

Explanatory Memorandum to:

The Local Authority Fostering Services (Wales) (Amendment) Regulations 2019

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of:

- The Local Authority Fostering Services (Wales) (Amendment) Regulations 2019.

Julie Morgan
Deputy Minister for Health and Social Services
13 March 2019

PART 1

1. Description

In 2011 the Welsh Government published the white paper *Sustainable Social Services: A Framework for Action*, which set out an ambitious plan to create a new integrated and person-centred approach to social services provision in Wales. To achieve this new approach, in the last assembly term, the Welsh Government made two pieces of primary legislation: the *Social Services and Well-being (Wales) Act 2014* ('the 2014 Act') and the *Regulation and Inspection of Social Care (Wales) Act 2016* ('the 2016 Act').

The 2014 Act provides the legal framework for improving the well-being of people who need care and support, and carers who need support. Part 6 of the Act sets out social services functions in relation to looked after and accommodated children, including those who are placed in foster care. It also enables the Welsh Ministers to put in place regulations and issue codes of practice.

The 2016 Act reforms the regulation and inspection regime for social care in Wales, and provides the statutory framework for the regulation and inspection of social care services and the social care workforce. It also enables the Welsh Ministers to put in place regulations, publish guidance and issue codes of practice.

This Explanatory Memorandum relates to *The Local Authority Fostering Services (Wales) (Amendment) Regulations 2019* ('the Regulations'), which will come into force on 29 April 2019. These Regulations amend *The Local Authority Fostering Services (Wales) Regulations 2018* ('the 2018 Regulations'), which impose requirements on local authority fostering service providers and managers, which will come into force on the same date.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Regulations include amendments in response to two inconsistencies between the Welsh and English texts identified during technical scrutiny by the Constitutional and Legislative Affairs Committee on 14 January 2019.

3. Legislative background

The powers enabling the Regulations to be made are contained in sections 87 (regulations about looked after children), 92 (regulations about the placing of children with local authority foster parents) and 94A (regulation of the exercise of local authority functions relating to looked after and accommodated children) and 196(2) (orders and regulations) of the 2014 Act.

These Regulations will be laid under the negative procedure.

4. Purpose and intended effect of the legislation

The purpose of these Regulations is to make the following minor amendments to the 2018 Regulations:

- Regulation 2(a) amends regulation 7 of the 2018 Regulations in order to allow a local authority provider to appoint an officer from another local authority to be responsible for the management of the fostering service.
- Regulation 2(b) makes an amendment to the Welsh text of regulation 10(5) of the 2018 Regulations, to effect equivalence with the English text.
- Regulation 2(c) makes an amendment to the English text of regulation 11 of the 2018 Regulations, to effect equivalence with the Welsh text.
- Regulation 2(d) amends regulation 26 of the 2018 Regulations to specify that the reference in that regulation to health and development is changed to physical, mental and emotional health and development.
- Regulation 2(e) amends regulation 29 of the 2018 Regulations so that 1 April 2022 is substituted as the date by which local authority providers may only employ a person to manage the local authority fostering service if that person is registered as a social care manager with Social Care Wales.

The overall purpose of these amending Regulations is to address the issues raised by the Constitutional and Legislative Affairs Committee and to make other minor corrections (as listed above) to ensure that the policy aims of the 2018 Regulations are secured. These aims are to ensure that local authority fostering services provide services to the required standards to ensure that the well-being and safety of children and young people in foster placements is promoted and maintained, and that foster parents are appropriately supported.

5. Consultation

A 12 week public consultation ran from 24 May to 16 August 2018, seeking views on draft *Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019*, from which the 2018 Regulations were derived. No separate consultation has been undertaken on these amending Regulations, which only make minor corrections to the 2018 Regulations.

6. Regulatory Impact Assessment (RIA)

An Explanatory Memorandum and fully scoped RIA to support the 2018 Regulations has been completed and can be found here:

<http://www.assembly.wales/en/bus-home/Pages/Plenary.aspx?assembly=5&category=Laid%20Document>

No separate RIA has been completed for these amendment Regulations as they only make minor corrections to the 2018 Regulations, the impact of which has already been addressed within the RIA referenced above.