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Llywodraeth Cymru
Welsh Government

Welsh Government Consultation Document

Fostering Services

Implementing a new regulatory framework

Date of issue: 24 May 2018

Action required: Responses by 16 August 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This consultation seeks your views on a new set of fostering regulations to replace The Fostering Services (Wales) Regulations 2003. These include requirements upon local authority fostering services under the Social Services and Well-being (Wales) Act 2014, requirements upon independent fostering agencies under the Regulation and Inspection of Social Care (Wales) Act 2016, and regulations on approvals of foster parents. It also asks for views on draft statutory guidance and a code of practice to accompany the regulations. The new fostering regulations will come into force in April 2019.

In addition, this consultation seeks views on options for the future of independent reviews of determinations for fostering.

How to respond

You can respond to this consultation by completing and returning, by midnight on the closing date, the consultation response form at the back of this document. The response should be sent to:

Legislation Implementation Branch
Social Services Directorate
Welsh Government
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Alternatively the consultation response form is available on our website (<http://wales.gov.uk/consultations/?lang=en>) and can be returned to us, by midnight on the closing date, via e-mail to: RISCAct2016@gov.wales

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 – these apply to service providers and responsible individuals of care home, secure accommodation, residential family centre and domiciliary support services
http://www.legislation.gov.uk/wsi/2017/1264/pdfs/wsi_20171264_mi.pdf

Statutory Guidance for service providers and responsible individuals on meeting service standard regulations (February 2018) – this applies to service providers and responsible individuals of care home, secure accommodation, residential family centre and domiciliary support services
<https://gov.wales/docs/dhss/publications/180201statutory-guidanceen.pdf>

Well-being Statement for People Who Need Care and Support and Carers Who Need Support:

www.wales.gov.uk/topics/health/publications/socialcare/strategies/statement/?lang=en

Consultation Summary Report: Phase 2 Implementation of the Regulation and Inspection of Social Care (Wales) Act 2016
<https://beta.gov.wales/sites/default/files/consultations/2018-02/171122responses-serviceen.pdf>

Contact details

For further information:

Address: Legislation Implementation Branch
Social Services and Integration Directorate
Crown Buildings
Cathays Park
CARDIFF
CF10 3NQ

email: RISCAct2016@gov.wales

telephone: 0300 0604400

General Data Protection Regulations

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. [Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data holds about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:

Welsh Government

Cathays Park

CARDIFF

CF10 3NQ

Email Address:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Telephone: 01625 545 745 or

0303 123 1113

Website: www.ico.gov.uk

Foreword

In 2011 the Welsh Government published the white paper *Sustainable Social Services: A Framework for Action*. This set out an ambitious plan to create a new integrated and person-centred approach to social services provision in Wales.

To achieve this new approach, in the last assembly term, we made two pieces of primary legislation: the Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016.

Through implementation of the 2016 Act we are establishing a new system of regulation and inspection of service providers which upholds the rights of Welsh citizens to dignified, safe and appropriate care and support.

This new system of regulation will be more robust and enable Care Inspectorate Wales, as the service regulator, to maintain an overview of the whole service an organisation is providing. It will also make it easier for service providers to register with the inspectorate and for citizens to have access to information about them.

The draft Fostering Services (Fostering Services Providers and Responsible Individuals) (Wales) Regulations 2019, accompanying statutory guidance (for independent fostering service providers) and code of practice (in respect of local authority fostering services) set and explain the service standards that will be required of these providers from April 2019. They are drawn from and, wherever appropriate, equate with those standards placed upon care home services, secure accommodation services, residential family centre services and domiciliary support services from April this year.

Ensuring consistency in the requirements placed on providers and responsible individuals of all regulated services is one of my main policy objectives in implementing the 2016 Act. However, I also recognise that each service has its own characteristics. Therefore, where appropriate the requirements are tailored to ensure the best fit with how services are delivered in practice, without compromising the overall standards expected.

I am also proposing changes to fostering panels and the way prospective foster parents are assessed. I believe these changes reflect existing good practice within fostering agencies, but I would welcome your views and comments. Finally, I am testing our proposals for the future of the independent review mechanism, to ensure that the framework for reviewing fostering agencies' decisions continues to deliver good outcomes and value for money.

I would like to thank you for taking the time to read this consultation document, for considering the draft Regulations and guidance/code and would invite you to respond as appropriate. I look forward to hearing your views.

Huw Irranca-Davies AM
Minister for Children, Older People and Social Care

1. Introduction

- 1.1. The past four years have seen the creation of a new legal framework for social services in Wales, with the passing of two landmark pieces of legislation. The overall aim has been to reform and consolidate social care law, in order to improve the well-being of people who need care and support and their carers.
- 1.2. The Social Services and Well-being (Wales) Act 2014¹ ('the 2014 Act'), which received Royal Assent on 1 May 2014, creates a new framework that brings together and modernises the law for local authority social services in Wales. Part 6 of the 2014 Act contains provisions relating to looked after and accommodated children, including those who are placed in foster care. Regulations² and a code of practice on the exercise of social services functions in relation to Part 6 came into effect on 6 April 2016. This was partially revised and version 2 of the code³ came into effect on 2 April 2018.
- 1.3. The Regulation and Inspection of Social Care (Wales) Act 2016⁴ ('the 2016 Act'), which received Royal Assent on 18 January 2016, sets the new statutory framework for the regulation and inspection of social care services and also reforms the regulation of the social care workforce in Wales. It replaces relevant systems previously put in place under the Care Standards Act 2000⁵.
- 1.4. The 2016 Act is being implemented in three overlapping phases:
 - **Phase 1 (2016/17)** included regulations relating to the new system of workforce regulation required by the Act. These came into force on 3 April 2017. Alongside these, Social Care Wales developed the rules and procedures which govern the process of workforce registration and regulation.
 - **Phase 2 (2017/18)** saw new systems for registration of regulated services put in place and operated by Care Inspectorate Wales from April 2018. This phase also included regulations and statutory guidance relating to the requirements and standards expected of service providers and responsible individuals of care homes (including children's homes), secure accommodation for children, residential family centres and domiciliary support services. These came into force on 2 April 2018.

Links to all of the phase 1 and phase 2 regulations and statutory guidance can be accessed via the SCW Information and Learning Hub:

<https://socialcare.wales/hub/riscact-regulations>

- **Phase 3 (2018/19)** is the current phase and includes development of regulations and statutory guidance relating to the requirements and standards expected of service providers and responsible individuals of adoption agencies, independent

¹ http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf

² The Care Planning, Placement and Case Review (Wales) Regulations 2015
http://www.legislation.gov.uk/wsi/2015/1818/pdfs/wsi_20151818_mi.pdf

The Care Leavers (Wales) Regulations 2015
http://www.legislation.gov.uk/wsi/2015/1820/pdfs/wsi_20151820_mi.pdf

The Visits to Children in Detention (Wales) Regulations 2015
http://www.legislation.gov.uk/wsi/2015/1823/pdfs/wsi_20151823_mi.pdf

³ <http://gov.wales/docs/dhss/publications/180328pt6en.pdf>

⁴ http://www.legislation.gov.uk/anaw/2016/2/pdfs/anaw_20160002_en.pdf

⁵ http://www.legislation.gov.uk/ukpga/2000/14/pdfs/ukpga_20000014_en.pdf

fostering agencies, adult placement services and advocacy services. It is intended that these will come into force in April 2019.

This consultation forms part of Phase 3 of implementation.

- 1.5. This reform of social care law is being supported by wider policy initiatives, including the Welsh Government's 'Improving Outcomes for Children' programme. This programme is overseen by a Ministerial Advisory Group of key stakeholders from local government, academia and the third sector, and focuses on improving outcomes for children on the edge of care, looked after children and care leavers. It has included the development of a National Fostering Framework for Wales, which is being implemented over three years from 2017/18.
- 1.6 Also within phase 3 of implementation we will be developing the requirements to be placed upon providers and responsible individuals of adoption services. We intend to consult on these elements early in the autumn, with a view to any regulations, statutory guidance and codes of practice coming into effect in spring 2019. At this time views will also be sought on the approach to regulating holiday schemes for disabled children, which currently fall to be regulated as care home services. The intention is to define this activity as a new regulated service under section 2 of the 2016 Act and to develop regulations placing proportionate requirements on the providers and responsible individuals of such services.

2. This consultation

2.1. This consultation runs from 24 May 2018 and closes at midnight on 16 August 2018.

Fostering services: draft regulations, guidance and code of practice

2.2. The first element seeks your views on The Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019, ('the draft Regulations'), which in summary:

- place new requirements on independent fostering service providers (IFAs) and responsible individuals, under sections 27 and 28 of the 2016 Act
- place similar requirements, where applicable, upon local authority fostering services, under section 94A of the 2014 Act
- replace Part IV of The Fostering Services (Wales) Regulations 2003⁶ ('the 2003 Regulations'), on approvals of foster carers by independent and local authority fostering services
- repeal the remaining provisions in Parts V and VI of the 2003 Regulations, on placements by voluntary organisations.

2.3. It also seeks your views on:

- draft statutory guidance for independent fostering service providers and responsible individuals in meeting service standards, under section 29 of the 2016 Act
- a draft code of practice for local authority fostering services, under section 145 of the 2014 Act.

Please note that the draft statutory guidance and code of practice have been combined into the same document, as many of the requirements apply to both types of fostering service.

2.4. Your consultation responses will help inform our consideration of the final Regulations, statutory guidance and code of practice. Our intention is to analyse the responses over the autumn and consider whether any changes may be required before laying the Regulations towards the end of this year. We will also aim to issue the statutory guidance and code of practice around the same time. All will come into effect in April 2019.

Future of the independent review mechanism

2.5. The second element of this consultation seeks your views on the future of independent reviews of 'qualifying determinations' in respect of fostering, and of the Independent Review Mechanism (IRM) which was set up in 2010 to manage these reviews. Qualifying determinations are made by fostering or adoption agencies where the agency is proposing not to approve an individual as a foster carer or adopter, or to terminate or change the individual's terms of approval.

2.6. You are asked particularly for a view on whether the current requirements for independent reviews of determinations for fostering are necessary and proportionate,

⁶ http://www.legislation.gov.uk/wsi/2003/237/pdfs/wsi_20030237_mi.pdf

and to explore possible alternative approaches. We will be seeking views on independent reviews of determinations in respect of adoption as part of our adoption services consultation later in the summer, and will consider the fostering and adoption responses together when determining the way forward.

3. Fostering services

Background

- 3.1. The current regulations covering fostering services in Wales are The Fostering Services (Wales) Regulations 2003⁷ ('the 2003 Regulations'), as amended. These were made under the Care Standards Act 2000 and the Children Act 1989⁸, and place requirements upon local authority fostering services and independent fostering agencies relating to the management and conduct of fostering services and the approval of foster parents (including fostering panels, assessments, approvals, reviews and terminations). They also include regulations on the placement of children by voluntary organisations.
- 3.2. Part V of the 2003 Regulations, relating to placements of children in foster placements by local authorities, was replaced by The Care Planning, Placement and Case Review (Wales) Regulations 2015⁹, which came into force on 6 April 2016.

The case for change

- 3.3. A great deal has been achieved by the regulators (Care Inspectorate Wales and Social Care Wales¹⁰), and the wider social care sector, in pursuing the ambitions set out in the Care Standards Act 2000. This framework provided a baseline of standards, both for care and support services and for the workforce delivering them, and has undoubtedly improved public protection. It has also delivered much greater consistency, protection from abuse and exploitation, and greater exposure of sub-standard practices. Collectively, we have succeeded in raising performance and continue to use regulation and inspection to identify and eliminate poor standards.
- 3.4. However, since that time, we recognise that many things have changed within and around the sector, and have identified both the need to avoid our regulatory arrangements becoming out of date and the need to support the provision of sustainable services.
- 3.5. Our reform of the regulatory system, driven primarily through the 2016 Act, rests on five key principles:
 - responsiveness to the reforms introduced by the 2014 Act
 - ensuring citizens are at the heart of care and support
 - developing a coherent and consistent Welsh approach
 - tackling provider failure
 - responsiveness to new models of service and any emerging concerns over the quality of care and support services.
- 3.6. The proposals in this consultation have a significant part to play in serving and advancing this reform.

⁷ http://www.legislation.gov.uk/wsi/2003/237/pdfs/wsi_20030237_mi.pdf

⁸ <http://www.legislation.gov.uk/ukpga/1989/41/contents>

⁹ http://www.legislation.gov.uk/wsi/2015/1818/pdfs/wsi_20151818_mi.pdf

¹⁰ Care Inspectorate Wales was (until January 2018) the Care and Social Services Inspectorate Wales. Social Care Wales was (until April 2016) the Care Council for Wales.

The new regulatory framework

- 3.7. Under section 27 of the 2016 Act, the Welsh Ministers may by regulations impose requirements upon a service provider in relation to a regulated service. Under section 28, they may impose requirements on a responsible individual for a regulated service.
- 3.8. These 'regulated services' include fostering services, which are defined in Schedule 1 of the 2016 Act as: '*...any service provided in Wales, by a person other than a local authority, which consists of or includes the placement of children with local authority foster parents, or exercising functions in connection with such a placement*'.
- 3.9. The 2016 Act will replace the Care Standards Act 2000 in respect of requirements on independent fostering agencies ('IFAs'), which include private and voluntary sector providers, and therefore new regulations are necessary.
- 3.10. Although local authority fostering services are not a regulated service under the 2016 Act, it is important they are subject to monitoring and control appropriately, and where appropriate to the same standards as independent fostering services providers. Under section 94A of the 2014 Act (inserted by section 58 of the 2016 Act), the Welsh Ministers may make regulations in respect of the regulation of local authority functions relating to looked after and accommodated children. We intend to use this power to make regulations imposing requirements on local authority fostering services, within a combined set of fostering regulations.
- 3.11. The approach taken in developing the draft Regulations has been to ensure that the requirements are:
- **Proportionate:** the requirements should relate to matters within the control of the provider of the fostering service and responsible individual (for IFAs), and which will lead to an improvement in quality and practice.
 - **Reasonably consistent** across all regulated services: this is not to say that 'one size fits all', but that the same high standards should be applied across all services. The requirements are, therefore, necessarily high-level, with the detail about how the requirements may be complied with set out in the draft statutory guidance and code of practice. So far as possible, equivalent requirements will be applied to local authority fostering services, which are not regulated under the 2016 Act.
 - **Focused on outcomes for people:** the intention is for the requirements to best enable services to support people to achieve *what matters to them*, in line with the ethos of the 2014 Act. The aim is to give sufficient flexibility to providers to enable them to care for and support people in a way which puts the individual at the centre of their care.
- 3.12. Under section 29 of the 2016 Act, the Welsh Ministers must publish statutory guidance about how regulated service providers may comply with requirements imposed by regulations under section 27, including how the providers may meet any standards for provision of a regulated service specified by such regulations; and about how responsible individuals may comply with the requirements under section 28. This statutory guidance will apply only to IFAs. Guidance to local authority fostering services will have to be issued as a code of practice under section 145 of the 2014 Act. It is our intention that, wherever possible, the draft statutory guidance and code of

practice will complement and align with each other in supplementing the draft Regulations. The National Minimum Standards for fostering services¹¹, published in 2003, will be replaced by a combination of requirements within the draft Regulations, supplemented by the draft statutory guidance and code of practice as appropriate.

Our proposals

- 3.13. Our proposals for new regulations to replace the 2003 Regulations, fall under three main headings: requirements on services providers (IFAs and local authority fostering services) in respect of the operation of fostering services; requirements upon service providers (IFAs and local authority fostering services) in relation to the establishment of fostering panels, the assessment and approval of foster parents, and reviews and terminations; and the repeal of the provisions concerning placements by voluntary organisations.

Operation of fostering services

- 3.14. Our overall policy intention is, so far as is practicable, to place a set of generic requirements upon providers of all ‘regulated services’ under the 2016 Act, modifying these where necessary to fit with each service. These generic requirements were first set out in The Regulated Services (Service Providers and Responsible Individual) (Wales) Regulations 2017¹² (‘the 2017 Regulations’), which came into force on 2 April 2018 and which apply to care home services (including children’s homes), secure accommodation for children, residential family centres and domiciliary support services. The 2017 Regulations therefore provide the policy blueprint for the draft Regulations being consulted upon here. There will, however, be some significant differences, to reflect the fact that the care and support provided to a child in a foster care placement is provided by foster parents in practice on a day to day basis, in their own homes, rather than by the service provider’s own staff and on its own premises.
- 3.15. For fostering services, it is also our policy intention to place the same generic requirements upon local authority fostering services as upon IFAs, wherever practicable, using powers under the 2014 Act. There will necessarily be some significant differences here also. For example, the role of a local authority fostering services manager will be very different – and exercised at a different level from – that of the responsible individual in an IFA. The draft Regulations being consulted upon here have been structured so as to make it clear which requirements apply only to IFAs, which apply only to local authority fostering services, and which apply to both.

The Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019

- 3.16. In summary, the draft Regulations:

- place new requirements on independent fostering service providers (IFAs) and responsible individuals, under sections 27 and 28 of the 2016 Act
- place similar requirements, where applicable, upon local authority fostering services, under section 94A of the 2014 Act
- set out which breaches of the requirements on IFAs and responsible individuals are to be treated as offences (under sections 45 and 46 of the 2016 Act)

¹¹ <http://careinspectorate.wales/docs/cssiw/general/131009nmsfosteringen.pdf>

¹² http://www.legislation.gov.uk/wsi/2017/1264/pdfs/wsi_20171264_mi.pdf

- place requirements on an appointed person in relation to an independent fostering service provider who has been liquidated (under section 30 of the 2016 Act)
- place requirements on a personal representative of an independent fostering service provider who has died (where the service provider is an individual) (under section 31 of the 2016 Act).

- 3.17. The draft Regulations will be supplemented by draft statutory guidance for IFAs and a draft statutory code of practice for local authorities, both of which form part of this consultation. So far as possible, the draft statutory guidance and code of practice also mirror each other, although the language and tone of each document is rather different. This is to ensure consistency, on the one hand, with other guidance issued under section 29 of the 2016 Act, and on the other with the codes of practice issued under section 145 of the 2014 Act (particularly the Part 6 code on looked after and accommodated children).
- 3.18. As with the draft Regulations, the draft statutory guidance and code of practice generally follow the format and where appropriate content of the statutory guidance¹³ published in February 2018 in respect of care home, secure accommodation, residential family centres and domiciliary support services (developed within phase 2 of implementation).
- 3.19. **The explanatory note to the draft Regulations outlines the content of each Part, which we would encourage you to read, so this is not replicated here.**

Offences

- 3.20. The regulations in this part are made under the powers in section 45 and 46 of the 2016 Act. Regulation 14(1) provides that a failure of an independent fostering services provider to comply with the requirements of specified provisions in the draft Regulations is an offence. In addition, where an independent fostering services provider fails to comply with certain other requirements, regulation 14(2) provides that this is an offence if the failure to comply results in the child being exposed to avoidable harm or significant risk of such harm or suffering a loss of money or property as a result of theft, misuse or misappropriation. These provisions are not replicated for local authority fostering services as these are not regulated services and there is already a regime in place for monitoring and inspection children's service departments. Regulation 78 sets which requirements, if not complied with by the responsible individual, will be treated as an offence
- 3.21 It is worth highlighting that, although failure to comply with a particular requirement in the draft Regulations may not be an offence, an independent fostering service provider's failure to comply with any of the requirements placed upon them within Parts 2, 6, 7, 8, 9, 9, 10 and 11 of the Regulations could be grounds for cancellation of their registration under section 15 of the 2016 Act. A responsible individual's failure to comply with any of the requirements contained within Part 12 of the Regulations could be grounds for the cancellation of the designation of the responsible individual under section 22.

¹³ <http://gov.wales/docs/dhss/publications/180201statutory-guidanceen.pdf>

Penalty notices

- 3.22 Whilst the draft Regulations set out which breaches of the requirements by service providers and responsible individuals are to be treated as offences, they do not make provision for penalty notices to apply. During phase 2 of implementation, The Regulated Services (Penalty Notices) (Wales) Regulations 2017¹⁴ established a penalty notice system, whereby Care Inspectorate Wales may issue a penalty to providers and responsible individuals of regulated services in stead of bringing proceedings for certain offences.
- 3.23 Our policy intention is to extend this to phase 3 services, therefore enabling the same penalty notice system to apply to equivalent offences for independent fostering service providers and responsible individuals. This is clearly illustrated within the table at Annex A (separate document) and your views are sought within the consultation response form at section 6 of this document.

Fostering panels, assessment and reviews

- 3.24. The requirements on providers in respect of how fostering services are operated will replace most of the 2003 Regulations, with the exception of Parts IV and VI. Part IV deals with the assessment and approval of foster parents by local authority fostering services and IFAs, and also with reviews and terminations. Our policy intention is to draw these regulations across into the draft Regulations so that we continue to have one consolidated set of regulations for fostering services.
- 3.25. In doing so, we have taken the opportunity to review with the Fostering Technical Group how Part IV of the regulations is working in practice, and to consider any changes that may be necessary or desirable.
- 3.26. As a result, we would welcome your views on the following changes which have been incorporated into the draft Regulations:
- A requirement for fostering service providers to maintain a 'central list' of persons who are considered by them as suitable to be members of a fostering panel. This should make it easier for providers to recruit panel members and set up panels when needed.
 - Provision for two or more providers to set up a joint fostering panel, and to agree between them the appointment of members. This will be particularly important for local authorities as they develop regional approaches to fostering under the National Fostering Framework for Wales.
 - Introduction of a two-stage assessment process for potential foster carers. This is designed to identify manifestly unsuitable candidates at an earlier stage, before proceeding to a full assessment of remaining candidates. It reflects current practice within a number of fostering agencies. Those candidates whose applications are refused at the first stage will not be entitled to have that decision referred to an independent review panel.

¹⁴ http://www.legislation.gov.uk/wsi/2017/1292/pdfs/wsi_20171292_mi.pdf

- 3.27. Similar changes have already been made in England under The Fostering Services (England) Regulations 2011¹⁵.
- 3.28. It will be noted that Part 14 of the draft Regulations require prospective kinship foster parents to be assessed and approved in the same way as kinship ('mainstream') foster parents. There is an argument that family members who agree to be considered as foster parents should be treated in a way which better fits their status as family members, with many practitioners reporting that they struggle to make the current regulatory framework fit this type of arrangement. During meetings of the Technical Group, a number of alternative approaches were suggested, and we have been considering a number of options for change. It is our intention to consult on these options later in the year.
- 3.29. We have not included in this consultation any good practice guidance on Part 14 of the draft Regulations, on fostering panels, approvals, reviews and qualifying determinations. It is our intention to commission practice guidance on this to assist local authorities and independent fostering services providers with implementation of the new elements of keeping a central list and undertaking two stage assessments. We would welcome your views on what this guidance should contain.

Placements by voluntary organisations

- 3.30. Part VI of the 2003 Regulations makes provision for the placement of a child in a foster placement by a voluntary organisation. It is not entirely clear what kind of placement is envisaged by Part VI of the 2003 Regulations, or in which circumstances these provisions would be used today. We believe this is possibly a relic of the days when a parent or guardian might have placed a child directly with a foster carer approved by a voluntary organisation without the involvement of local authority social services, in a private arrangement outside of the looked after system. We do not believe that such placements are used, or indeed are appropriate, today, and it is our proposal to repeal Part VI. Before doing so, however, we would welcome your views.

¹⁵ http://www.legislation.gov.uk/uksi/2011/581/pdfs/uksi_20110581_en.pdf

4. Independent review mechanism

Background

- 4.24. Independent reviews of determinations (IRDs) for adoption were first introduced in 2006, following implementation of the Adoption and Children Act 2002¹⁶. In 2010 they were extended to fostering. The review process for is governed by the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010¹⁷. These regulations require the Welsh Ministers, on receipt of an application for review, to constitute a panel, and set out the review panel's membership and functions, and the timetable to be followed.
- 4.25. The Independent Review Mechanism (IRM) was set up in 2010 to manage the process by which prospective or approved adopters, and prospective or existing foster carers, can seek a review of a 'qualifying determination' made by either their adoption or fostering services provider, whether an independent agency or a local authority. Qualifying determinations are made by fostering services providers where the agency is proposing not to approve an individual as a foster carer, or to terminate or change the individual's terms of approval.
- 4.26. The IRM has three functions in relation to fostering:
- to review a proposal under the 2003 Regulations not to approve an applicant as suitable to act as a foster parent
 - to review a proposal under 2003 Regulations to revise the terms of approval of an existing foster parent
 - to review a proposal under the 2003 Regulations that the foster parent is no longer suitable to act as a foster parent.
- 4.27. The review process is carried out by a review panel which is completely independent of the fostering services provider concerned. The function of the independent review panel is to consider each case anew and to make a recommendation to the fostering services provider. This is not an appeals process, and the review panel cannot overturn the fostering agency's qualifying determination. The final decision remains with the fostering services provider.
- 4.28. From 1 April 2010, the Welsh Government outsourced the IRM to preserve operational independence. The IRM is currently managed by Children in Wales, under contract to the Welsh Government. Further details about the IRM may be found at <http://irm.cymru/>. This site is written for applicants and agencies, and explains the different types of qualifying determinations, the application process and what IRM panels do. It also contains the IRM's annual reports.

The case for change

- 4.29. The Welsh Government hosted two workshops with key stakeholders in June 2016, in South and North Wales, to discuss the future of the IRD and any changes which might be needed to the regulations and guidance. The Welsh Government is grateful to those who took part in those initial discussions, which have helped inform this consultation.

¹⁶ http://www.legislation.gov.uk/ukpga/2002/38/pdfs/ukpga_20020038_en.pdf

¹⁷ http://www.legislation.gov.uk/wsi/2010/746/pdfs/wsi_20100746_mi.pdf

4.30. IRDs were introduced for the following reasons:

- to increase public confidence in the transparency of the approvals process for prospective foster parents,
- to introduce an independent element to the review process, and
- to encourage more people to consider fostering and apply to become foster parents.

4.31. The IRM promotes the rights of children through providing suitable foster parents for children. Fostering provides stable placements for children and young people who otherwise would be at risk of exclusion, poverty and reduced life chances. Welsh Government policy is to encourage people from a variety of backgrounds to consider fostering or adoption, and also to encourage more Welsh-speaking placements. By providing an independent review mechanism when a prospective carer's terms of approval are changed or terminated (or the individual's application is turned down), the IRM helps ensure that nobody is excluded without due consideration and review.

4.32. Since 2010 the IRM has been contracted out and subject to a competitive tendering process which has included careful consideration of the overall cost and value for money of running the service in line with the regulations. We know, from feedback from applicants, panel members and fostering agencies, that the IRM is valued for its independence and its role in providing quality assurance of decisions taken by fostering and adoption panels. Applicants particularly value the transparency of the review process and the feeling that they and their concerns had been properly heard. The findings and recommendations from IRM panels also contribute to learning and good practice for fostering and adoption agencies and practitioners.

4.33. However, feedback received suggested that the IRM is an expensive service to run in relation to the limited number of applications received and reviews undertaken each year. As the IRM is demand-led, the actual number of applications and reviews varies from year to year. From 2010-11 to 2014-15, eight applications a year proceeded to review. In 2015-16 this reduced to five, and in 2016-17 there were six reviews. In 2017-18, ten applications were received and six proceeded to review (with a seventh pending at the end of the financial year). The costs for the IRM fall into two parts: a fixed element to run the service, and a cost per review. Allowing for six reviews in 2017-18, the total cost of the service was around £58,000.

4.34. The main concern among independent fostering services providers and local authorities was value for money, and whether cases were coming for review unnecessarily – i.e. that this was an expensive way of dealing with issues that could be addressed earlier in the assessment / decision-making process. Independent fostering service providers and local authorities are expected to contribute to a proportion of the review costs – currently £3,403 per review.

4.35. Various reasons have been put forward for the decline in applications for review. It may be linked to more robust assessments and better decision making. It may be that new complaints procedures, with a built-in element of independence, have given potential applicants an alternative route for having their concerns heard. The IRM does not preclude people from using the local authority or independent agency's complaints procedures, and feedback from IRM panels suggests that their main value is that applicants feel listened to and that their concerns are heard.

Our proposals

- 4.36. The Welsh Government is seeking views on the future of independent reviews of determinations and the IRM. The draft Regulations replicate the existing provisions in the 2003 Regulations in respect of independent reviews of determinations (in Part 14). However, we would welcome your views on whether, in the longer term, there is a need to retain a system of independent reviews or whether there are alternative mechanisms which could be put in place to ensure that foster parents / prospective foster parents who disagree with decisions about their terms of approval can make their views known.
- 4.37. Various suggestions were put forward during the initial workshops. These included:
- Retaining the current system of independent reviews panels, on the grounds that it works well and provides applicants with a way of ensuring that their views and concerns have been heard in an appropriate way. On this view, user satisfaction and the independence of the review process is more important than the cost.
 - Investing in improvement to the way independent fostering services providers and local authorities handle applications from prospective foster parents, and how they make and communicate decisions to foster parents / prospective foster parents. Practice guidance for fostering services providers on Part 14 of the draft Regulations may help with this. In this scenario, the number of independent reviews would continue to reduce over time and the need for the IRM would diminish.
 - Replacing the current panel system with a lighter touch approach perhaps involving just one independent reviewer. In this scenario, there might still be a central list of suitably qualified reviewers, who could be called upon to review a qualifying determination on an individual basis. Although this would reduce the actual cost of each review, there would still be a need for an organisation to consider applications, maintain the central list and undertake other administration.
 - Setting up a system whereby another independent fostering services provider or local authority fostering service undertook a review of a qualifying determination where requested. This review might be undertaken by the other provider's decision maker. This would incur less cost overall, but there would potentially be an additional burden on decision makers. It might also work better for local authorities than for independent fostering services providers, which are in competition with each other for prospective foster parents, and might not wish to share data.
 - Removing the entitlement to an independent review altogether, so that foster parents and prospective foster parents who wished to challenge a qualifying determination would need to rely on the independent fostering services provider or local authority's complaints and representations policy. The draft Regulations require both local authority fostering services and independent fostering services providers to put in place a complaints policy and procedure. These requirements could potentially be strengthened to include a requirement for an independent element in cases where a complaint is made about a qualifying determination. Local authorities already have established complaints procedures which include an independent element if the complaint cannot be resolved at an early stage.

5. Potential impacts

Indicative Costs and Benefits

- 5.1. To assist with the consideration of the draft Regulations we have included some indicative costs and benefits of the proposals included in this consultation. Where we have been able to, we have also included some detail on the other options that have been considered during the development of the draft Regulations.

Fostering services providers and responsible individuals

- 5.2. This section covers requirements on fostering service providers under the 2016 Act (independent fostering services providers) and the 2014 Act (local authority fostering services providers).

Options

- **Option one**

- 5.3. Replicate the relevant provisions of the Regulated Services (Service Providers and Responsible Individuals (Wales) Regulations 2017¹⁸ ('the 2017 Regulations') for independent fostering services providers, and apply the provision as far as possible to local authority fostering services providers
- 5.4. Regulated services are listed in section 2 of the 2016 Act. These include care homes, secure accommodation services, residential family centres, adoption services, independent fostering services, adult placement services, advocacy services and domiciliary support services.
- 5.5. Under this option the relevant provisions of the 2017 Regulations would apply to independent fostering services providers in the same way that they do to other regulated services without modification.
- 5.6. Similar provisions could be placed upon local authority fostering services using powers under section 94A of the 2014 Act (inserted by section 58 of the 2016 Act), which allow the Welsh Ministers to make regulations in respect of the regulation of local authority functions relating to looked after and accommodated children. These provisions of the 2017 Regulations could not, however, be replicated in their entirety, as the 2016 Act requirements in respect of responsible individuals would not apply to local authorities.

- **Option two**

Modify the provisions of the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

- 5.7. Fostering services, whether provided by independent providers or local authorities, are of a clearly different nature to services which provide accommodation or domiciliary support, and so it has been necessary to consider which of the provisions of the 2017 Regulations should apply in the context of fostering, which should not, and what modifications may be appropriate.

¹⁸ http://www.legislation.gov.uk/wsi/2017/1264/pdfs/wsi_20171264_mi.pdf

- 5.8 An exercise was undertaken, with the assistance of the Technical Group on Fostering Services, to identify appropriate adaptations and modifications. This included the application of particular requirements to local authority fostering services as well as independent fostering services providers which will be regulated under the 2016 Act.
- 5.9. The provisions of the 2017 Regulations which have been modified or dis-applied are listed below with some commentary. Many of the modifications have been made in order to reflect the fact that, unlike those services falling within the remit of the 2017 Regulations, fostering services providers do not directly provide care and support to a child. There have also been some additions, reflecting the role of foster parents and differences between independent and local authority provision.
- 5.10. The main changes are:

Modified

Requirements to provide the fostering service in accordance with policies and procedures

There have been some minor changes made to the list of policies and procedures that a fostering service provider must have in place in order to make these more relevant to the nature of the service being delivered.

Staffing – overarching requirement

This regulation has been modified to reflect the specific nature of fostering services. The provisions regarding care home services have been removed.

Requirements of service providers as to premises, facilities and equipment

This part has been modified to reflect the very different nature of fostering services when compared to accommodation based services such as a care home or secure accommodation service.

Disapplied

Exceptions

It has not been necessary to make any exceptions to these draft regulations.

Requirements on service providers as to the steps to be taken on commencement of the provision of care and support

Instead of the provisions relating to personal plans and provider assessments, there is a general requirement to comply with the foster care agreement. This reflects the nature of the relationship between the provider and the foster carer parent in relation to providing care and support for the child.

Service agreement

The requirement for the individual to receive a copy of the service agreement has not been replicated, as being unsuitable in a fostering context.

Additions

Support for foster parents

This Part has been added in recognition of the obligations that fostering service providers should have towards foster parents, in respect of support, training, information and supervision.

Duties of local authority fostering service managers

This Part replicates applies to local authority fostering services managers certain of the provisions which apply to responsible individuals within the 2003 Regulations, so far as is practicable, and which reflects the fact that the role of a local authority manager is very different to that of responsible individuals designated under the 2016 Act. Provisions around responsible individuals do not apply to local authority fostering services.

Costs

- **Option one**

5.11. A detailed Explanatory Memorandum¹⁹ and Regulatory Impact Assessment was produced for the 2017 Regulations. An analysis of the indicative costs as they related to those services under the 2017 Regulations can be found within this document. Similar indicative costs may also apply to this option.

- **Option two**

5.12. Many of the costs that apply to Option one would also apply to Option two. Even though modifications have been made, the provisions within these draft Regulations mirror, to a large extent, those within the 2017 Regulations.

5.13. There may be some small transition costs associated with these draft Regulations in terms of the updating of policies and procedures (although these are currently kept under review), familiarisation and staff training.

Benefits and risks

- **Option one**

5.14. There were limited benefits to option one, for two main reasons. Firstly, there are differences between independent fostering services providers, regulated under the 2016 Act, and local authority fostering services, which are not. Secondly, fostering service providers do not directly provide children with care and support, which is instead provided directly by foster parents. However, there are advantages in ensuring as much consistency as possible across regulated services under the 2016 Act, and between independent and local authority fostering services providers.

¹⁹ <http://www.assembly.wales/laid%20documents/sub-ld11277-em/sub-ld11277-em-e.pdf>

5.15. The main risk with option one was that it would seek to shoehorn fostering services into a model of regulated service which did not reflect the true nature of fostering – in particular the role of foster parents in delivering care and support to children.

- **Option two**

5.16. The main benefits of option two are achieving the maximum consistency across regulated services and between independent fostering services providers and local authority fostering services, whilst at the same time allowing flexibility to place requirements which fit the unique nature of the fostering role and which reflect the differences between independent and local authority provision.

5.17. The risk of option two was that diverging too much from the requirements in the 2017 Regulations would make it difficult for Care Inspectorate Wales to ensure consistency of quality and inspection across all regulated services. However, given the unique nature of fostering provision, we believe the benefits of making the modifications we have made outweigh the risk associated with inconsistency across other services regulated by the 2016 Act.

5.18 Option two was the preferred option.

6. Consultation questions

Consultation Response Form

Your name:	
Organisation (if applicable):	
Email / Telephone number:	
Your address:	

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

PARTS 2 - 4:

REQUIREMENTS FOR INDEPENDENT FOSTERING SERVICES PROVIDERS

- **General requirements on independent fostering services providers**
- **Independent fostering services providers who have died or are liquidated**
- **Designation of responsible individual by Welsh Ministers**

Are the requirements in these parts of the draft Regulations right for *independent fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>

Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in these parts? If you think there is anything missing or unnecessary, please explain within the box below.

PART 5: GENERAL REQUIREMENTS FOR LOCAL AUTHORITY FOSTERING SERVICES PROVIDERS

Are the requirements in this part of the draft Regulations right for *local authority fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

PART 6: GENERAL REQUIREMENTS ON INDEPENDENT FOSTERING SERVICES PROVIDERS AND LOCAL AUTHORITY FOSTERING SERVICES PROVIDERS

Are the requirements in this part of the draft Regulations right for *independent fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

Are the requirements in this part of the draft Regulations right for *local authority fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

PART 7: POLICIES, PROCEDURES AND OTHER STANDARDS

Are the requirements in this part of the draft Regulations right for *independent fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

Are the requirements in this part of the draft Regulations right for *local authority fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

PART 8: HEALTH AND EDUCATION

Are the requirements in this part of the draft Regulations right for *independent fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

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Are the requirements in this part of the draft Regulations right for *local authority fostering services providers*? If you think there is anything missing or unnecessary please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

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PART 9: PREMISES, FACILITIES AND EQUIPMENT

Are the requirements in this part of the draft Regulations right for *independent fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

Are the requirements in this part of the draft Regulations right for *local authority fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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PART 10: SUPPORT FOR FOSTER PARENTS

Are the requirements in this part of the draft Regulations right for *independent fostering services providers and foster parents*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

Are the requirements in this part right of the draft Regulations for *local authority fostering services providers and foster parents*? If you think there is anything missing or unnecessary please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary please explain within the box below.

PART 11: STAFFING

Are the requirements in this part of the draft Regulations right for *independent fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

Are the requirements in this part of the draft Regulations right for *local authority fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary please explain within the box below.

PART 12: DUTIES OF RESPONSIBLE INDIVIDUALS

Are the requirements in this part of the draft Regulations right for *independent fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft statutory guidance adequately support *independent fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below.

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PART 13: DUTIES OF LOCAL AUTHORITY FOSTERING SERVICES MANAGERS

Are the requirements in this part of the draft Regulations right for *local authority fostering services*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Does the draft code of practice adequately support *local authority fostering services providers* in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary please explain within the box below.

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PART 14: ESTABLISHMENT OF FOSTERING PANELS

Are the provisions in this part of the draft Regulations right for *independent fostering services providers* and *local authority fostering services providers*? If you think there is anything missing or unnecessary, please explain within the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Do you agree with the new requirement to establish a central list (draft regulation 87)? If you have any comments on this requirement, please use the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Do you agree with the arrangements for a two-stage assessment process for prospective foster parents (draft regulation 91)? If you have any comments on these arrangements, please use the box below.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Do you think there is a need for good practice guidance to support fostering services providers implement the provisions in this part of the draft Regulations? If so, please explain in the box below what you think this guidance should cover.

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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OFFENCES			
<p>Is the approach taken in relation to offences within the draft Regulations (regulation 14 in relation to independent fostering services providers and regulation 78 in respect of responsible individual) sufficient and proportionate? If not, please explain below.</p>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
PENALTY NOTICES			
<p>Is the approach in relation to penalty notices, as illustrated at Annex A, sufficient and proportionate? Are the levels of penalty appropriate? If not, please explain below.</p>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
PLACEMENTS BY VOLUNTARY ORGANISATIONS			
<p>Are we correct in our understanding of the way Part VI of the 2003 Regulations might have been used in practice, and in our conclusion that these provisions are redundant and can therefore be repealed? Please comment in the box below.</p>			

INDEPENDENT REVIEW MECHANISM

We would welcome your views on the future of independent reviews of determinations (IRDs) and the Independent Review Mechanism (IRM). In giving your views, please consider the following questions:

- Is there a continuing need for independent reviews of determination for fostering?
- Would there be any disadvantages to removing the requirement for an independent review of determinations for fostering?
- Should we retain the current arrangements for independent reviews supported by an IRM? Please give reasons for your answer.
- Are there new or alternative arrangements which could be put in place for reviewing qualifying determinations for fostering? If so, what could those arrangements be?
- If you want to propose new or alternative arrangements, please be as specific as you can about how those arrangements might work in practice, and explain how any proposals would demonstrate transparency, independence and promote fostering.

Please comment:

Other Questions

We have identified a number of costs/benefits/risks related to these draft Regulations.

Do the costs/benefits/risks referenced in this consultation document give a reasonable account of the level of impact of the draft Regulations? Are there any additional costs/benefits/risks that you feel have not been considered or identified?'

Please explain:

The Welsh Government is interested in understanding whether the proposals in this consultation document will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.

Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?

Please explain:

We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on

- i) opportunities for people to use Welsh and
- ii) on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Please explain:

Please also explain how you believe the proposed policy could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Please explain:

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.