



CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2005 Rhif 2689 (Cy.189)

GOFAL CYMDEITHASOL, CYMRU

PLANT A PHOBL IFANC, CYMRU

Rheoliadau Mynediad i
Wybodaeth (Mabwysiadu Ôl-
gychwyn) (Cymru) 2005

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn rhagnodi materion penodol at ddibenion y drefn a nodir yn adrannau 56 i 65 o Ddeddf Mabwysiadu a Phlant 2002 ("y Ddeddf") (datgelu gwybodaeth mewn perthynas â mabwysiad person). Mae'r drefn yn darparu i asiantaethau mabwysiadu gadw gwybodaeth am bob mabwysiad a darparu gwasanaeth ar gyfer pobl sy'n holi am wybodaeth ynghylch mabwysiad. Nid yw'r drefn yn gymwys ond mewn perthynas â mabwysiad ar neu ar ôl 30 Rhagfyr 2005. O ran personau a fabwysiadwyd cyn y diwrnod hwnnw, bydd Rheoliadau Asiantaethau Mabwysiadu 1983 (O.S. 1983/1964) yn parhau i fod yn effeithiol.

Mae Rhan 2 yn darparu ar gyfer cadw gwybodaeth. Mae rheoliad 3 yn rhagnodi pa wybodaeth y mae'n rhaid ei chadw ("gwybodaeth adran 56"). Mae hyn yn cynnwys cofnod yr achos a sefydlwyd gan yr asiantaeth fabwysiadu mewn perthynas â'r plentyn at ddibenion y mabwysiadu, yr wybodaeth a roddwyd gan y rhieni geni, gwybodaeth a roddwyd gan y Cofrestrydd Cyffredinol, a chofnod o unrhyw ddatgeliad gwybodaeth. Mae Rhan 2 hefyd yn ymdrin â storio a throsglwyddo gwybodaeth adran 56. Mae rheoliad 5 yn ei gwneud yn ofynnol bod gwybodaeth adran 56 yn cael ei chadw am 100 mlynedd o'r dyddiad mabwysiadu.

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2005 No. 2689 (W.189)

SOCIAL CARE, WALES

CHILDREN AND YOUNG PERSONS, WALES

The Access to Information (Post-
Commencement Adoptions) (Wales)
Regulations 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain matters for the purposes of the regime set out in sections 56 to 65 of the Adoption and Children Act 2002 ("the Act") (disclosure of information in relation to a person's adoption). The regime provides for adoption agencies to keep information about each adoption and to provide a service for persons seeking information about an adoption. The regime applies only in relation to adoptions on or after 30 December 2005. In relation to persons adopted before that day, the Adoption Agencies Regulations 1983 (S.I.1983/1964) will continue to have effect.

Part 2 provides for the keeping of information. Regulation 3 prescribes what information must be kept ("section 56 information"). This includes the case record that was established by the adoption agency in relation to the child for the purposes of the adoption, information supplied by the birth parents, information supplied by the Registrar General, and the record of any disclosure of information. Part 2 also deals with storage and transfer of section 56 information. Regulation 5 requires that section 56 information be kept for 100 years from the date of the adoption.

Mae Rhan 3 yn gwneud darpariaeth gyffredinol ar gyfer datgelu gwybodaeth adran 56, a all gynnwys gwybodaeth a ddiogelir (sef gwybodaeth sy'n enwi rhywun). O dan reoliad 7 caiff asiantaeth fabwysiadu ddatgelu gwybodaeth adran 56 nad yw'n wybodaeth a ddiogelir yn ôl yr angen at ddibenion ei swyddogaethau. Caiff hefyd ddatgelu unrhyw wybodaeth adran 56 i bersonau sy'n darparu gwasanaethau mewn perthynas â'i swyddogaethau o dan adran 61 neu 62 (er enghraifft asiantaeth cefnogi mabwysiadu gofrestredig sy'n cyflawni ymholiadau ar ei rhan). Mae rheoliad 8 yn darparu ar gyfer datgelu gwybodaeth i bersonau penodedig gan gynnwys personau sy'n cynnal archwiliadau, Comisiynydd Plant Cymru, swyddog achosion teuluol ar gyfer Cymru neu swyddog o CAFCASS a Chynulliad Cenedlaethol Cymru. Mae rheoliad 9 yn ei gwneud yn ofynnol cadw cofnod ysgrifenedig o unrhyw ddatgeliad. Mae rheoliad 10 yn rhagnodi gofynion ar gyfer cytundeb o dan 57(5) o'r Ddeddf (sy'n caniatáu datgelu gwybodaeth a ddiogelir yn unol â chytundeb a ragnodwyd).

Mae Rhan 4 yn ymwneud â cheisiadau ar gyfer datgelu gwybodaeth a ddiogelir o dan adran 61 (gwybodaeth am oedolion) a 62 (gwybodaeth am blant). Mae rheoliadau 11 i 13 yn ymdrin â materion gweithdrefnol mewn perthynas â cheisiadau o'r fath.

Mae Rhan 5 yn gwneud darpariaeth ar gyfer cwnsela. Mae rheoliad 14 yn ei gwneud yn ofynnol i asiantaethau mabwysiadu ddarparu gwybodaeth am y cwnsela sydd ar gael i bersonau sy'n chwilio am wybodaeth yngylch mabwysiad neu bersonau y ceisir gwybodaeth amdanynt. Mae rheoliad 15 yn ei gwneud yn ofynnol i asiantaethau mabwysiadu drefnu i sicrhau cwnsela pan fydd personau sy'n chwilio am wybodaeth yn gofyn amdano.

Mae Rhan 6 yn ymwneud â'r Cofrestrydd Cyffredinol. Mae gan oedolion a fabwysiadwyd hawl o dan adran 60 o'r Ddeddf i ofyn am wybodaeth yngylch cofnodion eu geni. Rhaid iddynt yn gyntaf holi'r asiantaeth fabwysiadu briodol, ac yna bydd hi'n gofyn am yr wybodaeth gan y Cofrestrydd Cyffredinol. Mae rheoliad 17 yn ei gwneud yn ofynnol i'r Cofrestrydd ddarparu'r wybodaeth. Mae rheoliad 18 yn ei gwneud yn ofynnol i'r Cofrestrydd Cyffredinol ddatgelu gwybodaeth i unrhyw berson a all gynorthwyo'r person hwnnw gysylltu â'r asiantaeth fabwysiadu sy'n cadw cofnodion ynglŷn â'r mabwysiad hwn. Mae hefyd yn ei gwneud yn ofynnol i'r Cofrestrydd Cyffredinol ddatgelu gwybodaeth o'r Gofrestr Cyswllt Mabwysiadu ar gais asiantaeth fabwysiadu.

Mae Rhan 7 yn ymdrin â materion amrywiol. Mae'n creu tramgydd o ddatgelu gwybodaeth yn groes i adran 57 o'r Ddeddf. Mae rheoliad 20 yn rhagnodi ffioedd y gellir eu codi gan asiantaethau mabwysiadu mewn perthynas â datgelu gwybodaeth a chwnsela.

Part 3 makes general provision for the disclosure of section 56 information, which may include protected information (that is information that identifies any person). Under regulation 7 an adoption agency may disclose section 56 information that is not protected information as necessary for the purpose of its functions. It may also disclose any section 56 information to persons providing services in relation to its functions under section 61 or 62 (for example a registered adoption support agency carrying out enquiries on its behalf). Regulation 8 provides for disclosure of information to specified persons including persons holding inquiries, the Children's Commissioner for Wales, a Welsh family proceedings officer or an officer of CAFCASS and the National Assembly for Wales. Regulation 9 requires a written record to be kept of any disclosure. Regulation 10 prescribes the requirements for an agreement under 57(5) of the Act (which permits disclosure of protected information in pursuance of a prescribed agreement).

Part 4 relates to applications for disclosure of protected information under section 61 (information about adults) and 62 (information about children). Regulations 11 to 13 deal with procedural matters in relation to such applications.

Part 5 makes provision for counselling. Regulation 14 requires adoption agencies to provide information about availability of counselling for persons seeking information about an adoption or persons about whom information is being sought. Regulation 15 requires adoption agencies to secure counselling where requested by persons seeking information.

Part 6 relates to the Registrar General. Adopted adults have a right under section 60 of the Act to request information about their birth records. They must first approach the appropriate adoption agency, which then requests the information from the Registrar General. Regulation 17 requires the Registrar to provide the information. Regulation 18 requires the Registrar General to disclose information to any person that may assist the person in making contact with the adoption agency that holds the records of this adoption. It also requires the Registrar General to disclose information from the Adoption Contact Register at the request of an adoption agency.

Part 7 deals with miscellaneous matters. It creates an offence of disclosing information in contravention of section 57 of the Act. Regulation 20 prescribes fees that may be charged by adoption agencies in relation to disclosure of information and counselling.

2005 Rhif 2689 (Cy.189)

**GOFAL CYMDEITHASOL,
CYMRU**

**PLANT A PHOBL IFANC,
CYMRU**

Rheoliadau Mynediad i Wybodaeth
(Mabwysiadu Ôl-gychwyn)
(Cymru) 2005

Wedi'u gwneud

27 Medi 2005

Yn dod i rym

30 Rhagfyr 2005

2005 No. 2689 (W.189)

**SOCIAL CARE,
WALES**

**CHILDREN AND YOUNG
PERSONS, WALES**

The Access to Information (Post-
Commencement Adoptions) (Wales)
Regulations 2005

Made

27 September 2005

Coming into force

30 December 2005

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Mae Cynulliad Cenedlaethol Cymru drwy arfer y pwerau a roddwyd iddo gan adrannau 9, 56 i 64, 140(8), 142(1) a (5) a 144(2) o Ddeddf Mabwysiadu a Phlant 2002(1) a phob pŵer arall sy'n ei alluogi yn y cyswllt hwnnw, gyda chymeradwyaeth y Cofrestrydd Cyffredinol(2) a Changhellor y Trysorlys(3) drwy hyn yn gwneud y Rheoliadau canlynol:-

RHAN 1

CYFFREDINOL

Enwi, cychwyn a chymhwysyo

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Mynediad i Wybodaeth (Mabwysiadu Ôl-gychwyn) (Cymru) 2005 a deuant i rym ar 30 Rhagfyr 2005.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn -

ystyr "asiantaeth cefnogi mabwysiadu gofrestredig" ("registered adoption support agency") yw asiantaeth cefnogi mabwysiadu y cofrestrir person mewn perthynas â hi o dan Ran 2 o Ddeddf Safonau Gofal 2000(4);

ystyr "yr awdurdod cofrestru" ("the registration authority") yw Cynulliad Cenedlaethol Cymru;

(1) 2002 p.38. Mae'r pwerau hyn yn arferadwy gan y Gweinidog priodol, a ddiffinnir yn adran 144(1) o'r Ddeddf mewn perthynas â Lloegr, fel yr Ysgrifennydd Gwladol, mewn perthynas â Chymru fel Cynulliad Cenedlaethol Cymru ac mewn perthynas â Chymru a Lloegr, fel yr Ysgrifennydd Gwladol a Chynulliad Cenedlaethol yn gweithredol ar y cyd.

(2) Mae angen cymeradwyaeth y Cofrestrydd Cyffredinol ar gyfer rheoliad 17(3) yn rhinwedd adran 65(5) o'r Ddeddf.

(3) Mae angen cymeradwyaeth Changhellor y Trysorlys ar gyfer rheoliad 18(2) yn rhinwedd adran 65(4) o'r Ddeddf.

(4) 2000 p.14.

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The National Assembly for Wales in the exercise of the powers conferred on it by sections 9, 56 to 64, 140(8), 142(1) and (5) and 144(2) of the Adoption and Children Act 2002(1) and of all other powers enabling it in that behalf, with the approval of the Registrar General(2) and the Chancellor of the Exchequer(3), hereby makes the following Regulations:-

PART 1

GENERAL

Title, commencement and application

1.-(1) The title of these Regulations is the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005 and come into force on 30 December 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations -

"the Act" ("y Ddeddf") means the Adoption and Children Act 2002;

"the Adoption Agencies Regulations" ("y Rheoliadau Asiantaethau Mabsysiadu") means the Adoption Agencies (Wales) Regulations 2005(4);

"adopters" ("mabwysiadwyr") in the case of an adoption by one person means that person;

(1) 2002 c.38. These powers are exercisable by the appropriate Minister, who is defined in section 144(1) of the Act in relation to England, as the Secretary of State, in relation to Wales as the National Assembly for Wales and in relation to England and Wales, as the Secretary of State and the National Assembly or Wales acting jointly.

(2) The Registrar General's approval is required for regulation 17(3) by virtue of section 65(5) of the Act.

(3) The approval of the Chancellor of the Exchequer is required for regulation 18(2) by virtue of section 65(4) of the Act.

(4) S.I. 2005/1313.

ystyr CAFCASS ("CAFCASS") yw y Gwasanaeth Cyngori a Chynorthwyo Llys i Blant a Theuluoedd(1);

ystyr "y Ddeddf" ("the Act") yw Ddedf Mabwysiadu a Phlant 2002;

ystyr "gwybodaeth adran 56" ("section 56 information") yw gwybodaeth a ragnodir gan reoliad 3;

ystyr "mabwysiadwyr" ("adopters") yn achos mabwysiadu gan un person yw'r person hwnnw;

ystyr "perthynas geni" ("birth relative") mewn perthynas â pherson mabwysiedig yw person a fyddai, oni bai am y mabwysiadu, yn perthyn iddo drwy waed (gan gynnwys hanner gwaed) neu drwy briodas;

ystyr "rhiant geni" ("birth parent") mewn perthynas â pherson mabwysiedig yw person a fyddai, oni bai am y mabwysiadu, yn rhiant iddo;

ystyr "y Rheoliadau Asiantaethau Mabwysiadu" ("the Adoption Agencies Regulations") yw Rheoliadau Asiantaethau Mabwysiadu (Cymru) 2005(2).

mae i "swyddog achosion teuluol ar gyfer Cymru" yr ystyr a roddir i "Welsh family proceedings officer" yn adran 35(4) o Ddeddf Plant 2004(3).

"birth parent" ("rhiant geni") in relation to an adopted person means a person who, but for the adoption, would be his or her parent;

"birth relative" ("perthynas geni") in relation to an adopted person means a person who, but for the adoption, would be related to him or her by blood (including half blood) or marriage;

"CAFCASS" ("CAFCASS") means the Children and Family Court Advisory and Support Service(1);

"registered adoption support agency" ("asiantaeth cefnogi mabwysiadu gofrestredig") means an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000(2);

"section 56 information" ("gwybodaeth adran 56") means information prescribed by regulation 3;

"the registration authority" ("yr awdurdod cofrestru") means the National Assembly for Wales;

"Welsh family proceedings officer" ("swyddog achosion teuluol ar gyfer Cymru") has the meaning given in section 35(4) of the Children Act 2004(3).

RHAN 2

CADW GWYBODAETH GAN ASIANTAETHAU MABWYSIADU

Gwybodaeth sydd i'w chadw am fabwysiad person

3.-(1) Mae paragraffau (2) a (3) yn rhagnodi, at ddibenion adran 56 o'r Ddeddf, yr wybodaeth y mae'n rhaid i asiantaeth fabwysiadu ei chadw mewn perthynas â pherson a fabwysiedir ar neu ar ôl 30 Rhagfyr 2005 (ac y cyfeirir ati yn y Ddeddf ac yn y Rheoliadau hyn fel "gwybodaeth adran 56")(4).

(2) Pan wneir gorchymyn mabwysiadu mewn perthynas â pherson a fabwysiadwyd ar ôl 30 Rhagfyr 2005 rhaid i'r asiantaeth fabwysiadu-

PART 2

KEEPING OF INFORMATION BY ADOPTION AGENCIES

Information to be kept about a person's adoption

3.-(1) Paragraphs (2) and (3) prescribe, for the purposes of section 56 of the Act, the information that an adoption agency must keep in relation to a person adopted on or after 30 December 2005 (and which is referred to in the Act and in these Regulations as "section 56 information")(4).

(2) When an adoption order is made in relation to a person adopted after 30 December 2005 the adoption agency-

(1) Gweler adran 11 o Ddeddf Cyflawnder Troseddol a Gwasanaethau Llys 2000 p.43.

(2) O.S 2005/1313.

(3) 2004 p.31.

(4) Cychwynnir adrannau 56 i 64 ond yn unig mewn perthynas â mabwysiadau ar neu ar ôl 1 Medi 2005.

(1) See section 11 of the Criminal Justice and Court Services Act 2000 c.43.

(2) 2000 c.14.

(3) 2004 c.31.

(4) Sections 56 to 64 are commenced only in respect of adoptions on or after 1 September 2005.

- (a) a leolodd y person i'w fabwysiadu; neu
(b) y trosglwyddwyd y cofnodion achos mewn perthynas â'r person mabwysiedig iddi,

barhau i gadw'r cofnod achos a luniwyd mewn perthynas â'r person mabwysiedig o dan reoliad 12 o'r Rheoliadau Asiantaethau Mabwysiadu neu o dan Reoliadau Asiantaethau Mabwysiadu 1983(1).

- (3) Rhaid i'r asiantaeth fabwysiadu hefyd gadw -
- (a) unrhyw wybodaeth a roddwyd gan y rhiant geni neu berthynas geni arall am y person mabwysiedig, neu gan berson arwyddocaol arall ym mywyd y person mabwysiedig, gyda'r bwriad y gall y person mabwysiedig, os yw'n dymuno hynny, gael yr wybodaeth honno;
 - (b) unrhyw wybodaeth a roddwyd gan ofalydd maeth blaenorol y person mabwysiedig, gyda'r bwriad y caiff y person mabwysiedig, os yw'n dymuno hynny, gael yr wybodaeth honno;
 - (c) unrhyw wybodaeth a roddwyd gan y mabwysiadwyr neu bersonau eraill sy'n berthnasol i faterion sy'n codi ar ôl i'r gorchymyn mabwysiadu gael ei wneud;
 - (ch) unrhyw wybodaeth y gofynnodd y person a fabwysiadwyd iddi gael ei chadw;
 - (d) unrhyw wybodaeth a roddwyd i asiantaeth mewn perthynas â pherson mabwysiedig gan y Cofrestrydd Cyffredinol o dan adran 79(5) o'r Ddeddf (gwybodaeth a fyddai'n galluogi person mabwysiedig i gael copi ardystiedig o gofnod ei eni);
 - (dd) unrhyw wybodaeth a ddatgelwyd i'r asiantaeth fabwysiadu ynghylch cofnod sy'n ymwneud â'r person mabwysiedig yn y Gofrestr Cyswllt Mabwysiadu;
 - (e) unrhyw wybodaeth y mae angen ei chofnodi yn unol â rheoliad 9, 10, 13 neu 16;
 - (f) cofnod o unrhyw gytundeb o dan reoliad 10.

(4) At ddibenion y rheoliad hwn mae "gwybodaeth" yn cynnwys gwybodaeth ar unrhyw ffurf, gan gynnwys ar bapur neu gofnodion electronig a ffotograffau.

(5) Rhaid i'r asiantaeth fabwysiadu gadw cofnod o unrhyw wrthrychau a chofroddion nas cedwir am nad yw'n rhesymol ymarferol i'w storio.

Storio a dull cadw gwybodaeth adran 56

4. Rhaid i'r asiantaeth fabwysiadu sicrhau bod gwybodaeth adran 56 mewn perthynas â mabwysiad person yn cael ei chadw o dan amodau diogel bob amser ac yn benodol bod pob cam priodol yn cael ei gymryd i rwystro lladradd, datgelu nas awdurdodwyd, difrod, colled neu ddifa.

(1) O.S. 1983/1964.

- (a) that placed the person for adoption; or
- (b) to which the case records in respect of adopted person have been transferred,

must continue to keep the case record that was set up in respect of the adopted person under regulation 12 of the Adoption Agencies Regulations or under the Adoption Agencies Regulations 1983(1).

- (3) The adoption agency must also keep -
- (a) any information that has been supplied by a birth parent or other birth relative of the adopted person, or other significant person in the adopted person's life with the intention that the adopted person may, should he or she wish to, be given that information;
 - (b) any information that has been supplied by a former foster carer of the adopted person with the intention that the adopted person may, should he or she wish to, be given that information;
 - (c) any information supplied by the adopters or other persons which is relevant to matters arising after the adoption order has been made;
 - (d) any information that the adopted person has requested should be kept;
 - (e) any information given to agency in respect of an adopted person by the Registrar General under section 79(5) of the Act (information that would enable an adopted person to obtain a certified copy of the record of his or her birth);
 - (f) any information disclosed to the adoption agency about an entry relating to the adopted person on the Adoption Contact Register;
 - (g) any information required to be recorded in accordance with regulation 9, 10, 13 or 16;
 - (h) the record of any agreement under regulation 10.

(4) For the purposes of this regulation "information" includes information in any form, including paper or electronic records and photographs.

(5) The adoption agency must keep a record of any objects and mementoes that are not retained because they are not reasonably practicable to store.

Storage and manner of keeping of section 56 information

4. The adoption agency shall ensure that section 56 information in relation to a person's adoption is at all times kept in secure conditions and in particular that all appropriate measures are taken to prevent theft, unauthorised disclosure, damage, loss or destruction.

(1) S.I. 1983/1964.

Cadw gwybodaeth adran 56

5. Rhaid i'r asiantaeth fabwysiadu gadw gwybodaeth adran 56 mewn perthynas â mabwysiad person am o leiaf 100 mlynedd ar ôl dyddiad y gorchymyn mabwysiadu.

Trosglwyddo gwybodaeth adran 56

6.-(1) Os bydd cymdeithas fabwysiadu gofrestredig(1) yn bwriadu peidio â gweithredu neu beidio â bodoli, rhaid iddi drosglwyddo unrhyw wybodaeth adran 56 y mae'n ei dal mewn perthynas â mabwysiadu person-

- (a) i asiantaeth fabwysiadu arall ar ôl iddi'n gyntaf gael cymeradwyaeth yr awdurdod cofrestru ar gyfer trosglwyddiad o'r fath;
- (b) i'r awdurdod lleol y lleolir prif swyddfa'r gymdeithas yn ei ardal; neu
- (c) yn achos cymdeithas sy'n cyfuno â chymdeithas fabwysiadu gofrestredig arall i ffurfio cymdeithas fabwysiadu gofrestredig newydd, i'r corff newydd.

(2) Rhaid i asiantaeth fabwysiadu sy'n trosglwyddo ei chofnodion i asiantaeth fabwysiadu arall yn rhinwedd paragraff (1), os oedd ei gweithgareddau pennaf yn ardal awdurdod lleol unigol, hysbysu'r awdurdod hwnnw yn ysgrifenedig o'r trosglwyddiad.

(3) Rhaid i asiantaeth fabwysiadu y trosglwyddir cofnodion iddi yn rhinwedd paragraff (1), hysbysu'r awdurdod cofrestru yn ysgrifenedig o drosglwyddiad o'r fath.

Preservation of section 56 information

5. The adoption agency must keep section 56 information in relation to a person's adoption for at least 100 years from the date of the adoption order.

Transfer of section 56 information

6.-(1) Where a registered adoption society(1) intends to cease to act or exist as such, it must transfer any section 56 information which it holds in relation to a person's adoption-

- (a) to another adoption agency having first obtained the approval of the registration authority for such transfer;
- (b) to the local authority in whose area the society's principal office is situated; or
- (c) in the case of a society which amalgamates with another registered adoption society to form a new registered adoption society, to the new body.

(2) A registered adoption society that transfers its records to another adoption agency by virtue of paragraph (1) must, if its activities were principally based in the area of a single local authority, give written notification of the transfer to that authority.

(3) An adoption agency to which records are transferred by virtue of paragraph (1), shall notify the registration authority in writing of such a transfer.

RHAN 3

PART 3

DATGELU GWYBODAETH - CYFFREDINOL

Datgelu gwybodaeth adran 56 at ddibenion swyddogaethau asiantaeth

7.-(1) Caiff asiantaeth fabwysiadu ddatgelu gwybodaeth adran 56 nad yw'n wybodaeth a ddiogelir(2) fel y gwêl orau at ddibenion cyflawni ei swyddogaethau fel asiantaeth fabwysiadu.

DISCLOSURE OF INFORMATION - GENERAL

Disclosure of section 56 information for purposes of agency's functions

7.-(1) An adoption agency may disclose section 56 information that is not protected information(2) as it thinks fit for the purpose of carrying out its functions as an adoption agency.

(1) *gweler* adran 2(2) o'r Ddeddf.

(2) *gweler* adran 57(3) o'r Ddeddf i gael ystyr "protected information".

(1) *see* s.2(2) of the Act.

(2) *see* s.57(3) of the Act for the meaning of "protected information"

(2) Caiff asiantaeth fabwysiadu ddatgelu gwybodaeth adran 56 (gan gynnwys gwybodaeth a ddiogelir) i asiantaeth cefnogi mabwysiadu gofrestredig sy'n darparu gwasanaethau i'r asiantaeth fabwysiadu mewn cysylltiad ag unrhyw rai o'i swyddogaethau o dan adran 61 neu 62 o'r Ddeddf.

(3) Caiff asiantaeth fabwysiadu ddatgelu gwybodaeth adran 56 (gan gynnwys gwybodaeth a ddiogelir) i berson a awdurdodwyd yn ysgrifenedig gan Gynulliad Cenedlaethol Cymru i gael gwybodaeth at ddibenion ymchwil.

Datgelu gwybodaeth adran 56 at ddibenion ymholiadau, archwiliadau etc.

8. Rhaid i asiantaeth fabwysiadu ddatgelu gwybodaeth adran 56 (gan gynnwys gwybodaeth a ddiogelir) yn ôl y gofyn-

- (a) i'r rheini sy'n cynnal ymchwiliad o dan adran 17 o'r Ddeddf neu adran 81 o Ddeddf Plant 1989(1) neu adran i o Ddeddf Ymchwiliadau 2005(2) at ddibenion ymchwiliad o'r fath;
- (b) yn ddarostyngedig i ddarpariaethau 74(5) o Ddeddf Safonau Gofal 2000 i Gomisiynydd Plant Cymru(3) at ddibenion unrhyw archwiliad a gynhelir yn unol â Rhan V o'r Ddeddf honno;
- (c) i Gynulliad Cenedlaethol Cymru;
- (ch) yn ddarostyngedig i ddarpariaethau adrannau 29(7) a 32(3) o Ddeddf Llywodraeth Leol 1974(4) (ymchwiliadau a datgelu), i'r Comisiwn dros Weinyddu Lleol yng Nghymru at ddibenion ymchwiliad a gynhelir yn unol â Rhan III o'r Ddeddf honno;
- (d) i unrhyw berson a benodwyd gan yr asiantaeth fabwysiadu at ddibenion ystyriaeth gan yr asiantaeth o unrhyw sylwadau (gan gynnwys cwynion);
- (dd) i banel a ffurfiwyd o dan adran 12 o'r Ddeddf i ystyried penderfyniad cymhwysol mewn perthynas â datgelu gwybodaeth adran 56;
- (e) i swyddog achosion teuluol ar gyfer Cymru neu swyddog o CAFCASS at ddibenion cyflawni dyletswyddau'r swyddog o dan y Ddeddf;
- (f) i lys sydd â'r pŵer i wneud gorchymyn o dan y Ddeddf neu o dan Ddeddf Plant 1989.

(2) An adoption agency may disclose section 56 information (including protected information) to a registered adoption support agency which provides services to the adoption agency in connection with any of its functions under section 61 or 62 of the Act.

(3) An adoption agency may disclose section 56 information (including protected information) to a person who is authorised in writing by the National Assembly for Wales to obtain information for the purposes of research.

Disclosure of section 56 information for the purposes of inquiries, inspection etc.

8. An adoption agency must disclose section 56 information (including protected information) as may be required-

- (a) to those holding an inquiry under section 17 of the Act, section 81 of the Children Act 1989(1) or section 1 of the Inquiries Act 2005(2) for the purposes of such an inquiry;
- (b) subject to the provisions of s.74(5) of the Care Standards Act 2000 to the Children's Commissioner for Wales(3) for the purposes of any examination conducted in accordance with Part V of that Act;
- (c) to the National Assembly for Wales;
- (d) subject to the provisions of sections 29(7) and 32(3) of the Local Government Act 1974(4) (investigations and disclosure), to the Commission for Local Administration in Wales, for the purpose of an investigation conducted in accordance with Part III of that Act;
- (e) to any person appointed by the adoption agency for the purpose of the consideration by the agency of any representations (including complaints);
- (f) to a panel constituted under section 12 of the Act to consider a qualifying determination in relation to the disclosure of section 56 information;
- (g) to a Welsh family proceedings officer or an officer of CAFCASS for the purposes of the discharge of the officer's duties under the Act;
- (h) to a court having power to make an order under the Act or under the Children Act 1989.

(1) 1989 p.41.

(2) 2005 p.12.

(3) 2001 p.18.

(4) 1974 p.7.

(1) 1989 c.41.

(2) 2005 c.12.

(3) 2001 c.18.

(4) 1974 c.7.

Gofynion sy'n ymwneud â datgelu

9. Rhaid i'r asiantaeth fabwysiadu wneud cofnod ysgrifenedig o unrhyw ddatgeliad a wnaed o dan reoliad 7 neu 8, a rhaid iddo gynnwys -

- (a) disgrifiad o'r wybodaeth a ddatgelir;
- (b) y dyddiad y datgelir yr wybodaeth;
- (c) y person y datgelir yr wybodaeth iddo;
- (ch) y rheswm dros y datgeliad.

Cytundebau ar gyfer datgelu gwybodaeth a ddiogelir

10.-(1) Cytundeb rhagnodedig at ddibenion adran 57(5) o'r Ddeddf -

- (a) yw cytundeb a wneir rhwng yr asiantaeth fabwysiadu a pherson 18 oed neu drosodd ar yr adeg y gwneir y cytundeb o ran datgelu gwybodaeth a ddiogelir amdano; neu
- (b) yw cytundeb a wneir rhwng yr asiantaeth fabwysiadu a phob un o'r personau canlynol o ran datgelu gwybodaeth a ddiogelir amdanynt neu am y person mabwysiedig
 - (i) rhiant mabwysiol y person mabwysiedig neu yn achos mabwysiadu gan gwpl, dau riant mabwysiol y person mabwysiedig;
 - (ii) pob person a oedd, cyn i'r gorchymyn mabwysiadu gael ei wneund, yn rhiant a chyfrifoldeb rhiant am y person mabwysiedig.

(2) Rhaid i'r asiantaeth fabwysiadu gadw cofnod ysgrifenedig o unrhyw gytundeb o'r fath a rhaid i'r cofnod hwnnw gynnwys -

- (a) enwau llawn a llofnodion y personau sydd yn bartion;
- (b) y dyddiad pan gaiff ei wneud;
- (c) y rhesymau dros ei wneud;
- (ch) yr wybodaeth y ceir ei datgelu yn unol â'r cytundeb;
- (d) unrhyw gyfyngiadau y cytunir arnynt yngylch yr amgylchiadau pan geir datgelu gwybodaeth.

Requirements relating to disclosure

9. The adoption agency must make a written record of any disclosure made under regulation 7 or 8, which must include -

- (a) a description of the information disclosed;
- (b) the date on which the information is disclosed;
- (c) the person to whom the information is disclosed;
- (d) the reason for disclosure.

Agreements for the disclosure of protected information

10.(1) A prescribed agreement for the purpose of section 57(5) of the Act is-

- (a) an agreement made between the adoption agency and a person aged 18 or over at the time the agreement is made as to the disclosure of protected information about that person; or
- (b) an agreement made between the adoption agency and each of the following persons as to the disclosure of protected information about them or about the adopted person
 - (i) the adoptive parent, or in the case of adoption by a couple, both adoptive parents, of the adoptive person;
 - (ii) each person who, before the adoption order was made, was a parent with parental responsibility for the adopted person.

(2) The adoption agency must keep a written record of any such agreement and that record must include-

- (a) the full names and signatures of the persons who are parties;
- (b) the date on which it is made;
- (c) the reasons for making it;
- (d) the information that may be disclosed in accordance with the agreement;
- (e) any agreed restrictions on the circumstances in which information may be disclosed.

RHAN 4

DATGELU GWYBODAETH A DDIOGELIR O DANADRANNAU 61 A 62

Dull gwneud cais

11. Rhaid i gais i asiantaeth fabwysiadu ddatgelu gwybodaeth a ddiogelir o dan adran 61 neu 62 o'r Ddeddf fod yn gais ysgrifenedig a rhaid datgan y rhesymau dros wneud y cais.

Dyletswyddau asiantaeth wrth dderbyn cais

12. Pan geir cais i ddatgelu gwybodaeth a ddiogelir o dan adran 61 neu 62 o'r Ddeddf rhaid i asiantaeth fabwysiadu gymryd pob cam rhesymol i -

- (a) cadarnhau pwyl ceisydd ac unrhyw berson sy'n gweithredu ar ei ran; a
- (b) cadarnhau bod unrhyw berson sy'n gweithredu ar ran y ceisydd wedi cael ei awdurdodi i wneud hynny; ac
- (c) sicrhau bod ganddi ddigon o wybodaeth oddi wrth y ceisydd am y rhesymau dros y cais i alluogi'r asiantaeth i gyflawni ei swyddogaethau o dan adran 61 neu 62 o'r Ddeddf (yn ôl y digwydd).

Cofnodion o sylwadau

13. Rhaid i asiantaeth fabwysiadu sicrhau bod unrhyw sylwadau a geir o dan adrannau 61(3) neu 62(3) neu (4) o'r Ddeddf yn cael eu cofnodi'n ysgrifenedig.

RHAN 5

CWNSELA

Gwybodaeth bod cwnsela ar gael

14.-(1) Rhaid i asiantaeth fabwysiadu ddarparu gwybodaeth ysgrifenedig ynghylch argaeedd cwnsela i unrhyw berson -

- (a) sy'n holi am wybodaeth o dan adrannau 60, 61 neu 62 o'r Ddeddf;
- (b) yr holwyd am eu sylwadau o ran datgelu gwybodaeth amdanyst o dan adran 61(3) neu 62(3) neu (4) o'r Ddeddf;
- (c) sy'n ymrwymo, neu'n ystyried ymrwymo, mewn cytundeb â'r asiantaeth o dan reoliad 10.

PART 4

DISCLOSURE OF PROTECTED INFORMATION UNDER SECTIONS 61 AND 62

Manner of application

11. An application to an adoption agency for the disclosure of protected information under section 61 or 62 of the Act must be in writing and must state the reasons for the application.

Duties of agency on receipt of application

12. On receipt of an application for the disclosure of protected information under section 61 or 62 of the Act an adoption agency must take all reasonable steps to-

- (a) confirm the identity of the applicant and of any person acting on his or her behalf; and
- (b) confirm that any person acting on behalf of the applicant is authorised to do so; and
- (c) ensure that it has sufficient information from the applicant about the reasons for the application to enable the agency to discharge its functions under section 61 or 62 of the Act (as the case may be).

Record of views

13. An adoption agency must ensure that any views obtained under sections 61(3) or 62(3) or (4) of the Act are recorded in writing.

PART 5

COUNSELLING

Information about the availability of counselling

14.-(1) An adoption agency must provide written information about the availability of counselling to any person -

- (a) who is seeking information under sections 60, 61 or 62 of the Act;
- (b) whose views have been sought as to the disclosure of information about him or her under section 61(3) or 62(3) or (4) of the Act;
- (c) who enters, or is considering entering, into an agreement with the agency under regulation 10.

(2) Rhaid i'r wybodaeth a ddarperir o dan baragraff (1) gynnwys gwybodaeth am y ffioedd y gellir eu codi gan bersonau sy'n darparu cwnsela.

Dyletswydd i sicrhau cwnsela

15.-(1) Os bydd person a grybwyllir yn rheoliad 14(1) yn gofyn bod cwnsela yn cael ei ddarparu ar ei gyfer, rhaid i'r asiantaeth fabwysiadu drefnu i sicrhau cwnsela ar gyfer y person hwnnw.

(2) Caiff yr asiantaeth ddarparu cwnsela ei hun neu drefnu ag unrhyw rai o'r personau canlynol i ddarparu cwnsela-

- (a) os yw'r person yng Nghymru neu Loegr, asiantaeth fabwysiadu arall neu asiantaeth cefnogi mabwysiadu gofrestredig;
- (b) os yw'r person yn yr Alban, asiantaeth fabwysiadu yn yr Alban;
- (c) os yw'r person yng Ngogledd Iwerddon, cymdeithas fabwysiadu sydd wedi'i chofrestru o dan Erthygl 4 o Orchymyn Mabwysiadu (Gogledd Iwerddon) 1987(1) neu unrhyw Fwrdd; neu
- (ch) os yw'r person y tu allan i'r Deyrnas Unedig, unrhyw berson neu gorff y tua allan i'r Deyrnas Unedig y mae'n ymddangos i'r asiantaeth ei fod yn cyfateb yn ei swyddogaethau i gorff a grybwyllir ym mharagraffau (a) i (c).

(3) Yn y rheoliad hwn -

ystyr "asiantaeth cefnogi mabwysiadu gofrestredig" yw asiantaeth cefnogi mabwysiadu y cofrestrir person mewn perthynas â hi o dan Ran 2 o Ddeddf Safonau Gofal 2000.

ystyr "Bwrdd" yw Bwrdd Iechyd a Gwasanaethau Cymdeithasol a sefydlwyd gan o dan Erthygl 16 o Orchymyn Iechyd a Gwasanaethau Cymdeithasol Personol (Gogledd Iwerddon) 1972(2) neu os yw swyddogaethau Bwrdd yn arferadwy gan Ymddiriedolaeth Iechyd a Gwasanaethau Cymdeithasol, yr Ymddiriedolaeth honno;

Datgelu gwybodaeth at ddibenion cwnsela

16.-(1) Caiff asiantaeth fabwysiadu ddatgelu gwybodaeth (gan gynnwys gwybodaeth a ddiogelir), y mae ei hangen at ddibenion darparu cwnsela i unrhyw berson y gwnaeth drefniadau ag ef i ddarparu cwnsela.

(2) Rhaid i asiantaeth fabwysiadu wneud cofnod ysgrifenedig o unrhyw ddatgelu a wneir yn rhinwedd y rheoliad hwn.

(2) The information provided under paragraph (1) must include information about the fees that may be charged by persons providing counselling.

Duty to secure counselling

15.-(1) Where a person mentioned in regulation 14(1) requests that counselling be provided for him or her, the adoption agency must make arrangements to secure counselling for that person.

(2) The agency may provide the counselling itself or make arrangements with any of the following persons for the provision of counselling-

- (a) if the person is in Wales or England, another adoption agency or a registered adoption support agency;
- (b) if the person is in Scotland, a Scottish adoption agency;
- (c) if the person is in Northern Ireland, an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987(1) or from any Board; or
- (d) if the person is outside the United Kingdom, any person or body outside the United Kingdom who appears to the agency to correspond in its functions to a body mentioned in paragraphs (a) to (c).

(3) In this regulation -

"Board" means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(2) or where the functions of a Board are exercisable by a Health and Social Services Trust, that Trust;

"registered adoption support agency" means an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000.

Disclosure of information for the purposes of counselling

16.-(1) An adoption agency may disclose information (including protected information), which is required for the purposes of providing counselling to any person with whom it has made arrangements to provide counselling.

(2) An adoption agency must make a written record of any disclosure made by virtue of this regulation.

(1) O.S. 1987/2203 (G.I. 22).

(2) O.S. 1972/1265 (G.I. 14).

(1) S.I. 1987/2203 (N.I. 22).

(2) S.I. 1972/1265 (N.I. 14).

Y COFRESTRYDD CYFFREDINOL**Holi am wybodaeth gan y Cofrestrydd Cyffredinol**

17.-(1) Os bydd -

- (a) person mabwysiedig sydd wedi cael ei 18 oed yn gofyn am wybodaeth gan asiantaeth fabwysiadu o dan adran 60(2)(a) o'r Ddeddf, a fyddai'n ei alluogi i gael copi ardystiedig o gofnod ei eni; a
- (b) nad yw'r wybodaeth honno gan yr asiantaeth, rhaid i'r asiantaeth holi am yr wybodaeth gan y Cofrestrydd Cyffredinol.

(2) Os bydd asiantaeth fabwysiadu yn holi am wybodaeth gan y Cofrestrydd Cyffredinol o dan baragraff (1), rhaid i'r asiantaeth roi'r wybodaeth ganlynol iddo yn ysgrifenedig, i'r graddau y mae'n hysbys-

- (a) enw, dyddiad geni a gwlad enedigol y person mabwysiedig;
- (b) enw tad neu fam mabwysiol y person hwnnw;
- (c) dyddiad y gorchymyn mabwysiadu.

Mae'r Cofrestrydd Cyffredinol i ddatgelu gwybodaeth sy'n ymwneud â'r asiantaeth fabwysiadu briodol a'r Gofrestr Cyswllt Mabwysiadu

18.-(1) Rhaid i'r Cofrestrydd Cyffredinol -

- (a) datgelu i unrhyw berson (gan gynnwys person mabwysiedig) unrhyw wybodaeth y mae'n gofyn amdani y mae ei hangen arno i'w gynorthwyo i gysylltu â'r asiantaeth fabwysiadu sef yr asiantaeth fabwysiadu briodol yn achos y person a bennir yn y gofyniad (neu, yn ôl y digwydd, yn achos y ceisydd); a
- (b) datgelu i'r asiantaeth fabwysiadu briodol unrhyw wybodaeth sy'n ofynnol gan yr asiantaeth o ran cais o dan adran 60, 61 neu 62 o'r Ddeddf, ynghylch unrhyw gofnod sy'n ymwneud â pherson mabwysiedig ar y Gofrestr Cyswllt Mabwysiadu⁽¹⁾.

(2) Rhaid i'r asiantaeth fabwysiadu dalu unrhyw ffi y dyfarna'r Cofrestrydd Cyffredinol ei bod yn rhesymol ar gyfer datgelu gwybodaeth o dan baragraff (1)(b).

(3) Yn y rheoliad hwn mae i "asiantaeth fabwysiadu briodol" yr ystyr a roddir i "appropriate adoption agency" gan adran 65(1) o'r Ddeddf.

THE REGISTRAR GENERAL**Seeking information from the Registrar General**

17.-(1) Where -

- (a) an adopted person who has attained the age of 18 years requests information from an adoption agency under section 60(2)(a) of the Act, which would enable him or her to obtain a certified copy of the record of his or her birth; and
- (b) the agency does not have that information,

the agency must seek that information from the Registrar General.

(2) Where an adoption agency seeks information from the Registrar General under paragraph (1) the agency must provide the Registrar General in writing with the following information, so far as it is known-

- (a) the name, date of birth and country of birth of the adopted person;
- (b) the names of that person's adoptive father or mother;
- (c) the date of the adoption order.

Registrar General to disclose information regarding the appropriate adoption agency and the Adoption Contact Register

18.-(1) The Registrar General must -

- (a) disclose to any person (including an adopted person) at his or her request any information that the person requires to assist him or her to make contact with the adoption agency which is the appropriate adoption agency in the case of the person specified in the request (or, as the case may be in the applicant's case); and
- (b) disclose to the appropriate adoption agency any information that the agency requires, in relation to an application under section 60, 61 or 62 of the Act, about any entry relating to an adopted person on the Adoption Contact Register⁽¹⁾.

(2) The adoption agency must pay any fee that the Registrar General determines is reasonable for the disclosure of information under paragraph (1)(b).

(3) In this regulation "appropriate adoption agency" has the same meaning given by section 65(1) of the Act.

(1) I gael diffiniad o Gofrestr Cyswllt Mabwysiadu *gweler* "Adoption Contact Register" yn adran 80 o'r Ddeddf.

(1) For the definition of "Adoption Contact Register" see s.80 of the Act.

AMRYWIOL

MISCELLANEOUS

Tramwydd

19. Mae cymdeithas fabwysiadu gofrestredig sy'n datgelu unrhyw wybodaeth yn groes i adran 57 o'r Ddeddf (cyfyngiadau ar ddatgeli etc. gwybodaeth) yn euog o dramwydd y gellir ei gosbi ar gollfarn ddiannod i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol.

Ffioedd a godir gan asiantaethau mabwysiadu

20.-(1) Yn ddarostyngedig i baragraff (2) caiff asiantaeth fabwysiadu godi ffi sydd yn ei barn yn ffi resymol -

- (a) o ran datgelu gwybodaeth o dan adrannau 61 neu 62 o'r Ddeddf;
- (b) am ddarparu cwnsela mewn cysylltiad â datgelu gwybodaeth o dan yr adrannau hynny; neu
- (c) am wneud trefniadau i sicrhau cwnsela yn unol â rheoliad 16 pan ddarperir y cwnsela gan berson y tu allan i'r Deyrnas Unedig.

(2) Ni fydd ffi'n daladwy gan berson mabwysiedig o ran unrhyw wybodaeth a ddatgelir iddo o dan adran 60, 61 neu 62 ynghylch unrhyw berthynas iddo neu am unrhyw gwnsela a ddarperir iddo mewn cysylltiad ag unrhyw ddatgeliad o'r fath.

(3) Rhaid i asiantaeth fabwysiadu, cyn iddi ddarparu gwasanaeth i unrhyw berson y caiff godi ffi amdano o dan y rheoliad hwn, roi gwybodaeth i'r person am ei ffioedd.

Offence

19. A registered adoption society which discloses any information in contravention of section 57 of the Act (restrictions on disclosure etc. of information) is guilty of an offence punishable on summary conviction to a fine not exceeding level 5 on the standard scale.

Fees charged by adoption agencies

20.-(1) Subject to paragraph (2) an adoption agency may charge a fee which it determines to be a reasonable fee -

- (a) in respect of the disclosure of information under sections 61 or 62 of the Act;
- (b) for providing counselling in connection with the disclosure of information under those sections; or
- (c) for making arrangements to secure counselling in accordance with regulation 16 where the counselling is provided by a person outside the United Kingdom.

(2) No fee shall be payable by an adopted person in respect of any information disclosed to him or her under section 60, 61 or 62 in relation to any relative of his or her or for any counselling provided to him or her in connection with any such disclosure.

(3) An adoption agency must, before providing a service to any person for which it may charge a fee under this regulation, give the person information about its fees.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru yn unol ag adran 66(1) o Ddeddf Llywodraeth Cymru 1998(1)

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(1)

27 Medi 2005

27 September 2005

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(1) 1998 p.38.

(1) 1998 c.38.

2005 Rhif 2689 (Cy.189)

**GOFAL CYMDEITHASOL,
CYMRU**

**PLANT A PHOBL IFANC,
CYMRU**

Rheoliadau Mynediad i
Wybodaeth (Mabwysiadu Ôl-
gwyn) (Cymru) 2005

2005 No. 2689 (W.189)

**SOCIAL CARE,
WALES**

**CHILDREN AND YOUNG
PERSONS, WALES**

The Access to Information (Post-
Commencement Adoptions) (Wales)
Regulations 2005

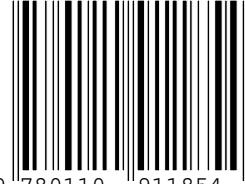
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