POLICY NOTE

THE SCOTLAND'S ADOPTION REGISTER REGULATIONS 2016

SSI 2016/154

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by sections 13A(2) and 116(1) of the Adoption and Children (Scotland) Act 2007 ("the 2007 Act"). Section 13A(2) was inserted into the 2007 Act by section 75 of the Children and Young People (Scotland) Act 2014 ("the 2014 Act"). The instrument is subject to the affirmative procedure in the Scottish Parliament. The date for the commencement of the regulations is 1 April 2016.

2. The purpose of this instrument is to make provision in respect of the operation of Scotland's Adoption Register. The new provisions, the majority of which reflect current practice, put Scotland's Adoption Register (which was set up in 2011 as a non-statutory service) onto a statutory footing.

Policy objective

3. The Regulations sit alongside provisions in respect of Scotland's Adoption Register in Part 1A of the 2007 Act which will come into force on 1 April 2016. The Regulations specify the details around how Scotland's Adoption Register is to operate. In placing the Register on a statutory footing, and requiring every adoption agency in Scotland to use it, our intention is to maximise opportunities for, and accelerate the process of, finding suitable adoption places for children for whom adoption has been identified as the most appropriate way forward.

4. The Register will contain information about children who ought to be adopted and also prospective adopters. The information which the Register is to contain is set out in the Schedules to this instrument. By using this information, the Register will be able to create links between children and prospective adopters, taking into account the needs and requirements of both the child and prospective adopters, and using those links it will be possible for matches throughout Scotland to be considered. In some instances, matches could also be considered across the United Kingdom.

5. When an adoption agency decides that a child ought to be adopted, regulation 4 provides that information about that child is to be submitted to the Register within 3 months of the agency making this decision. It is intended that adoption agencies should seek local matches in the first instance but if a local match cannot be found within 3 months, a referral to the Register should be made. This is to allow wider matching opportunities to be sought as early as possible. Where, however, a local match is recommended by an adoption panel within the 3 month timeframe, agencies will not be required to provide information about that child to the Register. The Register should contain the most up to date information possible so the Regulations also require the Register to be informed of any changes to information already supplied. Similarly, once a child is placed for adoption or if it is decided that adoption is no longer a suitable option, the Register must be informed. Similar provision is made in regulation 5 in respect of information to be supplied to the Register relating to persons who have been approved as prospective adopters.

6. Regulation 6 makes provision for the retention of information on the Register. Where the Register is informed of any changes to information already supplied or that a match has been made, the Register is to be amended accordingly, including where an individual is no longer available for matching. It is recognised, however, that information removed from the Register could be valuable for statistical or research purposes and the Regulations allow this information to be retained in an anonymised format.

7. The information contained in the Register is personal information and so its disclosure will be restricted. Regulation 7 details the circumstances in which information on the Register can be disclosed. Information may be disclosed to adoption agencies to help them to match children with prospective adopters. An adoption agency may pass that information on only to people whom the agency considers necessary for the purpose of assisting with the matching process. The Register can pass information from the Register directly to prospective adopters in order to assist with the matching process, reflecting current practice. Information from the Register can also be passed to one of the other adoption registers in the UK so that the opportunities for matching can be increased.

Consultation

8. The proposals for the Regulations were published through a consultation paper which was launched on 30 March 2015 and closed on 22 June 2015. This was made available on the Consultations' section of the Scottish Government web site and the link was distributed to relevant stakeholders via e-mail. 33 responses were received which were in broad agreement with the principles of the Regulations.

9. As a result of some comments, included in the 33 responses, slight changes were made to the Regulations. These included additions and, where appropriate, amendments to the information sought in respect of Regulation 3 (Schedules 1 and 2). There was also further clarity provided in respect of the circumstances for information to be disclosed from the Register in regard- to Regulation 7. Regulation 4 led to further discussion with local authorities and Social Work Scotland about which stage in the adoption process information on a child, to be adopted, should be added to the Register. The Scottish Government has liaised further with stakeholders about the operation of this provision.

Impact Assessments

10. An Equality Impact Assessment (EQIA) was completed on the Children and Young People (Scotland) Bill prior to its introduction to Parliament. This covered Scotland's Adoption Register and no equality impact issues raised.

11. A Strategic Environmental Assessment (SEA) is not required as there are no environmental effects.

12. A child rights and wellbeing impact assessment (CRWIA) is also not required. Scotland's Adoption Register has been in operation on a non-statutory basis since 2011 and therefore does not constitute a major new direction in policy.

13. A privacy impact assessment is attached explaining how data will be collected, maintained, protected and shared.

Financial Effects

14. A Business and Regulatory Impact Assessment (BRIA) has not been completed in relation to this instrument. The Minister for Children and Young People confirms that no BRIA is necessary for this instrument as, in line with the Financial Memorandum, the Scottish Government will fully fund the additional costs of measures in the Children and Young People (Scotland) 2014 Act (and in which a partial BRIA was undertaken at consultation stage). The Financial Memorandum was developed in conjunction with key stakeholder bodies including the Convention of Scottish Local Authorities. No other businesses or stakeholders will be affected nor do they reduce or transfer costs or burdens.

Children, Young People and Social Care Directorate
January 2015