

Explanatory Memorandum to the Adult Placement Schemes (Wales) (Miscellaneous Amendments) Regulations 2010

This Explanatory Memorandum has been prepared by Directorate General for Health and Social Services of the Welsh Assembly Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Adult Placement Schemes (Wales) (Miscellaneous Amendments) Regulations 2010.

I am satisfied that the benefits outweigh any costs.

Gwenda Thomas AM
Deputy Minister for Social Services

21 October 2010

1. Description

1.1 Adult placement schemes offer people aged 18 and older an alternative and highly flexible form of accommodation and support - an opportunity to live in an ordinary domestic setting as part of an adult placement carer's family.

1.2 Adult placement schemes were for the first time brought within the requirements to register with CSSIW under the provisions of the Care Standards Act 2000 in 2004. At the time Welsh Ministers acknowledged that as this was a new service area to be regulated that it would be appropriate to review the arrangements to ensure that they were working appropriately and effectively.

2. Matters of special interest to the Constitutional Affairs Committee

None.

3. Legislative background

3.1 The power to make these regulations is contained in sections 22 (1) . 42(1), 118(5) and (7) of the Care Standards Act 2000.

3.2 Adult Placement Schemes are, where appropriate, currently required to register with CSSIW under the provisions of the Adult Placement Schemes (Wales) Regulations 2004 – SI 2004/1756 (W.188). The related National Minimum Standards that apply to registered adult placement schemes were also made by Welsh Ministers in 2004 under the powers conferred by section 23(1) of the Care Standards Act 2000.

3.3 The Care Homes (Wales) Regulations 2002 – SI 2002/324 (W.37) - also include particular provisions that apply to registered providers of care homes who are adult placement carers:

- regulation 46 defines what an adult placement carer is in respect of a registered provider of a care home;
- regulation 47 sets out the modifications of the 2002 care homes regulations that apply where the registered provider is an adult placement carer

3.4 These regulations follow the negative resolution procedure

4. Purpose & intended effect of the legislation

4.1 The purpose of The Adult Placement Schemes (Wales) (Miscellaneous Amendments Regulations 2010 is to bring into effect changes to the existing regulatory arrangements that have been agreed by Welsh Ministers following a review and consultation. The particular changes are:

- to amend the definition of an “adult placement scheme” in regulation 2 (Interpretation) of the 2004 regulations by increasing the maximum number of service users who may be placed with an adult placement carer from 2 to 3;
- to amend regulation 2 (Interpretation) of the 2004 regulations by deleting sub paragraph (d) from the definition of ‘relative’ in regulation 2 (1). Sub paragraph (d) defined relative to include a person with whom an adult had previously been accommodated between the ages of 16 and 18 under a fostering arrangement. The effect of this change is to bring placements with former foster carers within the scope of adult placement schemes;
- to delete regulations 46 and 47 of the Care Homes (Wales) Regulations 2002. The effect of this change is that small care homes where the provider is an “adult placement carer” (as defined in regulation 46) will no longer be subject to the “lighter touch” regulatory regime (as described in regulation 47) and will be subject to the same regulations as all other care homes, unless they are excepted from registration by bringing themselves within the scope of the adult placement scheme regulations.

5. Consultation

5.1 The review of the appropriateness and effectiveness of the 2004 adult placement regulations and associated national minimum standards was undertaken during 2006 and 2007. In undertaking the review, Welsh Assembly Government officials worked closely with CSSIW and NAAPS Cymru. The outcomes of the review were announced in December 2007 and foreshadowed a further consultation on proposed changes to the regulations. This consultation was undertaken during 2008 and 2009 and included a draft of the amending regulations. As part of this consultation process, the Welsh Assembly Government provided NAAPS Cymru with funding to hold several consultation meetings with their members across Wales.

5.2 44 responses to the consultation were received including NAAPS Cymru; local authorities; adult placement schemes; voluntary organisations; the Care Council for Wales and adult placement carers.

5.3 The Deputy Minister subsequently deferred any further action on the consultation responses to enable consideration to be given to the findings of an inquiry by the Vale of Glamorgan into how a young man was placed by social services with an adult placement carer family that included young children whom he subsequently abused. An Adult Placement Task and Finish Group was established to provide advice to the Deputy Minister on whether in the light of this Vale of Glamorgan abuse case there was a need to amend the 2004 adult placement regulations and national minimum standards to provide improved protection for its service users and the adult placement carers and their families.

5.4 After considering the report of the Task and Finish Group, the Deputy Minister announced in March 2010 that she would separately consult on the Task and Finish Group's recommendations to make further changes to the adult placement regulations. This separate consultation commenced on 2 August 2010 and will run until 22 November 2010.

5.5 In March 2010, the Deputy Minister also announced the outcomes from the consultation undertaken in 2008 and 2009. The Deputy Minister concluded that the changes described in paragraph 4.1 above should proceed but explained that not all the proposed changes to the 2004 adult placement regulations would proceed and that proposed changes to regulations relating to the relevant qualifications for adult placement carers would be deferred pending the outcomes of a further study by the Care Council for Wales working with NAAPS Cymru and the CSSIW.

Regulatory Impact Assessment (RIA)

Options

Option 1: Do nothing

There are no additional implementation costs associated with this option. No particular benefits can be identified but it will mean that improvements to the 2004 adult placement schemes regulations and consequential changes to the 2002 care homes regulations that have been identified in the light of the experience gained and through consultation cannot be implemented

Option 2: Proceed with some but not all of the changes set out in section 4 of this Memorandum

Cost

No additional implementation costs have been identified during the review and consultation for any of the changes proposed. There will be some operational changes that CSSIW will have to make in undertaking their regulatory role but these will be small in cost terms and will be accommodated within their existing budgets.

Benefits

It is difficult to identify what the benefits will be in implementing just some of the changes set out in section 4 of this Memorandum. The changes do form an inter-related and coherent package of improvements. Partial implementation would potentially only lead to confusion and misunderstanding.

Option 3: Proceed to implement all the changes set out in section 4 of this Memorandum

Cost

No additional implementation costs have been identified during the review and consultation for any of the changes proposed. There will be some operational changes that CSSIW will have to make in undertaking their regulatory role but these will be small in cost terms and will be accommodated within their existing budgets.

Benefits

The changes to the 2004 adult placement schemes regulations and related changes to the 2002 Care Homes regulations will make a clearer distinction between registration as a care home and registration as part of an adult placement scheme and will enable more adult placement carers to become part of an adult placement scheme, as a consequence of both increasing the maximum number of adults who can be accommodated from 2 to 3 and also extending the scope of adult placement schemes to include former foster carers. These changes have been identified in the light of experience gained and following a consultation exercise.

Competition Assessment

The impact of any new arrangements will have no detrimental effect on competition for business, charities, local government and/or the voluntary sector.

Post Implementation Review

The effect of the changes will be monitored by officials via their regular contact with CSSIW and NAAPS Cymru.