

Subsidiary Legislation made under ss. 9 and 10.

Adoption (Independent Review of Determinations) Regulations 2024

LN.2024/047

Commencement **18.4.2024**

ARRANGEMENT OF REGULATIONS

Regulation

1. Title.
2. Commencement.
3. Interpretation.
4. Qualifying determination for the purposes of section 10(2) of the Act.
5. Constitution of panels.
6. Membership of a panel to review an adoption suitability determination.
7. Membership of a panel to review a disclosure determination.
8. Appointment of panel chair.
9. Disqualification of panel members.
10. Functions of a panel constituted to review an adoption suitability determination.
11. Functions of a panel constituted to review a disclosure determination.
12. Meetings of panels.
13. Records.
14. Application for review of qualifying determination.
15. Appointment of panel and conduct of review.
16. Duty to provide information and assistance.
17. Recommendation of panel.

2023-04

Adoption

2024/047

**Adoption (Independent Review of Determinations)
Regulations 2024**

In exercise of the powers conferred on the Minister by sections 9 and 10 of the Adoption Act 2023 and all other enabling powers, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the Adoption (Independent Review of Determinations) Regulations 2024.

Commencement.

2. These Regulations come into operation on the date of publication.

Interpretation.

3.(1) In these Regulations-

“the Act” means the Adoption Act 2023;

“the Agency” means the Care Agency established under section 3 of the Care Agency Act 2009;

“the Care Agency Regulations” means the Adoption (Care Agency) Regulations 2024;

“adoption panel” means a panel constituted in accordance with regulation 3 of the Care Agency Regulations;

“adoption suitability determination” means a qualifying determination described in regulation 3;

“applicant” means—

(a) in the case of an adoption suitability determination, a prospective adopter;

(b) in the case of a disclosure determination, a relevant person within the meaning of regulation 15(6) of the Disclosure Regulations;

“the central list” shall be construed in accordance with regulation 5;

“disclosure determination” means a qualifying determination described in regulation 15(1) of the Disclosure Regulations;

“the Disclosure Regulations” means the Adoption (Disclosure of Information) Regulations 2024;

“panel” means a panel constituted in accordance with regulation 6 or 7 (as the case may be);

“prospective adopter’s report” means a report prepared in accordance with regulation 25 of the Adoption (Care Agency) Regulations;

“qualifying determination” means a determination described in regulation 4 of these Regulations or regulation 15(1) of the Disclosure Regulations; and

“social worker” means a person practicing as a social worker who is regulated with a registered body in the United Kingdom.

Qualifying determination for the purposes of section 10(2) of the Act.

4. A determination made by the Agency decision-maker (as defined in the Care Agency Regulations) in accordance with regulation 24(3) of the Care Agency Regulations that the Agency proposes not to approve a prospective adopter as suitable to adopt a child is a qualifying determination for the purposes of section 10(2) of the Act.

Constitution of panels.

5.(1) The Minister shall, on receipt of an application made by an applicant in accordance with regulation 14, constitute a panel in accordance with regulation 6 or 7, as the case may be, for the purpose of reviewing the qualifying determination.

(2) The members of the panel shall be appointed by the Minister from a list of persons (“the central list”) kept by the Minister.

(3) The members of the central list shall include—

- (a) registered medical practitioners; and
- (b) other persons who are considered by the Minister to be suitable as members of a panel including, where reasonably practicable, persons with personal experience of adoption and persons who are, or within the previous two years have been, a foster parent.

2023-04

Adoption

2024/047

**Adoption (Independent Review of Determinations)
Regulations 2024**

Membership of a panel to review an adoption suitability determination.

6. Where the qualifying determination being reviewed is an adoption suitability determination, the maximum number of people who may be appointed to a panel is five and the panel shall include at least—

- (a) the person falling within regulation 5(3)(a); and
- (b) two other persons falling within regulation 5(3)(b) including where reasonably practicable at least two persons with personal experience of adoption.

Membership of a panel to review a disclosure determination.

7. Where the qualifying determination being reviewed is a disclosure determination, the number of people who shall be appointed to a panel is three and the panel shall include at least two persons falling within regulation 5(3)(b).

Appointment of panel chair.

8. The Minister shall—

- (a) appoint to chair the panel one of the members of the panel who has the skills and experience necessary for chairing a panel; and
- (b) in the case of a panel constituted to review an adoption suitability determination, appoint one of the members of the panel as vice chair to act as chair if the person appointed to chair the panel is absent or if the office of chair is vacant.

Disqualification of panel members.

9.(1) A person (“P”) shall not be appointed to a panel if—

- (a) P is a member of the adoption panel which made the qualifying determination;
- (b) P is, or has been within the period of one year prior to the date on which the qualifying determination was made employed by the Agency in its children and social services.
- (c) P is related to a person falling within sub-regulations (a) or (b);
- (d) P knows the applicant in a personal or professional capacity.

(2) In this regulation—

- (a) “employed” includes employed whether or not for payment and whether under a contract of service or a contract for services or as a volunteer; and
- (b) P is related to a person (“A”) if P is—
 - (i) a member of the household of, or married to or the civil partner of, A;
 - (ii) the son, daughter, mother, father, sister or brother of A; or
 - (iii) the son, daughter, mother, father, sister or brother of the person to whom A is married or with whom A has formed a civil partnership.

Functions of a panel constituted to review an adoption suitability determination.

10.(1) This regulation applies where the qualifying determination being reviewed is an adoption suitability determination.

(2) A panel constituted in accordance with regulation 6 shall review the adoption suitability determination and—

- (a) where sub-regulation (3) applies, make to the Agency a recommendation as to whether or not the applicant is suitable to adopt a child; or
- (b) where sub-regulation (4) applies, make to the Agency a recommendation that—
 - (i) it should prepare a prospective adopter’s report in accordance with regulation 22(4) of the Care Agency Regulations to include all of the information required by that regulation; or
 - (ii) the applicant is not suitable to adopt a child.

(3) This sub-regulation applies where the prospective adopter’s report included all of the information required by regulation 22 of the Care Agency Regulations.

(4) This sub-regulation applies where the prospective adopter’s report, in accordance with regulation 22(6) of the Care Agency Regulations, did not include all of the information required by regulation 22 of the Care Agency Regulations.

(5) In considering what recommendation to make, the panel—

2023-04

Adoption

2024/047

Adoption (Independent Review of Determinations) Regulations 2024

- (a) shall consider and take into account all of the information passed to it in accordance with regulation 25 of the Care Agency Regulations;
 - (b) may request the Agency to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and
 - (c) may obtain such legal advice as it considers necessary in relation to the case.
- (6) Where the panel makes a recommendation that the applicant is suitable to adopt a child, the panel may consider and give advice to the Agency about the number of children the applicant may be suitable to adopt, their age range, sex, likely needs and background.

Functions of a panel constituted to review a disclosure determination.

11.(1) This regulation applies where the qualifying determination being reviewed is a disclosure determination.

(2) A panel constituted in accordance with regulation 7 shall review the disclosure determination and make to the Agency a recommendation as to whether or not the Agency should proceed with the original determination.

(3) In considering what recommendation to make, the panel—

- (a) shall consider and take into account all of the information passed to it in accordance with regulation 15(3) of the Disclosure Regulations;
- (b) may request the Agency to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and
- (c) may obtain such legal advice or advice from a registered medical practitioner included in the central list as it considers necessary in relation to the case.

Meetings of panels.

12.(1) Where the qualifying determination being reviewed is a disclosure determination, the proceedings of the panel will be invalidated unless all three members are present.

(2) Where the qualifying determination being reviewed is an adoption suitability determination, the proceedings of the panel will be invalidated unless at least three of its members are present.

Records.

13. The Minister shall ensure that a written record of a panel's review of a qualifying determination, including the reasons for its recommendation and whether the recommendation was unanimous or that of a majority, is retained—

- (a) for a period of 12 months from the date on which the recommendation is made; and
- (b) in conditions of appropriate security.

Application for review of qualifying determination.

14. An application to the Minister for a review of a qualifying determination shall be made by the applicant in writing and include the grounds of the application.

Appointment of panel and conduct of review.

15. Upon receipt of an application which has been made in accordance with regulation 14, the Minister shall—

- (a) notify the Agency that the application has been made by sending to the Agency a copy of the application;
- (b) send a written acknowledgment of the application to the applicant and notify him or her of that a copy of the application has been sent to the Agency;
- (c) fix a date, time and venue for the panel constituted in accordance with regulation 6 or 7 to meet for the purposes of reviewing the qualifying determination (“review meeting”);
- (d) inform in writing the applicant and the Agency of—
 - (i) the appointment of the panel; and
 - (ii) the date, time and venue of the review meeting; and
- (e) inform the applicant in writing that the applicant may, if the applicant wishes, provide to the panel further details of the grounds of the application in writing in the period up to three weeks before the review meeting and orally at the review meeting.

2023-04

Adoption

2024/047

**Adoption (Independent Review of Determinations)
Regulations 2024**

Duty to provide information and assistance.

16. The Agency shall provide, as far as is reasonably practicable, any information or assistance requested by the panel under regulation 10(5)(b) or 11(3)(b), as the case may be.

Recommendation of panel.

17.(1) The panel's recommendation may be that of the majority.

(2) The recommendation and the reasons for it and whether it was unanimous or that of a majority shall be recorded without delay in a document signed and dated by the chair.

(3) The panel shall without delay send a copy of the recommendation and the reasons for it to the applicant and to the Agency.