

Proposed Adoption and Fostering (Specified Complaints) (Miscellaneous Amendments and Revocations) (Wales) Regulations 2020

About The Fostering Network

The Fostering Network is the UK's leading fostering charity. We have been leading the fostering agenda for more than 40 years, influencing and shaping policy and practice at every level. We are passionate about the difference foster care makes to children and young people, and transforming children's lives is at the heart of everything we do. As a membership organisation we bring together individuals and services involved in providing foster care across the UK. In Wales we have a strong membership base with over 5,400 foster carers, all 22 local authority fostering services and the majority of independent fostering agencies. Our views are informed by our members, as well as through research, in this way we aim to be the voice of foster care.

This consultation response is therefore going to focus on the impact of the proposed regulatory changes to fostering.

1. What challenges do you see in bringing the review function for Independent Reviews of Determinations (IRDs) under the agencies' complaints procedures (including adoption disclosure applications)?

The Fostering Network believe that bringing the review function for IRDs under fostering agencies' complaints procedures would pose many challenges, including the loss of an important level of independent scrutiny for foster carers and quality assurance across fostering providers. We are concerned that the new proposed system might put foster carers in an awkward or compromising position when registering a complaint. This has the potential to negatively impact the retention of the workforce (as foster carers may resign rather than see the complaint through), at a time where demand for children's social care placements are predicted to increase as a result of the coronavirus pandemic.

The proposed changes outlined in the Adoption and Fostering (Specified Complaints) (Miscellaneous Amendments and Revocations) (Wales) Regulations 2020 to ensure that the complaints procedure is robust enough to take on the IRM function, also raises concerns. The proposed regulatory changes suggest the appointment of an 'independent person to work with the provider and the complainant to resolve the complaint'. It is important that the level of independence this person will have is established and made clear to those appealing a qualifying determination. In addition, having a single person review the decision, rather than a panel, may make foster carers feel disillusioned about their complaint being taken seriously. IRM panel members understood the complexity of the fostering task and were able to exercise professional judgement as a collective body.

It is also important to bear in mind smaller fostering providers who may not have much capacity – in time or resources – to deal with appeals of qualifying determinations internally. The current proposed

changes also do not specify what level of authority the appeals decision will have on the qualifying determination.

It is important that foster carers know their rights to appeal a qualifying determination, the process that will follow and how long each stage of this process will take. Therefore, any changes made to the fostering provider's complaints procedure should be made publicly available, accessible and adhere to strict clear timescales.

For any challenges please state how they could be overcome?

We propose that the above challenges could be overcome through the introduction of a national register of foster carers. The registration body would make final decisions on a foster carer's continued suitability to remain on or be added to a national register. All qualifying determination decisions regarding someone's suitability to continue to be approved would have to be referred to the registration body by fostering service providers, and that body would make the final decision. Therefore, foster carers could be removed or refused entry to the register for two reasons: the foster carer does not meet the entry requirements; or the registration body decides to deregister based on a referral from a fostering service.

Currently, the fostering service has the ability to approve, remove approval and make placement decisions, making complaints difficult for foster carers. The introduction of a national register of foster carers would oversee a foster carer's suitability to practice at a local level. It would therefore provide independence and quality assurance by acting as a body independent from fostering providers that has a final say on approval.

The aforementioned challenges could also be reduced by addressing them earlier in the decision-making process to prevent the need of a qualifying determination. This early identification of issues can be achieved through advice and mediation workers working with fostering services; something that is currently being piloted in Wales via the Fostering Communities programme. [Fostering Communities](#), a national programme of improvement and support led by The Fostering Network in Wales from 2020-23 and funded by the Welsh Government, will deliver an advice and mediation (A&M) pilot with three to four local authorities within a region of Wales. One of the aims of this pilot is to have a positive impact on the retention of foster carers. Additionally, it would act as a preventative measure to stop cases coming to review unnecessarily and ultimately, reduce the costs of the review process. The Welsh Government should consider the funding of advice and mediation workers to be available for all fostering services across Wales.

The current pilot will involve the appointment of a dedicated A&M worker who will provide independent advice, guidance, support, mediation and advocacy to foster carers and fostering service staff, mediating between foster carers and services to reach satisfactory and timely resolution to any complaints, concerns or allegations; with the aim of empowering participants to find resolution. Independent support, advice and mediation will ensure foster carers feel they are being treated with dignity and respect and achieve a fair outcome. As a fostering service or foster carer, having access to a regional A&M worker could enable issues to be addressed earlier in the decision-making process, prevent the need for an independent review of a qualifying determination, and ultimately, help towards improving retention of the foster care workforce.

2. If you are a fostering or adoption service provider, how do you envisage the independent investigation element of the process working within your organisation?

Speaking as a representative of The Fostering Network's membership of all 22 local authority fostering services and the majority of independent fostering agencies in Wales, we are concerned that

the proposed changes to the complaints procedure will remove a level of quality assurance provided by the independent reviewing mechanism. Also, it could adversely affect small fostering providers who may not have the capacity to internally handle complaints. In addition, if someone has their approval removed, or is denied it, by one fostering service, there is currently no mechanism in place that stops them trying for approval elsewhere. This current safeguarding loophole could be addressed by a national register as it would prevent carers who have had their approval removed from moving around from one area to another.

3. Do you think this change will be more cost effective and less bureaucratic than the current IRM function? Please give reasons.

The Fostering Network believe that while this change will be more cost effective for the Welsh Government, due to the relatively small numbers of cases the IRM deals with, it will not necessarily be less bureaucratic as each fostering service will have different internal procedures. In addition, some fostering services may struggle to cover the time and resources required for an independent procedure to deal with complaints. It is also uncertain what status the final decision on the complaint has and whether this can be appealed by the foster carer.

4. Will this new procedure offer consistency across providers? If no, what could be done to ensure consistency?

We believe that the new procedure will not offer consistency across providers as it will not especially promote communication between fostering providers. It must be ensured that foster carers can be prevented from carrying out the role of a foster carer if there are issues which question their suitability to foster. A national register would prevent carers who have had their approval removed from moving around from one area to another; which is a current safeguarding loophole.

The Fostering Network strongly advocates for a central register of foster carers to be introduced in Wales. This would ensure quality assurance; a national standard within the foster care workforce as a level of training would be required to get onto the register, in addition to continued training to remain on the approved foster carer list; and therefore, consistency across providers.

5. As a service user do you feel the proposed changes continue to offer you a transparent and independent process to review decisions taken by fostering and adoption panels?

Speaking on behalf of our strong membership base in Wales of over 5,400 foster carers, we believe that the new system will lose an important level of independence in the complaints procedure. The level of transparency will be dependent on the individual fostering services complaints procedure and cannot be guaranteed.

Fosterline Wales, funded by the Welsh Government and run by The Fostering Network, often receives calls from foster carers about tensions, frustrations and dilemmas experienced in their day to day fostering in relation to a full range of issues such as approval, care plans, contact etcetera. From these enquiries to Fosterline Wales we can infer that a significant proportion of foster carers would not be confident that the fostering team or children's services would act in an impartial, open minded or fair manner. Foster carers may be concerned that complaints could have an adverse effect on their current and future placements, as well as their relationships with social workers and the wider team around the child. Resultantly, we are concerned that the changes outlined in this proposal will have an adverse effect on foster carer retention, as foster carers may be more inclined to leave fostering than make a complaint, at a time where demand for children's social care placements are predicted to increase as a result of the coronavirus pandemic.

Questions 6, 7 and 8 have been skipped.

9. Do you have any further comments on the proposed requirements set out in the Adoption and Fostering (Specified Complaints) (Miscellaneous Amendments and Revocations) (Wales) Regulations 2020?

As previously mentioned, The Fostering Network is a strong advocate for a national register of foster carers. We believe that, because it offers a level of independence to qualifying determination decisions and quality assurance, the IRM function should be built into a national register of foster carers. This can ensure that the IRM's decisions have authority and that any appeals by foster carers are treated fairly.

A national workforce register can include a local appeals process. The Fostering Network believes that recruitment of foster carers is a local activity and should be based on local needs analysis and strong commissioning frameworks to make the best use of the local workforce. We support standardised and accredited pre- and post-approval training, more regional partnership working on recruitment and training, and a stronger body overseeing appeals/deregistration in each nation of the UK – but do not believe that all assessment and approval should happen centrally.

We believe that a national register of foster carers is an essential first step to achieving an improvement in foster carer terms and conditions through bringing foster carers' in line with the wider children's social care sector – being accredited and regulated – and by increasing public protection by having a central list of all who meet, and continue to meet, the requirements of being an approved foster carer.

The Fostering Network's full policy position about a register of foster carers is available via our [website](#).

Author: Daisy Elliott

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