Explanatory Memorandum to the Adoption Agencies (Wales) (Amendment) Regulations 2020 and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020

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 Adoption Agencies (Wales) (Amendment) Regulations 2020 and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020 and I am satisfied that the benefits justify the likely costs.

Julie Morgan
Deputy Minister for Health and Social Services
20 February 2020

PART 1

1. Description

The Adoption Agencies (Wales) (Amendment) Regulations 2020 ("the Amendment Regulations") and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020 (hereafter collectively referred to as "these Regulations") amend the Adoption Agencies (Wales) Regulations 2005 ("the 2005 Regulations") by:

- substituting a new Part 4 (Duties of Adoption Agencies in Respect of a Prospective Adopter) which:
    - makes provision for the assessment and approval of prospective adopters by adoption agencies by introducing a new time-limited two-stage process for that assessment and approval, which can be extended in certain circumstances. In Stage One (the pre-assessment process, which is limited to two months) all prescribed checks, including criminal record and health checks, are conducted. In Stage Two (the assessment decision, which is limited to four months) the adoption agency reaches a decision about the suitability of the prospective adopter.
    - introduces a fast-track process to allow certain previous adopters or foster parents to proceed straight to the Stage Two assessment process.
- inserting a requirement on adoption agencies to refer a child to the Adoption Register for Wales within one month of the date on which the adoption agency was authorised to place the child for adoption and to refer a prospective adopter to the Adoption Register within one month of the date on which the agency decided that the prospective adopter was suitable to adopt a child.
- clarifying that the requirement on an adoption agency to request a Welsh family proceedings officer or an officer of CAFCASS to witness the consent of a parent or guardian to the placement or adoption of a child in their care only applies where the parent or guardian resides in England and Wales.
- requiring an adoption agency to arrange for the appointment of an authorised person to witness a parent or guardian's consent to the placement or adoption of a child in their care, where the parent or guardian resides outside England and Wales.

This Explanatory Memorandum relates to regulations that will come into force from April 2020.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The powers enabling these Regulations to be made are contained in a number of sections within the Adoption and Children Act 2002. They are as follows:

- Section 9(1)(a) which allows regulations to make provision for any purpose relating to the exercise by local authorities or voluntary adoption agencies of their functions in relation to adoption.

- Section 11(2) allows regulations under section 9 to prescribe the fees which may be charged by local authorities in respect of the provision of prescribed facilities of the Adoption Service where the conditions in subsection (3) are met.

- Section 12 allows regulations under section 9 to establish a procedure under which any person in respect of whom a qualifying determination has been made by an adoption agency may apply to an independent panel for a review of that determination.

- Section 45(1) of the 2002 Act allows regulations under section 9 to make provision as to the matters to be taken into account by an adoption agency in determining, or making any report in respect of, the suitability of any persons to adopt a child. Subsection (2) provides that, in particular, the regulations may make provision for the purpose of securing that, in determining the suitability of a couple to adopt a child, proper regard is had to the need for stability and permanence in their relationship. This power, which is subject to the affirmative procedure, is used to make the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 to require adoption agencies to have proper regard to the need for stability and permanence in a couple's relationship when assessing the couple's suitability to adopt.

- Section 54 allows regulations under section 9 to require adoption agencies in prescribed circumstances to disclose in accordance with the regulations prescribed information to prospective adopters.

- Section 83(4) and (5) allows regulations to require a person intending to bring, or to cause another to bring, a child into the United Kingdom in certain circumstances and conditions to be assessed and approved as

suitable to adopt by an adoption agency.

The power in section 174(7) of the Social Services Well-being (Wales) Act 2014 is also used. Section 174 requires local authorities to establish a representations procedure for considering representations (including complaints) from certain persons and subsection (7) allows regulations to make further provision about that procedure.

The power conferred on the National Assembly for Wales to make regulations under the Adoption and Children Act 2002 transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.The Adoption Agencies (Wales) (Amendment) Regulations 2020 are subject to the negative resolution procedure. The Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 are subject to the affirmative procedure. This is by virtue of section 140(3)(a) of the 2002 Act (which provides that a statutory instrument containing subordinate legislation under section 9 which includes provision made by virtue of section 45(2) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament) and paragraph 34(2) of Schedule 11 to the Government of Wales Act 2006.

These Regulations make other consequential amendments which are set out in Schedule 1 including making minor amendments to the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 which make provision for the review of certain determinations by adoption agencies and fostering service providers, to be carried out by an independent panel appointed by the Welsh Ministers. Amendments are also made to the Adoptions with a Foreign Element Regulations 2005 (which apply to England and Wales) to ensure that the inter-country adopter assessment process is in line with the process in Part 4 of these Regulations.

Schedule 2 contains amendments to the Welsh language text of the 2005 Regulations where these were not previously introduced by the Human Fertilisation and Embryology (Consequential Amendments and Transitional and Savings Provisions) Order 2009 and the Child Arrangements Order (Consequential Amendments to Subordinate Legislation) Order 2014.

4. Purpose and intended effect of the legislation

Welsh Government are making changes to the prospective adopter approval process in Wales. Part 4 of The Adoption Agencies Regulations 2005[1] (which dealt with the duties of an adoption agency in respect of prospective adopters in England) was replaced by provision within The Adoption Agencies (Miscellaneous Amendments) Regulations 2013[2] ("the 2013 Regulations"). This changed the approval process in relation to England and allowed a two-stage process. In Wales, Part 4 of the 2005 Regulations will be replaced with a new Part 4 to make provision for the new two-stage approval process for the assessment and approval of prospective adopters.

[1] http://www.legislation.gov.uk/uksi/2005/389/pdfs/uksi_20050389_en.pdf
[2] http://www.legislation.gov.uk/uksi/2013/985/pdfs/uksi_20130985_en.pdf

The Adoption Technical Group in Wales, which met four times between September and November 2017, and especially the National Adoption Service, has requested that Welsh Government legislate to introduce a similar two-stage process for Wales. In essence, this change would enable an adoption agency to make an early decision 'not to proceed' with an individual's full application to become an adopter if it had collected information – for instance from a medical report showing a serious problem – which clearly demonstrated that this particular individual was not a suitable person to adopt a child. It would mean that in such cases, there would no longer be a legal obligation to proceed to full panel consideration of a manifestly unsuitable application before it could be filtered out of the process. The change will introduce the 'brief report' where, during Stage Two of the assessment process, a prospective adopter may be taken to panel and Agency Decision Maker with a recommendation that they are not suitable to adopt, even though the full assessment has not been completed. The changes will also introduce a fast track process for assessment for second time adoptive parents and existing foster carers.

In making the changes, which are further outlined below, it is intended that:

- the process of considering potential adopters for a particular child from within their own family and connected people will move along more quickly and efficiently, with less delay and uncertainty for the child as a consequence;

- potential adopters whose applications are clearly not going to be successful, due to an obvious and serious difficulty with their application, will not have their hopes and expectations raised unduly;

- the overall operation of the approvals process will be streamlined and made more efficient, with consequent savings in staff and panel-members' time in preparing and considering applications.

Referral to the Adoption Register for Wales – children (new regulation 19A)

A new Regulation 19A is inserted into Part 3 of the 2005 Regulations to place a requirement on adoption agencies to refer children's details to the organisation which maintains the Adoption Register as soon as possible and no later than one month from the date on which the adoption agency was authorised to place the child for adoption, unless the agency had identified a particular prospective adoption with who it is considering placing the child for adoption.

The regulation will improve the comprehensiveness of the information stored on the Adoption Register, so that potential matches are identified at the earliest possible stage as information will be added and shared throughout Wales in a timely way.

Request to appoint a Welsh family proceedings officer or an officer of Cafcass (regulation 20)

Regulation 20 in Part 3 is amended to clarify that an adoption agency must request that a Welsh family proceedings officer or an officer of CAFCASS be appointed to obtain consent from a parent or guardian to the placement or adoption of a child in their care only where the parent or guardian resides in England and Wales.

Persons authorised to witness consent to placement for adoption (new regulation 20A)

A new regulation 20A is inserted into Part 3 to require an adoption agency to arrange for the appointment of an authorised person to witness a parent or guardian's consent to the placement or adoption of a child in their care where the parent or guardian resides outside England and Wales and to list those persons authorised to witness the consent. .

Regulations 20 and 20A will allow for improved clarity about the requirements around witnessing a child's parent or guardian's consent to the placement or adoption of that child.

Two stage process

The provision for the new two–stage prospective adopter approval process as set out in the new Part 4 of the 2005 Regulations includes the following:

Stage 1 Pre-assessment Process

Regulations 21 to 27 make provision for stage 1 of the process and applies where a person has notified an adoption agency that they want to adopt a child and the agency has notified that person that it has decided to proceed with the pre-assessment process in respect of them.

Prospective adopter stage one plan (regulation 22)

Regulation 22 requires the adoption agency to prepare a written plan, in consultation with the prospective adopter, which is to include information about their respective roles in the stage one process. This includes information about the counselling, information and preparation for adoption to be provided, the procedure for carrying out police checks, details of any training and any applicable timescales.

Prospective adopter's case record (regulation 23)

Regulation 23 requires the adoption agency to set up a case record in respect of the prospective adopter and sets out the information that must be contained in that record, which is not specified in the current Part 4.

The case record provides the means of collating all the necessary information in one place so progress can be seen at any given time and a manager, new social worker etc. can pick it up and immediately understand the adoption case.

Criminal Record Certificate (regulation 25)

Regulation 25 requires the adoption agency to obtain an enhanced criminal record certificate in respect of the prospective adopter and any other member of the prospective adopter's household who is aged 18 or over.

Other pre-assessment information and pre-assessment decision (regulations 26 and 27)

Regulation 26 sets out the pre-assessment information that an adoption agency must obtain and regulation 27 provides that an adoption agency must decide in light of that information whether the prospective adopter may be suitable to adopt a child and therefore progress to Stage Two. That decision must be made within two months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process at the commencement of Stage One. However, the agency may delay making that decision where it is satisfied that there are good reasons for doing so or upon the request of the prospective adopter.

Stage 2 –The assessment decision

Regulation 28 provides that Stage 2 begins when, following the adoption agency's decision that the prospective adopter may be suitable to adopt and the prospective adopter has notified the adoption agency within six months of that decision that they wish to proceed to stage 2 of the approval process.

Prospective adopter assessment plan (regulation 29)

Regulation 29 requires the adoption agency to prepare a written plan in consultation with the prospective adopter which is to include information about the procedure for assessing the prospective adopter's suitability to adopt a child under Stage 2.

Prospective adopter's report (regulation 30)

Regulation 30 requires the adoption agency to obtain certain information about the prospective adopter and to prepare a written report which includes information about the prospective adopter and their family, the prospective adopter's health, any relevant information as a result of the pre-assessment checks and the agency's assessment of the prospective adopter's suitability to adopt a child[3]. When assessing the suitability of a couple to adopt a child, the agency must, in their assessment, have proper regard to the need for stability and permanence in their relationship. If the agency receives certain information which leads to the opinion that the prospective adopter is unlikely to be considered suitable to adopt a child, it may prepare the report and submit it to adoption panel for a decision without having all the required information about the prospective adopter.

[3] This is provided for in the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 which is subject to the affirmative procedure.

Adoption agency decision and notification (new regulation 30B)

A new regulation 30B requires an adoption agency to decide whether a prospective adopter is suitable to adopt within four months of the date on which the agency received the prospective adopter's notification that they wish to proceed with the assessment process. The agency may delay making that decision where the agency considers that there are exceptional circumstances which mean it cannot make that decision within that time or upon the request of the prospective adopter.

Fast-track process (new regulations 30F and Schedule 4A)

A new regulation 30F and Schedule 4A make provision for a fast-track process for approval in certain cases. Those cases are where an adoption agency is satisfied that a prospective adopter is an approved foster parent or has, at any time, adopted a child in certain cases. In those cases the adoption agency must decide whether the prospective adopter is suitable to adopt within four months of the date on which the adoption agency received the prospective adopter's notification that they wish to proceed with the pre-assessment process.

Referral to the Adoption Register – prospective adopters (new regulation 30G)

A new regulation 30G is inserted to place a requirement on adoption agencies to refer approved prospective adopter's details to the organisation which maintains the Adoption Register as soon as possible and no later than one month from the determination that they are suitable to adopt a child unless the agency has identified a particular child to place with that prospective adopter.

Prospective Adopter Matching Plan (new regulation 31)

New regulation 31 requires an adoption agency to prepare a written plan in consultation with an approved prospective adopter which will include information about the duties of the agency in relation to placement and reviews.

5. Consultation

A consultation ran between 3 October 2018 to 9 January 2019 and sought views on the two new sets of Adoption regulations: The Adoption Agencies (Wales) (Amendment) Regulations 2020 and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020.

8 responses were received to the consultation. The majority of consultation responses received were positive and no significant concerns were raised over additional burdens arising from the new regulations.

As a result of the consultation four minor changes have been made to the legislation. These are:

- amend the requirement on agencies to refer details of the child to the organisation which maintains the Adoption Register for Wales as soon as possible and no later than one month after the date on which the agency decided the child should be placed for adoption to as soon as possible and no later than one month of the date the agency was authorised to place the child for adoption,

- during stage one of the pre-assessment process, introduce a requirement to carry out police checks clearer, stating that an adoption agency may not considers a prospective adopter (as opposed to a person) suitable to adopt a child if that person or any member of that persons household aged 18 or over has committed a specified offence (as stated within paragraph 1 of Part 2 of Schedule 3).

- clarify that, if the prospective adopter does not notify the adoption agency that they wish to continue to stage two of the assessment process within six months from the date on which the agency notifies the adopter that they may be suitable to adoption, then stage one will be need to repeated to the extent the adoption agency considers necessary to determine whether it continues to be satisfied that the prospective adopter may be suitable to adopt,

- increase the time limit from 20 days to 40 days from the date on which the prospective adopter was notified by the adoption agency that they were not suitable to adopt a child for the adopter to make representations to the agency or apply to the Welsh Ministers for a review of the decision by an independent review panel.

Further details on the consultation process are set out in the Regulatory Impact Assessment below.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has been prepared in accordance with Standing Order 26.6(vi) and is attached at Part 2.

PART 2 – REGULATORY IMPACT ASSESSMENT

The Regulatory Impact Assessment has been undertaken in relation to the requirements of the Welsh Ministers regulatory impact assessment code for subordinate legislation. Since the passing of the Government of Wales Act 2006 the function of making subordinate legislation in Wales now lies with the Welsh Ministers. Welsh Ministers are committed to considering the impact of subordinate legislation on business, the voluntary sector, local government and others and on its statutory duties

7. Options

a) Two Stage Adoption Process in Wales

Option 1: *do nothing*

This option would mean that the existing process for approval and assessment of adopters would continue to be followed. As a result the prospective adopter approval process will continue to take longer than is needed in some cases, will continue to be a resource intensive and sometimes bureaucratic function and will remain inflexible. The process will also continue to inhibit the role of prospective adopters in the process.

Delays in finding a suitable adoptive family for a child can have adverse consequences for their well-being. One reason for this delay is a mismatch between the numbers of approved adopters and the number of children waiting to be adopted. Feedback from agencies has suggested that the slow, unwelcoming and bureaucratic structure of the current process for those looking to adopt a child can contribute to this mismatch as the overall process deters potential adopters from engaging with the process.

Option 2: *amend the Adoption Agencies (Wales) Regulations 2005 ("the 2005 Regulations") to introduce a two stage process for the assessment and approval of potential adopters.*

This option would enable Welsh Ministers to introduce a new, time-limited two stage approval process. Whilst remaining rigorous it will allow for greater prospective adopter involvement in the process and be more transparent with clearer timescales. It will mean that, in the majority of cases, prospective adopters can expect to wait no longer than six months to become approved as an adopter.

The revised procedure will speed up the overall approval process from the initial enquiry through to assessment and at the same time help speed up the matching of approved prospective adopters with children. The new process will increase the number of individuals who proceed through the assessment due to it being a less daunting and bureaucratic process, which will also help reduce the amount of time children wait to be placed for adoption with a suitable adoptive family. Along with reducing the timeframe the process will also benefit potential adopters whose application is clearly not going to be successful due to

an obvious and serious difficulty with their application. The process therefore will reduce the potential for raising their hopes and expectations unduly.

The process will also streamline and make more efficient the approvals process with consequent savings in staff and panel-members' time in preparing and considering applications.

b) Adoption Register for Wales

Option 1: *do nothing*

Adoption agencies currently refer a child or an approved adopter to the Adoption Register for Wales up to three months after the agency is authorised to place the child for adoption or has approved the prospective adopter as suitable to adopt. This option will mean that the existing process will continue.

Although this gives time for possible local and regional links to be explored before making this information available nationally through the register, the current process is preventing the register being used as one available route for searching out a timely external match when a suitable internal/local placement cannot be found.

Delay in finding a suitable adoptive family for a child can cause lasting harm. It is imperative that children are matched as soon as possible to offer them the best opportunity to flourish in a safe family environment where their fundamental needs are met and where they can enjoy the same opportunities as any other child.

Option 2: *amend the regulations to enable new regulations 19A and 30G to be inserted into the 2005 Regulations to reduce the existing time limit for adoption agencies to refer to the Adoption Register in Wales*.

This option will place a requirement on adoption agencies to refer a child to the Adoption Register for Wales as soon as possible and no later than one month after the date on which the adoption agency was authorised to place the child for adoption. It will also place the requirement on agencies to refer prospective adopters to the Adoption Register as soon as possible and no later than one month after the date on which the agency decided that the prospective adopter was suitable to adopt a child. The current practice is up to three months.

c) Establishing an 'authorised person'

The new regulation 20A is inserted to provide for cases where a child's parent or guardian resides outside England and Wales and wishes to give their consent to placement of the child for adoption under section 19 of the 2002 Act and, as the case may be, to the making of an adoption order under section 20 of the 2002 Act. In these cases adoption agencies will be required to arrange for the appointment of an 'authorised person' to act as a witness to the consent of a parent or guardian to the placement or adoption of a child in their care. This change, coupled with the amendment to regulation 20 , would make clear that

an adoption agency must request that a Welsh family proceedings officer or an officer of CAFCASS appoint an officer to obtain consent to the placement or adoption of a child in their care only where the parent or guardian reside in England and Wales.

8. Costs and benefits

This section contains the cost benefit analysis of the options for the changes detailed in section 7.

a) Two Stage Adoption Process in Wales

Option 1: do nothing - *the existing process for approval and assessment of adopters would continue to be implemented*

Costs:

The recruitment and assessment of prospective adopters is carried out by local authorities and also by Voluntary Adoption Agencies.

To make an estimate of the cost-benefit implications of the policy measure to local authorities and Voluntary Adoption Agencies we have estimated the cost to approve under the existing process. To do this we have identified the activities within a service or process and then calculated a cost estimate of each one.

Table 1 shows the average number of hours taken by each worker in either a Voluntary Adoption Agency or a local authority to complete each main action within the current adoption approval process. The workers mainly involved in the process are administrators, Adoption Social Workers, Adoption Team Managers or Senior Social Work Practitioners and the Agency Decision Maker.

Table 1: Estimation of time taken for activities/tasks: current adopter assessment process

	Administrator/ Business Support	Adoption Social Worker	Adoption Team Manager	Agency Decision Maker
ENQUIRY STAGE				
Process enquiry to agency	30mins			
Provide information to enquirer		30mins		
Information Event/Session	30 mins	2.5 hours		
Initial Visit		4 hours		
Internal process to agree next steps			30 mins	
APPROVAL STAGE				
Application acceptance process	30 mins		30 mins	
Pre-adoption training	4 hour	[3 days]		
Process of checks/references	5 hours	30 mins		
		18 hours		

Assessment of prospective adopter(s)				
PAR write up and share with adopters		22 hours		
Visits to referees		11 hours		
Quality Assurance of PAR[4]			3hours	
Panel admin process/minutes	4 hours			
Adoption Panel (inc. QA by Professional Adviser)		45 mins	2 hours	
Decision post panel				2 hours
Administration post approval	2 hours			
Supervision of worker		1 hour	1 hour	
TOTAL	15.5 hours	53 hours	6. 5 hours	2 hours

Table 1a: Average Salary costs regarding the roles included in local authority staff undertaking the current assessment process.

LA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	**Total**
Admin Business Support	£21,116	15.5	£83.00	£12.00	**£186.00**
Social Worker	£36.876	53	£148.00	£21.00	**£1,113.00**
Team Manager	£42,683	6.5	£169.00	£24.00	**£156.00**
ADM (Head of Service)	£56,233	2	£222.00	£32.00	**£64.00**
Total					**£1,519.00**

Table 1b: Average Salary costs regarding the roles included in Voluntary Adoption Agency staff undertaking the current assessment process.

VAA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	**Total**
Admin Business Support	£26,999	15.5	£107.00	£15.00	**£232.50**

[4] Prospective Adopters Report

Social Worker	£36,876	53	£148.00	£21.00	**£1,113.00**
Team Manager	46,565	6.5	£184.00	£26.00	**£169.00**
ADM (Head of Service)	57,000	2	£225.00	£32.00	**£64.00**
Total					**£1,578.50**

Figures in table 1a and b are based on the local authority and VAA staff undertaking the current adoption assessment process for one year between April 2020 and March 2021 per application. Calculations are based on a 7 hour working day.

Table 1a and b also shows the average time each worker has taken in either of the VAA's or the local authority to complete each main action points within the current assessment process

Option 2: amend the Adoption Agencies (Wales) Regulations 2005 ("the 2005 Regulations") to introduce a two stage process for the assessment and approval of potential adopters**.**

To derive an estimate of the cost-benefit implication of the policy measure to local authorities and Voluntary Adoption Agencies we have estimated the cost to approve under the new process. To do this we have identified the activities within a service or process and then derived a cost estimate of each one**.**

Table 2: Estimation of time taken for activities/tasks: two stage process

Table 2 shows the anticipated average number of hours taken by each worker in either a Voluntary Adoption Agency or local authority to complete each main action within the new 2 stage adoption approval process. The main workers involved in the process are administrators, Adoption Social Workers, Adoption Team Managers or Senior Social Work Practitioners and Agency Decision Maker.

	Administrator/ Business Support	**Adoption Social Worker**	**Adoption Team Manager**	**Agency Decision Maker**
PRE-STAGE ONE				
Process enquiry to agency	30mins			
Provide information to enquirer		30mins		
Information Event/Session	30 mins	2.5 hours		
Initial Visit		4 hours		
Internal process to agree next steps			30 mins	
STAGE ONE				
	30 mins			

Registration of Interest process				
Pre-adoption training	1 hour	[3 days]		
Process of checks/references	5 hours			
Process re: decision to move t o Stage 2		30 mins	30 mins	
Pre-assessment visits[5]		5.5 hours		
Visits to referees		4 hours		
STAGE TWO				
Assessment of prospectiv adopter(s)		14 hours		
Visits to referees		7 hours		
PAR write up and share with adopters		22 hours		
Quality Assurance of PAR			3hours	
Panel admin process/minutes	4 hours			
Adoption Panel (inc. QA by Professional Adviser)		45 mins	2 hours	
Decision post panel				2 hours
Administration post approval	2 hours			
Supervision of worker		1 hour	1 hour	
TOTAL	13.5 hours	54 hours	7 hours	2 hours

Table 2a: Average costs of Local Authority Staff undertaking the two stage process

LA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	**Total**
Admin Business Support	£21,116	13.5	£83.00	£12.00	**£162.00**
Social Worker	£36.876	54	£148.00	£21.00	**£1,134.00**
Team Manager	42,683	7	£169.00	£24.00	**£168.00**
ADM (Head of Service)	56,233	2	£222.00	£32.00	**£64.00**

[5] Reduces number of visits during assessment at Stage 2

Total			**£1,528.00**

Table 2b: Average costs of Voluntary Adoption Agency staff undertaking the two stage process

VAA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	**Total**
Admin Business Support	£26,999	13.5	£107.00	£15.00	**£202.50**
Social Worker	£36,876	54	£146.00	£21.00	**£1,134.00**
Team Manager	46,565	7	£184.00	£26.00	**£182.00**
ADM (Head of Service)	57,000	2	£225.00	£32.00	**£64.00**
Total					**£1,582.50**

Figures in table 2a and 2b are based on the Local Authority and Voluntary Adoption Agency staff undertaking the new adoption two stage assessment process for one year between April 2020 and March 2021 per application. Calculations are based on a 7 hour working day.

Table 2ac and 2b identifies the anticipated average time each worker will take in either the Voluntary Adoption Agency's or local authority to complete each of the main action points within the two stage assessment process

Additional Costs

Training on the two stage process was undertaken by the local authority adoption regions and the Voluntary Adoption Agencies during 2019 costing £4,050. 50% was funded by the National Adoption Services for Wales and the other 50% was spread equally across the adoption regions within Wales. The National Adoption Service for Wales also commissioned AFA Cymru to produce a Good Practice Guide for adoption stakeholders on the two stage process costing £3,850. These costs are sunk costs. No other transitional costs were incurred by the regional adoption agencies or the Voluntary Adoption Agencies.

There could be a potential cost associated with producing, publishing and implementing a Code of Practice for the changes. As a good practice guide has been produced for practitioners in the sector, officials will review the situation 6 months after the regulations come into force to ascertain whether there is also a need for Code of Practice.

The staff cost of producing, publishing and implementing the document is over a 6 months period and is estimated at 15,672 and assumes one MB1 civil servant working two days a week for 6 months and 1 MB2 civil servant working 1 day a week for 6 months.

Welsh Government staff costs presented in this RIA are based on the Central Services Operation Team's Pay Band Costs. Gross pay cost includes: salary; and employers national insurance and pension contributions.

Table 1

Welsh Govt Staff	Net Salary	Gross Salary	Daily Rate	Hourly rate	Cost for 6 months	**Total**
MB2	£36,500	£46,993	£189.00	£26.00	£4,517	**£4,536**
MB1	£45,850	£57,977	£232.00	£32.00	£2,712	**£11,136**
Total						**£15,672**

Cost Summary

The tables above identify that there will be a marginal increase in staff costs associated with undertaking a full assessment in the two-stage process. Forecasting the total cost saving overall due to the new two stage assessment process is challenging because not all adopters that submit applications to adopt complete the full assessment process and the new process is likely to affect the timing of withdrawals. To calculate an estimated cost saving requires knowledge of the distribution of when in the current assessment process people drop out and knowledge of the distribution of when people will drop out in the new assessment process. National level data is not collected on the former and the latter is unobserved as the new process has not yet been implemented.

It is envisaged however that there will be a cost saving in the overall process. Agencies will supply more information to adopters nearer the beginning of the process and this will therefore enable potential adopters that for whom adoption is not for them, to discover this earlier. Those who are not suited to adoption are expected to realise themselves that adoption is not for them and will self-select out of the process nearer the start of the assessment. The process will allow for the agency to inform potential adopters that they application will not succeed at an earlier stage (stage 1). There will therefore be a reduction in the amount of agency resource devoted to them.

Benefits:

As already noted the full two stage assessment process is expected to allow for unsuitable adopters to be identified at an earlier point. This will prevent unnecessary hopes and expectations being raised unduly for potential adopters who would have gone through the whole process before being told they were unsuitable under the previous process. It will also generate savings for Voluntary Adoption Agencies and local authorities as fewer resources will be dedicated to assessing the applicants who do not proceed to Stage 2 assessment.

The number of assessments that agencies are likely to undertake is likely to increase. The new time-bound adoption assessment process explicitly attempts to increase the number of individuals who apply and continue through

the process. It is not, however, possible to forecast the increase in the number of assessments that will be carried out due to the reform of the process.

Changes to the assessment and approval process intends to increase the numbers of families who apply to adopt. Through reducing the gap between the numbers of children waiting to be matched with a family and the number of families approved to adopt them, the measure intends to reduce delay in finding a suitable match for looked after children with plans for adoption. Likewise the legislative changes (governing adoption agency usage of the register) intends to ensure local authorities widen their search for families at as early stage as possible if no suitable matches are available locally. Both measures will therefore reduce the amount of time children awaiting adoption remain in care. This is expected to lead to cost savings to local authorities as evidence shows that the cost of supporting an adoptive placement is less than the cost of maintaining a child in foster care.

b) Adoption Register Wales

Cost:
Option 1: *Do nothing*
This option will incur no additional cost for providers.

Option 2: *amend the regulations to enable new regulations 19A and 30G to reduce the existing time limit for adoption agencies to refer to the Adoption Register in Wales.*

This option is expected to have slight resource implications as it is envisaged that there will be a slight increase in referrals of approved adopters and children to the Adoption Register at the outset due to the introduction of the one month requirement to add details. It is envisaged however that this will settle as the new process is embedded. At this time agencies are unable to approximate the increase in the number of update requests that will occur due to the duty. They have however suggested that they will not see a significant increase.

This amendment will ensure agencies widen their search for families at as early stage as possible if no suitable matches are available locally. This will therefore reduce the amount of time children awaiting adoption remain in care. This is expected to lead to cost savings to local authorities as evidence shows that the cost of supporting an adoptive placement is much less than the cost of maintaining a child in foster care.

Benefits
This change will require the local authorities and Voluntary Adoption agencies to make full and timely use of the Adoption Register, as one available route for searching out an external match, when suitable internal or local placement cannot be found. It will also improve the coverage and comprehensiveness of the information stored on the Register.

This change will not impact on any other aspects of adoption agencies' current duties to record and refer such information. By setting a one month time limit, it

will ensure that all children who are awaiting an adoptive placement and all approved prospective adopters across Wales would then be placed on the Register as soon as possible. This would reduce the length of time that children are waiting by giving immediate access to a national system through which the widest possible range of links from across Wales (and where appropriate) other parts of the UK can be explored.

The changes will lead to even more good quality, lasting matches being made. Furthermore it will enable the system as a whole to be managed in a more effective way, for instance, through identifying patterns of particular needs among the children or groups for siblings which might require tailored recruitment of adopters in order to be met.

c) Establishing an 'authorised person'

There is already provision for this requirement in the Family Procedure Rules (Practice Direction 14.10) and the amendments are placing these directions on a statutory footing.

- where the parent or guardian of the child resides in England and Wales, the adoption agency must request Cafcass to appoint an officer to witness the parent/guardian's consent to the placement of the child for adoption or to the making of a future adoption order;

- where the parent or guardian resides outside England and Wales, the adoption agency must arrange for the appointment of an authorised person to witness the parent/guardian's consent.

Cost

There is no cost associated with these changes as the adoption agencies are maintaining the status quo.

Benefit

There are no further benefits associated with these changes as the adoption agencies are maintaining the status quo.

Preferred Options

The preferred options as detailed above will be implemented as follows:

a) Introduction of the Two Stage Adoption Process - Option 2

Delays in finding a suitable adoptive family for a child can cause lasting harm. Research shows that children need to form attachments or secure and stable relationships with one or two main carers in order to develop physically, emotionally and intellectually. There are currently more children in foster care waiting for adoption than there are adopters. To address this gap we need to recruit more prospective adopters and we need to do more to encourage and help them to adopt children with more complex needs.

One of the issues we are trying to address is the potential for delay in the adoption system and the impact this has on the welfare of children. By

introducing a more adopter involved and less bureaucratic process, it is envisaged that more adopters will come forward to ensure that there is a choice of matching for those children needing an adoptive placement and increase availability for those who wait the longest. The new two stage adopter process will also generate savings for the agencies by become more streamlined and less resource intensive.

b) Reduce the existing time limit for adoption agencies to refer to the Adoption Register in Wales to up to one month – Option 2

It is imperative that agencies strive to match children and adopters in the most timely way. The change to the register will improve the comprehensiveness of the information stored on it, so that potential matches can be identified at the earliest possible stage.

c) Establishing an 'authorised person'

There is already provision for this requirement in the Family Procedure Rules (Practice Direction 14.10) and the amendments are placing these directions on a statutory footing.

9. Consultation

The consultation, which ran from 3 October 2018 to 9 January 2019, sought views on two new sets of Adoption regulations: The Adoption Agencies (Wales) (Amendment) Regulations and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations. These new regulations amend the Adoption Agencies (Wales) Regulations 2005. In summary they:

- Introduce a two-stage process for the assessment and approval of potential adopters.

- Require adoption agencies to refer to the Adoption Register for Wales details of prospective adopters once they are approved, and of children for whom the agency has been authorised to place for adoption, within a maximum period of one month after the decision has been made

- Require adoption agencies to arrange for the appointment of an 'authorised person' to act as a witness to the consent of a parent or guardian to the placement or adoption of a child in their care, where the parent or guardian resides outside England and Wales (including abroad).

- Preserve the requirement on adoption agencies, when assessing the suitability of a couple to adopt a child, to have proper regard to the need for stability and permanence in their relationship (this is provided for in the Adoption Agencies (Wales) (Amendment) (No.2) Regulations).

Eight responses were received to the consultation and a summary of the consultation responses will be published on the Welsh Government website.

As part of the consultation process, two national events were held. The first event was held on 6 November in SWALEC Stadium, Cardiff and the second event was held on 8 November in Glyndwr University.

The sessions aimed to encourage stakeholders to respond and to enable those attending to:

- gain an overview of the draft legislative framework and key changes it will effect;
- check their understanding of the proposals and seek clarity, if needed;
- consider potential implications for their role and organisation

Overall the uptake of places for the events was positive, with approximately 40 attendees in total in Cardiff and 25 delegates in Wrexham. A range of public, private, voluntary and third sector organisations were represented, including a number of service providers from agencies such as the National Adoption Service for Wales; St David's Children Society; Barnardo's Cymru and Adoption UK.

The majority of consultation responses received were positive and no significant concerns were raised over additional burdens arising from the new regulations.

Minor changes were made to the legislation as a result of further consideration of engagement and consultation responses, which include:

- amending the requirement on agencies to refer details of the child to the organisation which maintains the Adoption Register for Wales as soon as possible and no later than one month after the date on which the agency decided the child should be placed for adoption to as soon as possible and no later than one month of the date the agency was authorised to place the child for adoption,

- During stage one of the pre-assessment process, we have made the requirements to carry out police checks clearer, stating that an adoption agency may not consider a prospective adopter (as opposed to a person) suitable to adopt a child if that person or any member of that person's household aged 18 or over has committed a specified offence (as stated within paragraph 1 of Part 2 of Schedule 3).

    - clarifying that, if the prospective adopter does not notify the adoption agency that they wish to continue to stage two of the assessment process within six months from the date on which the agency notifies the adopter that they may be suitable to adoption, then stage one will be need to repeated to the extent the adoption agency considers necessary to determine whether it continues to be satisfied that the prospective adopter may be suitable to adopt,

    - increasing the time limit from 20 days to 40 days from the date on which the prospective adopter was notified by the adoption agency

that they were not suitable to adopt a child for the adopter to make representations to the agency or apply to the Welsh Ministers for a review of the decision by an independent review panel.

10. Competition Assessment

The competition filter test	
Question	**Answer yes or no**
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	Yes
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	Yes
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector categorised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

The filter test shows that it is not likely that the regulation will have any detrimental effect on competition; therefore a detailed assessment has not been conducted.

We do not consider it necessary to undertake a competition assessment for these Regulations since they will not affect the business sector in any significant way.

11. Post implementation review

Delays in the adoption system can cause lasting harm for vulnerable children and may rob them of their best chance of love and stability of a new family.

The Welsh Government's principal policy aim in this area is to increase the number of adoptive families by implementing a less bureaucratic, time consuming and inflexible process for potential adopters.

It is recognised an assessment of the introduction of the new two stage adoption assessment process is challenging. The analysis will not just be based on the cost of implementing the new process but also on the benefits for local authorities, Voluntary Adoption Agencies and the families and children associated with the adoption process.

There will be provision for a number of key reporting mechanisms which will be introduced to monitor all changes brought into effect by the amendments to the regulations. These will offer a set of clear evidence to inform the post implementation review and establish how successful the new process has been in achieving its aims. The reporting mechanisms include:

- Annual returns from service providers
- Annual returns from the National Adoption Service in Wales.
- Annual reports from local authorities
- Officials will monitor the implementation of these Regulations following their coming-into-force date of 1 April 2020