies.

The objectives of the new regulatory approach are to:

- lift the burden of regulation from individual AP Carers, allowing them to focus on their role in providing family-based placements;
- place legal accountability on Adult Placement Schemes to meet regulatory requirements;
- ensure that all adult placement activity is covered by regulation to provide protection for all service users and equity within the sector and across regions;

The Care Homes Regulations 2001 (SI 2001 No. 3965) (which are made under powers in the Care Standards Act 2000) included, at Regulations 45 and 46, particular provision in respect of adult placements. This was in recognition of the particularly flexible and domestic nature of adult placements. These Regulations placed responsibility with the Adult Placement Carer (AP Carer) as the registered person to meet the requirements of regulation. The Care Homes (Adult Placements) (Amendment) Regulations 2003 (SI No. 1845) made changes to the original Regulations. These comprised of certain easements to the requirement to register and

other changes intended to ensure that they are even more relevant to AP Carers who provide this valuable service to the community and, at the same time, continue to promote quality services and provide appropriate protection for the vulnerable people they look after.

Despite this approach, the Department continued to receive strong representations from within and outside the sector that AP Schemes rather than AP Carers should be registered. Reasons included the significant loss of AP Carers, the danger of an increasingly unregulated sector, and inconsistent standards of performance among AP Schemes leaving some service users unprotected. These included representations from the interested organisations.

Extent

The Regulations apply solely to adult placement schemes in England.

Policy background

Adult placement offers short or long-term accommodation and/or care or support provided to a maximum, at any one time of three adults, by an AP Carer who is approved and supported by an AP Scheme.

Adult Placement services include accommodation with care or support in or outside the AP Carer's home, day services or respite care, and kinship' or 'outreach' support in the community. Provided by ordinary individuals and families in the community, adult placements have proved to be a highly valuable service option, giving the people who use them access to family and community life. There are approximately 130 AP Schemes in England with a workforce of more than 600 people supporting about 5000 AP Carers in 3644 carer households who provide services to more than 6500 vulnerable adults.

The Government wishes Adult Placement to continue to expand as an option available to those who may benefit from this type of service, and believes that the best way to achieve this aim is through rigorous and appropriate regulation of Adult Placement Schemes rather than of the carers themselves.

Under the current regulatory system, the Commission for Social Care Inspection (CSCI) – previously the National Care Standards Commission (NCSC) – register and inspect individual AP Carers. A survey of AP Schemes in 2003-04, however, confirmed that a significant proportion (441) of AP Carers had cancelled their registration in the 12 months preceding the survey, and about one-third of these had left schemes altogether; only 32% of AP Carers are currently registered. The burden of regulatory requirements was cited by schemes as the most common reason for problems in recruiting and retaining carers. The majority of unregistered carers are not subject to any external regulation. The standard to which AP Schemes work currently is not consistent across England.

In December 2003 a Consultation Document was issued, together with new Regulations and National Minimum Standards, setting out the Department's proposals for moving the focus of regulation from individual AP Carers to AP Schemes. These proposals were created in conjunction with an Adult Placements Project Management

Group including representatives from Government departments and other interested parties.

The responses to the consultation were overwhelmingly positive, with almost all respondents explicitly or implicitly supporting the proposals to regulate AP Schemes rather than individual AP Carers.

The proposed changes are in keeping with the main purpose of the Care Standards Act 2000 to reform the regulatory system of care services. The proposed regulation of Adult Placement Schemes brings the regulatory framework for adult placements in line with the regulation of fostering and domiciliary care agencies. It will ensure that the Regulatory burden is appropriately placed with the scheme rather than with the carer.

Impact

A Regulatory Impact Assessment has been prepared and is attached.

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