

# STATES OF JERSEY



Jersey

## **DRAFT REGULATION OF CARE (STANDARDS AND REQUIREMENTS) (AMENDMENT) (JERSEY) REGULATIONS 202-**

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**Lodged au Greffe on 8th March 2022  
by the Minister for the Environment  
Earliest date for debate: 25th April 2022**

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**STATES GREFFE**



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## REPORT

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### Section 1: Introduction

1. The draft Regulation of Care (Standards and Requirements) (Amendment) (Jersey) Regulations 202- (the “draft Regulations”) would, if adopted, amend the [Regulation of Care \(Standards and Requirements\) \(Jersey\) Regulations 2018](#) (the “2018 Regulations”) which set out the requirements to be imposed on registered care providers and applicants for registration under the [Regulation of Care \(Jersey\) Law 2014](#) (the “2014 Law”).
2. It is one of 3 sets of draft Regulations being brought forward under the 2014 Law for States approval, the other 2 being:
  - Draft Regulation of Care (Regulated Activities) (Amendment of Law) (Jersey) Regulations 202- (P.45/2022): Regulations that describe the types of health and social care to be regulated. These include 10 new categories of social work and mental health service provided to children, including:
    - adoption services;
    - children’s home services;
    - fostering services;
    - social work services for children and young people;
    - independent monitoring and review service in looked after children’s cases;
    - child contact centres;
    - residential family centres;
    - children and young peoples’ mental health services;
    - care services in special schools; and
    - children and family community nursing services.
  - Draft Regulation of Care (Transitional Provisions) (Jersey) Regulations 202- (P.47/2022): Regulations that set out the transitional arrangements with regard to certain care home and home care services that are already regulated under the 2014 Law, and which provide newly regulated services 6 months to register with the Jersey Care Commission (the “Commission”).

### Section 2: Background

3. The 2014 Law provides a legislative framework for the independent regulation of health and social care in Jersey. It is a single enabling Law which is underpinned by a series of Regulations, each focusing on a distinct type of health and social care provision. The 2014 Law came into force in January 2019, when care homes, home care services and day care services for adults were made subject to the new regulatory regime under the Care Commission.
4. The report accompanying the draft Regulation of Care (Regulated Activities) (Amendment of Law) (Jersey) Regulations 202- provides background information about:
  - the purpose and function of the 2014 Law;

- the rationale for regulating social work and mental health services for children and young people in Jersey;
  - the fees to be charged to providers of newly regulated services;
  - the consultation process and feedback from the consultation; and
  - next steps in the development of the regulatory framework.
5. The 2018 Regulations were introduced at the same time as the 2014 Law came into force. These Regulations set out the requirements imposed on persons seeking registration as care providers under the 2014 Law, and on those already registered under that Law (registered providers and registered managers).
  6. The 2018 Regulations give people using care services, and their relatives, confidence that the care they will receive will be appropriate, safe and of a high standard. They include provisions concerning the suitability of people registered to operate and manage care services, the quality of care provided, operational requirements and arrangements relating to inspection.
  7. The Care Commission inspects current providers and will inspect newly regulated providers at least once a year to ensure compliance with these requirements. The powers of inspection are set out in Part 5 of the 2014 Law.
  8. The Commission publishes detailed standards setting out what providers must do to meet the requirements of these Regulations. The Commission is developing bespoke standards for each category of service which would become subject to regulation following the approval of these Regulations. The Regulations also set out the offences for non-compliance with the requirements and the penalties for committing an offence.
  9. The 2018 Regulations are largely generic and apply equally to all regulated activities except for Regulations 28, 29, 30 and 31 which apply only to children's homes and children's support services. Requirements under the current 2018 Regulations include matters such as:
    - (a) *conditions of registration:*
      - fit and proper person criteria;
      - information to be provided on registration, including statement of purpose;
      - number and description of service users;
      - category of care to be provided;
      - requirement for a registered manager per service (except where the Commission consents to services sharing a registered manager).
    - (b) *service requirements, including:*
      - compliance with the Commission's detailed standards (which are to be brought forward in respect of newly regulated services);
      - conduct of the service – by making proper provision to meet needs of care users (health, welfare, treatment, supervision, education, etc.) and providing effective leadership and management, safeguarding care users from abuse;
      - openness, transparency and involvement of care users or their representatives in planning their own care;
      - ensuring good standards of hygiene and infection control;
      - providing sufficient, nutritious and well-prepared food;

- having in place safe systems for medicines management;
  - ensuring the safe recruitment, employment and conduct of people who work with care users;
  - providing premises that are appropriately designed and fit for their intended purpose;
  - developing quality assurance systems and publishing reports of service reviews.
- (c) *general requirements, including:*
- notification of accidents or other events that have harmed or may pose a risk to care users;
  - the establishment and keeping of records relating to the service;
  - requirements relating to complaints processes;
  - requirement to ensure financial viability of the services.
- (d) *additional requirements for children's home and children's support services including:*
- provision for meeting a child's educational and leisure needs;
  - appointment, at the provider's expense, of an independent person to visit and report on the children's home at least once month as part of quality assurance and safeguarding arrangements. Independent persons may visit unannounced, may interview children, their parents, staff, etc. in private, and may inspect premises. Their reports must be provided to the Care Commission, the Minister and the service provider.
- (e) *Offences*
- a breach of Regulations may lead to an improvement notice being served; failure to comply with an improvement notice is an offence;
  - a breach of Regulations that results in serious harm or is a significant risk of serious harm to a care user is an offence

**Note: Care Commissioned services**

The Care Commission cannot regulate the States, or any other agency, as a commissioner of services. The Regulations do, however, place a requirement on registered persons who are contracted to provide services via a third party to report to the Care Commission any deficiencies in care or risks that arise due to:

- insufficiency in the amount or type of care commissioned;
- lack of equipment or other risks/limitation that arise from the environment.

**Section 3: Draft Regulation of Care (Standards and Requirements) (Amendment) (Jersey) Regulations 202-**

10. The draft Regulations make both amendments to some of the existing generic 2018 Regulations which apply to all regulated services and introduce additional requirements which will apply only to specific services.

## **Amendments to Existing Generic Regulations**

### **Service user definition – Regulation 1**

11. Under the “draft Regulations” the term “care receiver” which is currently used in the 2018 Regulations has been replaced by “service user”. This is defined as any individual who receives or otherwise uses services provided in the carrying on of a regulated activity.
12. This change has been introduced because some users of care services are not in direct receipt of care. For example, an individual undergoing an assessment for their possible social care needs is not necessarily in receipt of care, but they are unquestionably a service user, and the Commission must be able to ensure that all the services provided to them are appropriate.

### **Conditions of registration – Regulation 3**

13. The process for applying conditions to a provider’s registration is set out in the 2014 Law. This includes a right of appeal against any condition the Commission wishes to apply that is not already agreed with the provider as part of their registration.
14. The 2018 Regulations oblige the Commission to apply specific registration conditions for the purpose of ensuring that, once registered, a service remains appropriate for the needs of the people receiving care. The 2014 Law, however, is sufficiently flexible to enable a registered provider or manager to apply for a change or variation in the service’s registration conditions should the circumstances or needs of a service change.
15. In general, the conditions applied to a registration are based on information supplied by providers in their Statement of Purpose which forms part of the application process. The Statement of Purpose includes the aims and objectives of the service, the type of care offered by the service, the number people provided care and details of how the service will operate.
16. The conditions applied to a provider’s registration include administrative details such as having a local address and providing the addresses of each location from which the service operates. They also include quality and safety features intended to ensure the service is capable of meeting users’ needs. This includes, for example, setting a maximum number of people for whom the service can provide care, the age ranges of people using the service and the types of care that can be provided. Providers are also required to operate the service in accordance with the Statement of Purpose and pay an annual fee each year.
17. The draft Regulations amend the 2018 Regulations to provide the Care Commission with the power to stipulate the maximum number of residents who can be accommodated in children’s homes and residential family centres, as well as care homes. Amendments also enable the Commission to make further stipulations about the nature of the care provided in child contact centres and in special schools, as well as adult day care centres.
18. The Commission would also be able to impose conditions about the maximum number of children and young people or the types of care which social work, mental health and independent monitoring and review services can provide to children and young people.
19. The Regulations also specify that a registered manager will be required for each location at which a service is provided. However, in certain circumstances, the Commission has discretion to permit a manager to be registered for more than one location if it is safe and appropriate to do so.

### **Openness and transparency – Regulation 6**

20. Those registered to operate and manage a regulated activity are required to be open and transparent in relation to the care and treatment they provide. As part of this, a registered person must inform anyone who is receiving care (or their representative) of any incident affecting their health or wellbeing and provide them with support.
21. In addition, the draft Regulations would impose a requirement on providers to have due regard to the protected characteristics of service users. Protected characteristics are listed under the [Discrimination \(Jersey\) Law 2013](#) and include race, sex, sexual orientation, gender reassignment, pregnancy and maternity, age and disability.

### **Respect and involvement – Regulation 7**

22. Registered providers and managers must ensure that the people for whom they provide care are:
  - treated with dignity and respect;
  - are afforded privacy;
  - enabled and supported to be as independent and autonomous as is practicable;
  - enabled to participate in making decision about their support, care and treatment; and
  - where appropriate, supported to manage their own care and treatment.
23. The draft Regulations would also ensure that care providers must make reasonable adjustments to facilitate the delivery of care and treatment to service users. Amendments provide that, as part of their duty to ensure care receivers make or participate in making decisions about their support, care or treatment, registered persons must enable and support service users or their representative to understand the care or treatment choices available to them and to discuss, with a competent health care professional or other competent person, the balance of risks and benefits involved in any particular course of treatment or care.

### **Person-centred care – Regulation 8**

24. Regulation 8 of the 2018 Regulations has been amended so that the obligations placed on regulated services in respect of the care and treatment (should the provider be providing treatment as well as care) which they provide to service users are clear. Care and treatment provided to service users must:
  - be appropriate;
  - meet their needs; and
  - reflect their preferences.
25. Services must demonstrate that the needs of service users are assessed and regularly reviewed, and that, where practicable, this is done with the involvement and assistance of the person receiving care or their representative. This includes planning and delivering care or treatment with a view to achieving the service user's preferences and ensuring his or her needs are met, including any educational or training needs. Registered persons must ensure that the care and treatment provided is based on good practice and professional guidance.
26. The registered person must ensure that people receiving care are protected from inappropriate or unsafe care or treatment. They must have procedures in place to deal with emergencies.

27. Care home services must ensure that service users have access to necessary health care and personal care, including making referrals to relevant services where this is required.

**Personal plans and care records – Regulation 9**

28. A personal plan must be prepared in consultation with the person receiving care or their representative setting out how their, health, safety and welfare needs will be met, and this should form part of the person’s comprehensive contemporaneous care record.
29. Amendments have been made to ensure that, in preparing a service user’s personal plan, registered persons must have due regard to the individual’s age, disability (if any) and capacity. This new Regulation will also enable care providers to deny access to care records by service users’ representatives if they deem this is appropriate in the circumstances.

**Need for consent – Regulation 9A**

30. Regulation 9A is a new Regulation which requires that care and treatment must only be provided with the consent of service users or, if applicable, their representatives. This does not apply in cases where the individual lacks capacity to consent under the Law and in cases where service users are being treated under the provisions of the [Mental Health \(Jersey\) Law 2016](#).

**Safeguarding – Regulation 11**

31. Registered providers are required to make provisions to ensure that those in their care are safeguarded from harm or abuse. This Regulation has been amended to clarify the definition of abuse to include offences under Part 10 of the Mental Health (Jersey) Law 2016 (which relates to sexual activity with patients being treated under that Law); the [Sexual Offences \(Jersey\) Law 2018](#); the theft, misuse or misappropriation of money or property; or neglect or service users.

**Nutrition and hydration – Regulation 13**

32. This obligation has been expanded to include a requirement that registered persons must provide service users with parenteral nutrition and dietary supplements when this has been prescribed by a health care professional.

**Management of medicines – Regulation 14**

33. There are a number of obligations to meet the nutritional needs of those receiving care and to have safe systems in place to manage medicines. Regulation 14 has been amended to ensure that, where medicines are supplied (not merely administered) by the registered person, they must ensure that there are sufficient quantities of these to ensure the safety of service users and to meet their needs.

**Shared responsibilities – Regulation 15**

34. To facilitate interagency support for people receiving care, there is a specific requirement for providers and managers to work collaboratively with the wider community team.

**Premises and equipment – Regulation 18**

35. Where premises are provided as part of a regulated care service, the provider must ensure that they are fit for purpose. In addition, amendments would require registered providers to ensure that premises and equipment are properly and regularly maintained.



### **Complaints – Regulation 22**

36. The draft Regulations will impose more detailed requirements in relation to the handling of complaints by care services. Registered persons must establish a written procedure for identifying, receiving, investigating and considering complaints or representations made by or on behalf of service users.
37. The service must maintain a written record of each complaint which includes the action taken in response to it, and the outcome of the investigation. The registered person must provide a summary of complaints made about their service over the preceding 12 months to the Care Commission, upon its request.

### **Existing Generic Regulations**

#### **Regulations 5, 10, 12, 16, 17, 19, 20, 21 and 23-27**

38. There are no substantive amendments to the existing provisions of the 2018 Regulations, aside from those aspects of the Regulations which have been referenced above. These include, for example, current requirements relating to the fitness and suitability of workers, the financial viability of regulated activities and for services to carry out reviews of the quality of their services. These Regulations will continue to apply to existing regulated activities and will, in future, apply to the ten new regulated activities.

#### **Inspections, compliance and offences – Regulations 80-82**

39. Regulations 32, 33 and 34 of the 2018 Regulations have not been substantively amended. Under the draft Regulations, these provisions have been renumbered Regulations 80, 81 and 82 respectively.
40. The 2018 Regulations require the Care Commission to carry out an inspection of a regulated service at least once a year. The inspection regime does not apply to an individual who is directly employed to provide care as this would be overly intrusive. The annual inspection may cover monitoring compliance, reviewing the effectiveness of the service or may be to encourage improvements.
41. The Regulations clarify that, other than where specified, both the registered provider and registered manager are responsible for complying with the requirements.
42. Where non-compliance with the requirements is identified following an inspection or complaint investigation, and where there is no risk of serious harm or neglect, the Commission may serve an improvement notice to give providers an opportunity to address any deficiencies. Where, however, there is a risk of serious harm or neglect, or where serious harm or neglect has occurred, the registered person may be prosecuted without the need to serve an improvement notice. If convicted, the penalty for non-compliance with registration requirements is a fine of up to £50,000.

### **Existing Regulations – Children’s Home Services**

43. Regulations 28 to 31 of the 2018 Regulation apply to children’s home services. The draft Regulations make adjustments to these Regulations.

#### **Children’s homes – Regulations 28 and 29**

44. The 2018 Regulations make some specific requirements for care services provided for children. In particular, the registered person must make provision for educational and leisure activities including:

- providing opportunities and support for private independent study;
  - maintaining effective links with schools;
  - facilitating and encouraging leisure interests and activities;
  - in cases where a child is over the age of 16, assisting and supporting the child with further education, training or employment.
45. The draft Regulations would, in addition, require children's home services to:
- implement a procedure for monitoring educational achievement, progress and school attendance;
  - promote regular school attendance and participation in school activities; and
  - provide the child with such information and assistance, including equipment, as may be necessary to meet their needs.
46. The registered person must also ensure that children are protected from inappropriate disciplinary measures and restraint practices, or other behaviour management practices, in particular no child should be subjected to:
- any form of corporal punishment;
  - deprivation of food or drink;
  - restriction on contact with friends, family or other relatives;
  - restriction on contact with his or her solicitor, appointed guardian, social worker, independent visitor or authorised person.
47. The service must also have in place a behavioural management policy that includes how unexplained absence or absconding will be managed. Amendments to the 2018 Regulations would require services to prepare this plan in conjunction with the States of Jersey Police.

#### **Independent persons for children's homes**

48. Registered providers of children's home services are obliged to appoint an independent person to visit and report on the service. The functions of the independent person include reviewing and reporting on how effectively children are safeguarded and how well the home promotes children's wellbeing.
49. The Regulations set out a number of requirements about the appointment to this role to reduce the likelihood of any conflicts of interest and ensure independence. The appointed independent visitor is required to visit at least once a month and as part of this visit must be able to meet in private with any children, parents, relatives and staff. In their report of the visit, the independent person may make recommendations with timescales that must be considered by the registered person and a copy of this report must be provided to the Commission, the Minister for Children and Education, the provider and manager.

#### **New Regulations – Adoption Services**

50. Adoption services will be subject to a number of additional, specific requirements under the 2018 Regulations. Additional, specific Regulations are required because adoption service providers must discharge unique duties and, in so doing, follow due process. The Care Commission must have the ability to determine whether these duties have been successfully discharged and that due process has been followed.

51. Regulations 32 to 62 of the draft Regulations mirror the broad regulatory framework which is provided in England under the Adoption Agencies Regulations 2005. Regulations 35 to 42 set out the requirements which apply to an adoption service in relation to the children that the service is considering placing for adoption. Regulations 43 to 48 set out the requirements which apply to an adoption service when it is considering the suitability of potential adoptive parents. Regulations 49 to 59 set out the requirements which apply to the adoption service when it has decided that an individual or a couple may be suitable to adopt a child.

**Appointment of a medical adviser – Regulation 33**

52. The registered person is required to appoint at least one doctor to be the service's medical adviser. The medical adviser must be consulted in relation to the disclosure of health information, when such a disclosure is legally required or permitted.

**Preparation of written procedures – Regulation 34**

53. This introduces a requirement for the registered person to prepare and to implement written policy and procedures which govern the way in which the adoption service and the Adoption Panel exercise their respective functions. In preparing these written policies and procedures, the service's medical adviser and the Adoption Panel must be consulted. These policies and procedures must be kept under review and, where appropriate, revised.
54. The Adoption Panel is established under Article 7 of the [Adoption \(Jersey\) Law 1961](#) (the "1961 Law").

**Requirements: Children Being Placed for Adoption – Regulations 35 to 42**

55. Regulation 35 requires adoption services to establish a case record for every child that it is or was considering placing for adoption. The registered person is required to place certain specific information in each child's case record, which is set out in paragraphs (a) to (k) of Regulation 35. The information each child's case record must contain includes, for example, information and reports obtained by the service in relation to the child, the child's permanence report and copies of relevant legal documents in relation to the adoption of the child.
56. Regulation 36(2)(a), (b) and (3) require the adoption service to identify prospective adopters who may be suitable to adopt a particular child, use their best endeavours to find a particular prospective adopter with whom it proposes the child is placed and to assess whether a prospective adopter may be suitable to meet the child's needs throughout childhood. Regulation 36(2)(c) provides that where the adoption service is considering adoption for siblings, the service will need to consider whether to seek to identify prospective adopters who may be suitable to adopt two or more of the siblings together, having regard to the interests of each child.
57. Under Regulation 37, registered persons must, as far as is reasonably practicable, provide every child with a counselling service. The service must explain the adoption process, including the legal implications of adoption, to every child in an appropriate manner. The registered person must also ascertain every child's wishes and feelings in relation to their adoption, including contact with their parents and their religious and cultural upbringing.
58. Regulation 38 requires the adoption service to provide a counselling service for the parent or guardian of a child that the service is considering placing for adoption. The service must both explain the adoption process to them in an

- appropriate way and ascertain the wishes and feelings of parents or guardians in relation to the adoption. The service is required to perform these duties so far as it is reasonably practicable for it to do so. For these purposes, a parent also includes a father who does not have parental responsibility for the child and for whom the registered person is satisfied it is appropriate to provide these services.
59. The adoption service must, under Regulation 39, obtain detailed background information on each child, including, for example, their name, sex, date and place of birth, a physical description, their nationality and their racial origin and cultural and linguistic background. The service must also obtain a written health report on every child in their care from a qualified doctor. The doctor should examine the child and the child should have any further examinations, including psychiatric examinations, which the service's medical adviser recommends. This is, however, subject to the child providing their consent to these examinations, if they are of sufficient understanding to make an informed decision.
60. Regulation 40 requires the adoption service to obtain relevant background information about the child's family. This includes key background information about both birth parents, about the child's siblings and other key relatives, as well as relevant history of relationships within the family. The service must also obtain information on the health of the child's birth parents and their siblings.
61. Regulation 41 requires the adoption service to compile a written permanence report and to provide this to the Adoption Panel whenever the Panel is requested to determine a question in relation to the child's proposed adoption. The report must contain all the key information which the adoption service has obtained in relation to the child, including relevant biographical information, information about the child's wishes and feelings, their parents' or guardians' wishes or feelings and the service's assessment of the child's need for continued contact with any particular individual.
62. When the Adoption Panel is consulted as to whether a child should be placed for adoption, Regulation 42 requires the adoption service to consider its recommendations and any advice it has given in relation to contact arrangements between the child and other persons. The service must ensure that no member of the Adoption Panel is involved in decisions made by the service in relation to the child.

#### **Requirements: Prospective adoptive parents – Regulations 43 to 48**

63. Regulation 43 states that adoption services must prepare a plan in consultation with every prospective adoptive parent. This plan must contain information about aspects of the adoption process, for example, on the counselling services provided, the process of obtaining police criminal background checks and information about the role of the prospective adopter in the adoption process.
64. Regulation 44 requires adoption services to establish a case record for every prospective adopter. The registered person is required to place certain specific information in each case record, which is set out in paragraphs (a) to (i) of Regulation 44. The information each prospective adopter's case record must contain includes, for example, information and reports obtained by the service in relation to the individual, the prospective adopter's plan and decisions and reviews in relation to the suitability of the prospective adopter to adopt a child.
65. Under Regulation 45, the adoption service is required to ensure that a prospective adopter is suitably prepared to adopt a child by providing them with a counselling service, explaining the legal implications of adoption (including assistance in

overseas adoption cases, if relevant), and providing adoption information and training.

66. Regulation 46 requires adoption services to carry out police criminal record background checks on all prospective adopters and on all members of their household aged 18 or over. If a prospective adopter or a member of their household has been convicted of an offence listed under paragraph 2 of Schedule 4 to the [Children \(Jersey\) Law 2002](#), the adoption service cannot consider the prospective adopter as suitable to adopt a child.

**Schedule 4, paragraph 2 of the Children (Jersey) Law 2002**

2. The offences referred to in paragraph 1(e) are –
- (a) the murder or manslaughter of a child;
  - (b) infanticide;
  - (c) an offence against a child under the Sexual Offences (Jersey) Law 2018;
  - (d) an offence against a child under any provision of an enactment or of customary law that was repealed by the Sexual Offences (Jersey) Law 2018;
  - (e) any other offence that is a relevant offence within the meaning of the [Sex Offenders \(Jersey\) Law 2010](#);
  - (f) stealing a child or receiving a stolen child;
  - (g) assault on a child;
  - (h) an offence under Article 35 of this Law or Article 9 of the 1969 Law;
  - (i) any other offence involving bodily injury to a child;
  - (j) an offence under Article 2(1)(a) of the [Protection of Children \(Jersey\) Law 1994](#);
  - (k) an offence under Article 38(1)(b) or (c) of the Adoption (Jersey) Law 1961;
  - (l) an offence under Article 37(12), Article 44 or Article 45(7);
  - (m) an offence under Article 12 of the [Day Care of Children \(Jersey\) Law 2002](#) or Article 45 of the 1969 Law; and
  - (n) an offence under Article 54(6) of this Law or Article 52(5) of the 1969 Law.

67. The adoption service must, under Regulation 47, obtain detailed background information on each prospective adopter, including, for example, their name, sex, date and place of birth, their relationship status and details of any previous family court proceedings with which they have been involved. The service must obtain a written health report on every prospective adopter from a qualified doctor. The service must also interview two individuals who have been put forward by the prospective adopter to provide personal references about them and obtain written reports of these interviews.
68. Regulation 48 obliges the adoption service to take account of the background information it has obtained in deciding whether a prospective adopter may be or

is not suitable to adopt a child. The service is required to notify the prospective adoptive parent of its decision, in writing, as soon as possible and to keep a record of its decision. When notifying prospective adopters who have been given preliminary approval to adopt a child, the service must explain to them that they are required to provide the service with notification that they wish to continue with the adoption assessment process within 6 months of preliminary approval being granted.

**Requirements: Adoptive parents – Regulations 49 to 59**

69. For those prospective adopters who receive preliminary approval, Regulation 49 requires the adoption service to prepare a written assessment plan in consultation with each prospective adopter. This plan must set out the procedure for assessing the prospective adopter's suitability to adopt a child and information about the assessment process, including arrangements for additional counselling, amongst other matters.
70. Regulation 50 requires the adoption service to obtain further detailed background information on the prospective adopter, such as a physical description of them, their nationality, their racial origin and cultural and linguistic background, and a description of their personality and interests. The service must prepare a prospective adopter's report which contains all of the background information it has obtained about the prospective adopter, including health information, and provide this to the prospective adopter. If this information is being referred to the Adoption Panel, the service must notify the prospective adopter. The service must provide them with 5 working days to make written observations on the report.
71. Regulation 51 requires the adoption service to take account of the recommendation of the Adoption Panel when considering whether a prospective adopter is suitable to adopt a child. The service must ensure that no member of the Adoption Panel is involved in decisions made by the service about the suitability of a prospective adopter. The service is required to notify the prospective adoptive parent of its decision, in writing, and to keep a record of its decision. When the adoption service has decided that a prospective adopter is unsuitable, the service must provide them with reasons for this decision. The prospective adopter has 40 days to make representations against this decision. Upon receipt of such representations, the registered person is required to send these, alongside other relevant information, to the Adoption Panel which will recommend whether to uphold the service's original decision or not. The service must then make a final decision over the prospective adopter's suitability, having taken the Adoption Panel's recommendation into account.
72. Regulation 52 sets out the process by which the adoption service must undertake annual reviews of its decisions to approve prospective adopters. When, following a review, the adoption service determines that a prospective adopter may no longer be suitable to adopt, the service must send the prospective adopter's review report to the Adoption Panel. The Panel will consider the report and make recommendations. The adoption service must take these into account when making a final decision about a prospective adopter's suitability.
73. For those prospective adopters who have been approved to adopt a child, the adoption service must prepare a prospective adopter matching plan, under Regulation 53. This must set out information in relation to the process of placing a child for adoption with the prospective adopter and information about the role of the prospective adopter in identifying a child for whom they would be an appropriate adopter.

74. Regulation 54 sets out the requirements for the adoption service to adhere to when it is proposing to place a child with a prospective adopter. This includes its duty to provide prospective adopters with a copy of the child's permanence report and other key information in relation to the placement, to meet the prospective adopter to discuss the proposed placement and to ascertain their views. The service must determine whether it would be appropriate to pay an allowance, following an assessment of the needs of the child and the prospective adopter. It must also consider arrangements for allowing any person contact with the child. The adoption service must prepare an adoption placement report which must include the service's reasons for proposing the placement, in addition to the key information in relation to the placement. The service must provide the adoption placement report, the child's permanence report and the prospective adopter's report to the Adoption Panel.
75. Regulation 55 requires that, when making a final decision in relation to a proposed placement, the adoption service takes the Adoption Panel's recommendations into account and that no member of the Panel is involved in the service's decision. The service is required to notify the prospective adopter and the birth parents of the child, if possible. If the service decides to proceed with the proposed placement, the service must explain this decision to the child in an appropriate manner. The service must then update the child's case record.
76. Regulation 56 covers the adoption service's duties in relation to overseas adoption. When the service receives information from adoption services in another jurisdiction about a potential adoption of a child by a prospective adopter, the registered person must consider the information and meet with the prospective adopter to discuss it. It must also, if appropriate, provide a counselling service and any further information to the prospective adopter which may be prescribed by the Care Commission in its Care Standards.
77. Regulation 57 requires the adoption service to compile an adoption placement plan which covers information about the placement, including, for example, the arrangements for preparing the child and the prospective adopter for the placement, the date on which the placement will take place and the arrangements for reviewing the placement. This must be compiled following a meeting with the prospective adopter to consider the arrangements for the placement. The plan must be sent to the prospective adopter. The adoption service must send to the prospective adopter's general practitioner written notification of the proposed placement and send with that notification a written report of the child's health history and current state of health.
78. The adoption service is required to undertake periodic reviews of the cases of children in its care who have not been placed for adoption and of adoption placements it has made (prior to the making of an adoption order by the Court), under Regulation 58. Regulation 58 sets out the steps which the adoption service is required to take and the timings of those steps in relation to these reviews.
79. Regulation 59 requires the adoption service to appoint an independent reviewing officer to chair all meetings at which a child's case is being considered. The independent reviewing officer must be a registered social worker and must work under the direction or supervision of the registered manager of the independent reviewing and monitoring service, which will be regulated under paragraph 10 of Schedule 1 to the 2014 Law.

**Case records – Regulations 60 to 62**

80. Regulation 60 requires adoption services to keep the case records of children and of prospective adopters in secure conditions. Case records must be kept for no less than 75 years, and they must be kept confidential.
81. Regulation 61 requires the adoption service to keep a written record of any access provided to or disclosure made from case records. Access to case records may be lawfully required by relevant legislation, the Court, or the Care Commission.
82. Under Regulation 62, adoption services in Jersey are required to keep a written record of any transfer made of a copy of a case record to an equivalent adoption service in another jurisdiction.

**New Regulations – Fostering Services**

83. Fostering services will be subject to a number of additional, specific requirements under the 2018 Regulations. Additional, specific Regulations are required because fostering service providers must discharge unique duties, such as ensuring that fostering placements are appropriate to meet the needs of children.
84. Regulations 63 to 76 of the draft Regulations mirror the broad regulatory framework which is provided in England under the Fostering Services (England) Regulations 2011. Regulations 64 to 69 set out the requirements which apply to a fostering service in relation to the children that the service is placing or has placed in a fostering placement. Regulation 70 sets out the requirements which apply to a fostering service in relation to foster parents. Regulation 71 makes additional requirements in relation to the handling of complaints. Regulations 72 to 74 set out the requirements which apply to the Fostering Panel. Regulation 75 requires fostering services to establish a procedure for receiving representations from foster parents who are no longer approved.
85. Some of the requirements which are in place under English legislation are covered in Jersey Law under the [Children \(Placement\) \(Jersey\) Regulations 2005](#) (the “Placement Regulations”). This includes, for example, the process which fostering services must undertake to approve foster parents. Regulation 76 links the draft Regulations to the relevant requirements under the Placement Regulations, thus enabling the Care Commission to properly regulate the discharging of those requirements by fostering services.

**Requirements: Children in fostering placements – Regulations 64 to 69**

86. Regulation 64 requires fostering services to ensure that the welfare of children placed with foster parents is always safeguarded and promoted. The service must give due consideration to every child’s wishes and feelings and to their religious persuasion, racial origin and cultural and linguistic background before making any decision affecting a child.
87. Fostering services are required to prepare and to implement a written policy which is intended to safeguard children from abuse or neglect, under Regulation 65. This policy must set out the procedure to be followed if allegations of abuse or neglect are raised.
88. Regulation 66 requires fostering services to prepare and implement written policy on acceptable measures of control, restraint and discipline of children placed with foster parents. Services must ensure that foster parents are aware that it is unlawful to use any form of corporal punishment against children, including smacking, in Jersey. This includes taking reasonable steps to ensure that no child placed with a foster parent is subject to any measure of control, restraint or



discipline which is excessive or unreasonable. Fostering services are also required to prepare and implement written policy, which is agreed by the States of Jersey Police, setting out both the measures to be followed to prevent children from going missing from a foster placement and the procedure to be followed when a child goes missing from a foster placement.

89. Regulation 67 requires fostering services to promote contact between a child placed with a foster parent and the child's parents, relatives and friends unless such contact is not reasonably practicable or consistent with the child's welfare. It is recognised that there are other factors which may prevent the service from promoting contact, including an order of the Court.
90. Regulation 68 requires fostering services to promote the health and development of children placed with foster parents by ensuring that they are:
- registered as a patient with a registered general medical practitioner;
  - able to access the medical, dental, nursing, psychological and psychiatric or other mental health advice, treatment and other services which they require;
  - provided with such individual support, aids and equipment which they require as a result of any particular health needs or disability; and
  - provided with guidance, support and advice on health issues as is appropriate to their needs and wishes.
91. Regulation 69 requires fostering services to promote the educational achievement of children placed with foster parents by:
- implementing a procedure for monitoring their educational achievement, progress and school attendance;
  - promoting the regular school attendance and participation in school activities of children of compulsory school age; and
  - providing foster parents with such information and assistance, including equipment, as may be necessary to meet the educational needs of children placed with them.
92. The registered person must ensure that education provided for any child placed with a foster parent who is of compulsory school age, but who is not attending school, is efficient and suitable to the child's age, ability, aptitude, and any special educational needs they may have. Services must ensure that foster parents promote the leisure interests of children placed with them. For children in a foster placement who are above compulsory school age, fostering services must assist with the making of, and give effect to, the arrangements made for the child's education, training and employment.

#### **Support for foster parents – Regulation 70**

93. The registered person is required to provide such training, advice, information and support to foster parents, including support outside office hours, as appears necessary in the interests of children placed with them. Fostering services must ensure that foster parents act in accordance with policies in relation to safeguarding and behaviour management, and in accordance with the policy on children who are missing from foster placements.
94. Fostering services are required to provide foster parents with a copy of the most recent version of a child's personal plan. The service must provide any additional information, which is to be kept up to date, to enable the foster parent to provide appropriate care for the child.

**Fostering service complaints – Regulation 71**

95. Regulation 22 imposes detailed requirements in relation to the handling of complaints by all registered services, including fostering services. Regulation 71 requires fostering services to ensure that this complaints procedure includes a procedure for considering complaints or representations made by or on behalf of children placed by the fostering service, and by foster parents approved by the fostering service. Fostering services must ensure that children are enabled to make a complaint and that no child is subject to any reprisal for doing so.

**Fostering panel – Regulations 72 to 74**

96. Regulation 72 requires the registered person to establish a Fostering Panel which is made up of individuals who have between them the experience and expertise necessary to discharge the functions of the Panel effectively. The Panel must include one or more social workers who have at least 3 years' relevant post-qualifying experience. The Panel must be chaired by a person who is independent of the fostering service, including approved foster parents, those working in children's social work for the Government of Jersey, anyone with a financial interest in fostering services or a States Member.
97. Regulation 73 requires the registered person to ensure that every meeting of the Fostering Panel is chaired by the independent chair, an independent vice chair or another independent member of the Panel. At least one social worker who has at least 3 years' relevant post-qualifying experience must also be present, as well as 3 other members of the Panel. A written record of every meeting of the Fostering Panel must be made.
98. The functions of the Fostering Panel are set out under Regulation 74. The registered person must ensure that the Panel:
- considers whether or not to recommend that a person is suitable to be approved as a foster parent;
  - recommends the terms on which a foster parent should be approved;
  - recommends whether or not a person remains suitable to be a foster parent;
  - makes recommendations in cases which have been referred to it under Regulation 75, when persons appeal against decisions to approve or to no longer approve them as a foster parent; and
  - advises and makes recommendations on other matters which the fostering service refers to it.
99. Under Regulations 14 and 15 of the Placement Regulations, the fostering service, acting on behalf of the Minister for Children and Education, is responsible for approving foster parents, for conducting regular reviews of these approvals, and for terminating approvals when appropriate. Regulation 74 of the draft Regulations does not alter this position but provides a role for the Fostering Panel to make recommendations before the fostering service makes its final decisions on these matters.
100. The registered person is required to ensure that no member of the Fostering Panel takes part in the final decision of the fostering service to approve or to terminate the approval of a foster parent. They must ensure that the Panel has access to the information it requires to discharge its functions.

**Representations against removal of approval – Regulation 75**

101. The registered person is required to establish a procedure to allow individuals to make representations against decisions made not to approve them as foster

parents; to impose certain terms on their approval as a foster parent; or to terminate their approval as a foster parent. There must be a timely independent review of any such representations. The recommendations of any independent reviews must then be referred to the Fostering Panel.

#### **Requirement to comply with the Placement Regulations – Regulation 76**

102. Regulation 76 enables the Care Commission to regulate the existing requirements which are placed on fostering services under Regulations 13 to 27 of the Placement Regulations. This provision will allow the Commission to ensure that fostering services discharge statutory requirements in relation to:

- approving foster parents;
- reviewing and terminating the approval of foster parents;
- making suitable placements of children with foster parents;
- supervising foster placements;
- terminating foster placements;
- making emergency and immediate foster placements;
- establishing case records for children placed with foster parents;
- establishing case records for foster parents;
- maintaining a register of foster placements;
- maintaining a register of foster parents;
- retaining and maintaining fostering records confidentially; and
- making foster placements outside Jersey.

#### **New Regulation – Children’s Social Work Services**

103. The generic Regulations (Regulation 2 to 27) under the 2018 Regulations, as amended by the draft Regulations, provide a sufficient basis on which the Care Commission can develop Care Standards and regulate children’s social work services effectively. Regulations 8 and 9 of the 2018 Regulations provide broad scope for the Commission to develop Care Standards in relation to both care assessments and care planning. While other Regulations ensure, for example, that children’s social work services must make proper provision for children in respect of their health, safety and welfare and that the service identifies and meets the needs of children who use the service.

#### **Statutory children’s social work services – Regulation 77**

104. When the social work service is performing the statutory social work functions for children and young people of any minister, Regulation 77 enables the Care Commission to develop Care Standards and to regulate the performance of those functions by the service. These statutory functions include functions of the Minister for Children and Education under the Children (Jersey) Law 2002. For example, this provision enables the Care Commission to regulate the effectiveness of the arrangements which the social work service has in place to investigate cases when children may be in need of protection, under Article 42 of the Children (Jersey) Law 2002.

105. These statutory functions will also include any functions of ministers under legislation which is enacted in the future. When new legislation comes into force, including the Children and Young People (Jersey) Law 202- ([P.107/2021](#)), providing for corporate parenting, the provision of services to children with a

wellbeing need, and the planning and reviewing of children's social care arrangements, Regulation 77 enables the Commission to regulate the performance of these statutory requirements by the social work service as soon as the legislation is enacted.

### **New Regulation – Independent Monitoring and Review Service**

106. For those independent monitoring and review services in respect of looked after children's cases which currently operate, there are sufficient requirements under Regulations 2 to 27 of the 2018 Regulations to enable the Commission to develop Care Standards and to regulate these services effectively.

#### **Statutory independent monitoring and review services – Regulation 78**

107. There is no legislation which underpins the work of Independent Reviewing Officers (IROs) in Jersey. However, independent monitoring and review services will hold statutory responsibilities in respect of children who are looked after by the Minister for Children and Education when Article 42 of the Children and Young People (Jersey) Law 202- comes into force.
108. If any further legislation is enacted which sets out requirements for the role IROs, Regulation 78 enables the Care Commission to regulate the performance of these statutory requirements by the independent monitoring and review service as soon as the legislation is enacted.

### **New Regulation – Child Contact Centres**

109. As is the case with all other regulated activities, child contact centres will be required to provide services in adherence to the requirements under Regulations 2 to 27 of the 2018 Regulations.

#### **Supervised contact – Regulation 79**

110. In addition, child contact centres will be required, under Regulation 79, to ensure that all contact between a child and their mother or father; a relative; or a friend, which is facilitated by the service is directly supervised by an employee of the child contact centre at all times. The requirement to provide direct supervision means that workers in the contact centre must be physically present when facilitating contact with children or must have a direct line of sight to the child and the other person through a window or by video-link.

## **Section 4: Financial and manpower implications**

111. Information about the financial and resource implications of the 2014 Law are set out in Section 4 of the report accompanying the draft Regulation of Care (Regulated Activities) (Amendment of Law) (Jersey) Regulations 202- (lodged for debate on the same day as these draft Regulations).
112. Under the 2014 Law, all registered providers will pay initial registration and annual fees. Those providers who fail to meet with the standards and requirements brought forward by these Regulations will also incur compliance costs (i.e. the investment necessary to ensure services meet the required standards).

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## EXPLANATORY NOTE

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The Regulation of Care (Standards and Requirements) (Amendment) (Jersey) Regulations 202-, if passed, will amend the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 (the “2018 Regulations”). The principal effect of the amendments will be to specify, in the 2018 Regulations, new requirements that must be complied with by either or both of the registered provider and registered manager (as defined in the Regulation of Care (Jersey) Law 2014 (the “Law”)) in relation to new specified regulated activities under the Law. Those new regulated activities will relate to the provision of health or social care services for, or in respect of, children and young people. If the Regulation of Care (Regulated Activities) (Amendment of Law) (Jersey) Regulations 202- (the “Amendment of Law Regulations”) are passed by the States, the new regulated activities will be inserted in Schedule 1 to the Law. These Regulations also make several housekeeping and consequential amendments to Parts 1 to 5 of the 2018 Regulations arising from the insertion of the requirements in respect of the new regulated activities.

*Regulation 1* states that these Regulations amend the 2018 Regulations.

*Regulation 2* inserts, substitutes and deletes several definitions.

*Regulation 3* inserts some new conditions of registration which the Health and Social Care Commission must impose upon the registration of certain providers of health or social care services.

*Regulation 4* is a minor amendment to accommodate the renumbering of later parts of the 2018 Regulations.

*Regulation 5* are housekeeping amendments which substitute the expression “service users” for “care receivers” to reflect the wider range of activities, that are not care services, to be regulated under the Law. These are recurring housekeeping amendments and for brevity are referred to elsewhere in these notes as “service user amendments”.

*Regulation 6* adds a requirement for a registered person (as defined in the Law) to have due regard to service users’ protected characteristics, as set out in Schedule 1 to the Discrimination (Jersey) Law 2013.

*Regulation 7* adds requirements to enable service users to have greater involvement in their care or treatment.

*Regulation 8* substitutes the existing Regulation concerning care and welfare and re-names it “person-centred care”. The substituted Regulation now requires a registered person to ensure that the care and treatment of service users is appropriate, meets their needs and reflect their preferences. The substituted Regulation sets out the things which a registered person must do to comply with that requirement. A registered person is also required to ensure that service users are protected against the risks of receiving inappropriate or unsafe care or treatment. Where service users are in receipt of care home services or children’s home services, the registered person must have in place arrangements for service users to receive any necessary health care and personal care, including access to general medical or dental services.

*Regulation 9* amends provisions in respect of personal plans and care records. Amongst the changes to this Regulation, a registered person must, when preparing the personal plan, have due regard to the service user’s age, disability (if any) and capacity. Additional provision is made in connection with access to the service user’s personal plan and care record by the service user’s representative; for those plans and records to

be inspected by the Commission; and in the case of a service user who is under the age of 18, for plans and records to be retained for not less than 75 years.

*Regulation 10* inserts a new Regulation which requires a registered person only to provide care and treatment to a service user with the consent of the service user or, if applicable, the service user's representative. Where a service user lacks capacity to give consent, the registered person must act in accordance with the Capacity and Self-Determination (Jersey) Law 2016 or, if applicable, the Mental Health (Jersey) Law 2016 (the "Mental Health Law").

*Regulations 11 to 13* are service user amendments. Regulation 11 (safeguarding) is also amended to require a registered person to share information with other registered persons and regulatory bodies where to do so would assist in safeguarding service users from abuse (as well as harm). The term abuse is defined to include behaviour that is an offence under the Mental Health Law and the Sexual Offences (Jersey) Law 2018.

*Regulation 14* is a service user amendment and includes an amendment expanding the requirements relating to service users' dietary and other nutritional needs.

*Regulation 15* is a service user amendment and includes an amendment to require a registered person to ensure that there is enough medicine to meet service users' needs.

*Regulation 16* is a minor housekeeping amendment.

*Regulations 17, 18, 20 to 22 and 24 to 28* are service user amendments.

*Regulation 19* is a renumbering amendment.

*Regulation 23* substitutes the existing requirements in respect of the handling of complaints and requires the registered person to establish a written procedure for identifying, receiving, investigating and considering complaints or representations made by or on behalf of service users.

*Regulation 29* is a minor amendment to change "children's home" to "children's home service" in the sub-heading of Part 5.

*Regulation 30* expands the requirement for a registered person to promote a child's educational attainment.

*Regulation 31* expands the requirement in respect of a behavioural management policy in a children's home service to the effect that it must be agreed with the States of Jersey Police Force. The policy must also contain measures to prevent children from going missing and procedures to be followed when a child goes missing.

*Regulations 32 and 33* make housekeeping amendments to change "children's home" to "children's home service" and other minor corrections.

*Regulation 34* substitutes Part 6 of the 2018 Regulations (which currently contains miscellaneous provisions). Substituted Part 6 will contain requirements in respect of the provision of an adoption service which will be a new regulated activity under the Law inserted by the Amendment of Law Regulations. Substituted Part 6 contains new Regulations 32 to 62 which require the registered person, amongst other things, to –

- (a) appoint a medical adviser;
- (b) prepare written policy and procedures;
- (c) set up a child's adoption case record;
- (d) identify potential prospective adopters;
- (e) provide counselling and information for, and ascertain wishes and feelings of, the child, the child's parent or guardian and others;
- (f) obtain information about the child and the child's family;

- (g) prepare a child's permanence report;
- (h) consider the recommendation of the Adoption Panel (established under Article 7 of the Adoption (Jersey) Law 1961);
- (i) prepare a prospective adopter's plan and set up a prospective adopter's case record;
- (j) provide a prospective adopter with counselling, information and preparation for adoption;
- (k) carry out police checks;
- (l) obtain information relating to the prospective adopter set out in Parts 1 and 2 of new Schedule 2 and personal references;
- (m) consider, assess, and approve a prospective adopter's suitability and prepare reports;
- (n) review approvals, match, prepare and place a child; and
- (o) retain or transfer case records and give appropriate access to those records.

Substituted Part 6 also introduces 3 new Schedules which detail the information to be obtained, and adoption plan to be made, by the registered person in respect of prospective adopters and children to be placed for adoption.

*Regulation 35* inserts new Parts 7 to 9 into the 2018 Regulations.

New Part 7 (new Regulations 63 to 76) contains requirements in respect of the provision of a fostering service which will be a new regulated activity under the Law. Under Part 7, the registered person is required to –

- (a) safeguard and promote the welfare of children within foster placements, take account of those children's wishes and feelings, and prepare and implement written policy and procedures to safeguard children within foster placements from abuse or neglect;
- (b) prepare and implement written policy on acceptable measures of control, restraint, and discipline of children within foster placements;
- (c) promote contact between a child placed with a foster parent and the child's parents, relatives, and friends;
- (d) promote the health and development, and educational achievement, of children within foster placements;
- (e) provide support, training and information for foster parents;
- (f) ensure that the complaints procedure established under Regulation 22 includes a procedure for considering complaints or representations made by or on behalf of children placed by the fostering service, and by foster parents approved by the fostering service; and
- (g) establish a fostering panel for the purposes of recommending individuals as suitable to become foster parents.

New Part 8 (new Regulations 77 to 79) contains some general requirements in respect of the following new regulated activities under the Law –

- (a) provision of a social work service for children and young people;
- (b) provision of an independent monitoring and review service in respect of looked after children's cases; and
- (c) provision of a child contact centre service.

New Part 9 (new Regulations 80 to 84) reproduces the miscellaneous provisions currently contained in Part 6 of the 2018 Regulations.

*Regulation 36* inserts new Schedules 1 to 3 mentioned in the last paragraph of the note relating to *Regulation 34*.

*Regulation 37* provides for the title by which these Regulations may be cited and for them to come into force on the coming into force of the Amendment of Law Regulations.





Jersey

## **DRAFT REGULATION OF CARE (STANDARDS AND REQUIREMENTS) (AMENDMENT) (JERSEY) REGULATIONS 202-**

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Jersey

## **DRAFT REGULATION OF CARE (STANDARDS AND REQUIREMENTS) (AMENDMENT) (JERSEY) REGULATIONS 202-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES**, after the requirements to consult in accordance with Articles 14(9) and 39(1)(a) of the [Regulation of Care \(Jersey\) Law 2014](#) having been fulfilled by the Minister for the Environment, make these Regulations under Articles 11, 14 and 16 of that Law –

### **1 Amendment of the [Regulation of Care \(Standards and Requirements\) \(Jersey\) Regulations 2018](#)**

These Regulations amend the [Regulation of Care \(Standards and Requirements\) \(Jersey\) Regulations 2018](#).

### **2 Regulation 1 (interpretation) amended**

- (1) In Regulation 1(1) –
  - (a) before the definition “barred list” there is inserted –

““Adoption Panel” and “Panel” means the Adoption Panel established under Article 7 of the Adoption Law;”;
  - (b) after the definition “children’s home” there is inserted –

““compulsory school age” is construed in accordance with Article 2 of the [Education \(Jersey\) Law 1999](#);  
“disability” includes –
    - (a) a disability described in paragraph 8 (disability) of Schedule 1 (protected characteristics) to the Discrimination Law; and
    - (b) a “learning disability” or “mental disorder” as defined in the Mental Health Law;“Discrimination Law” means the [Discrimination \(Jersey\) Law 2013](#);”;
  - (c) the definitions “care”, “care receiver”, “child” and “children’s home” are deleted;

- (d) in the definition “personal plan” for “10(1)” there is substituted “9(1)”;
  - (e) after the definition “personal plan” there is inserted –
    - ““protected characteristics” is construed in accordance with Schedule 1 to the Discrimination Law;
    - “published standards” means the standards for compliance with requirements imposed under these Regulations published in accordance with Article 15 of the Law;
    - “relevant enactment” means an enactment in relation to children or young people;”;
  - (f) in the definition “representative”, for “care receiver” in each place where it appears, there is substituted “service user”;
  - (g) after the definition “representative” there is inserted –
    - ““service user” means any individual who receives or otherwise uses services provided in the carrying on of a regulated activity;”.
- (2) In Regulation 1(2) for “used in Schedule 1” there is substituted “defined in any part of Schedule 1”.

### 3 Regulation 3 (conditions of registration: general) amended

- (1) In Regulation 3(1) –
  - (a) in sub-paragraphs (c)(iii) and (iv) and (d), and in the continuation of sub-paragraph (f) for “care receiver” there is substituted “service user”;
  - (b) in sub-paragraphs (e), (h) and (i) for “care receivers” there is substituted “service users”;
  - (c) in sub-paragraph (f) after “care home service,” there is inserted “children’s home service or residential family centre service;”;
  - (d) in sub-paragraph (h) after “adult day care service,” there is inserted “a child contact centre service or care service in a special school.”.
- (2) After Regulation 3(1) there is inserted –
  - “(1A) The Commission must impose the conditions set out in paragraph (1B) upon the registration of a provider of any of the following regulated activities where those activities are not provided by any Minister –
    - (a) a social work service for children and young people;
    - (b) an independent monitoring and review service in respect of looked after children’s cases; and
    - (c) a children and young people’s mental health service.
  - (1B) The conditions referred to in paragraph (1A) are –
    - (a) to provide care to a stipulated maximum number of service users; or
    - (b) to provide care to a stipulated category or categories of service users.”.

**4 Regulation 3A (modification of application of Regulation 3 due to outbreak of Covid-19) amended**

In Regulation 3A(6), (11)(c) and (12) for “Regulation 34A” there is substituted “Regulation 83”.

**5 Regulation 5 (conduct of regulated activity) amended**

In Regulation 5 –

- (a) in paragraphs (1) and (4) for “care receivers” there is substituted “service users”;
- (b) in paragraph (1) and in each place where it appears in paragraph (3) for “care receiver” there is substituted “service user”.

**6 Regulation 6 (openness and transparency) amended**

In Regulation 6 –

- (a) for paragraph (1) there is substituted –
  - “(1) A registered person must, in relation to care and treatment provided to service users –
    - (a) act in an open and transparent way; and
    - (b) have due regard to service users’ protected characteristics.”;
  - (b) in paragraph (2), for “care receiver” in each place where it appears, there is substituted “service user”;
  - (c) in paragraph (2), for “care receiver’s” there is substituted “service user’s”.

**7 Regulation 7 (respect and involvement) amended**

For Regulation 7(a) to (c) there is substituted –

- “(a) ensure that service users are –
  - (i) treated with dignity and respect,
  - (ii) afforded privacy, and
  - (iii) enabled and supported to be as independent and autonomous as practicable having regard to their age, disability (if any) and capacity;
- (b) enable service users to make or participate in making decisions about their support, care or treatment which includes enabling and supporting those service users and, if applicable, their representatives –
  - (i) to understand the care or treatment choices available to the service user, and
  - (ii) to discuss, with a competent health care professional or other competent person, the balance of risks and benefits involved in any course of treatment;
- (c) enable service users to manage their own care or treatment where this is appropriate; and

- (d) enable the making of reasonable adjustments to facilitate the delivery of service users' care or treatment.”.

## 8 Regulation 8 (care and welfare) substituted

For Regulation 8 there is substituted –

### “8 Person-centred care

- (1) A registered person must ensure that the care and treatment of service users –
  - (a) is appropriate;
  - (b) meet service users' needs; and
  - (c) reflect service users' preferences.
- (2) Paragraph (1) does not apply to the extent that the provision of care or treatment would result in a breach of Regulation 9A.
- (3) The things which a registered person must do to comply with paragraph (1) include –
  - (a) carrying out, collaboratively with the service user and, if applicable, the service user's representative, an assessment of the needs and preferences for care and treatment of the service user;
  - (b) planning and delivering care or treatment with a view to achieving the service user's preferences and ensuring the service user's needs are met, including any educational or training needs;
  - (c) involving the service user and, if applicable, the service user's representative in decisions relating to the way in which the regulated activity is carried on in so far as it relates to the service user's care or treatment;
  - (d) making reasonable adjustments to enable the service user to receive care or treatment; and
  - (e) having due regard to good practice and in particular any guidance issued by an appropriate professional body.
- (4) A registered person must ensure that service users are protected against the risks of receiving inappropriate or unsafe care or treatment by –
  - (a) keeping under regular review service users' care, welfare, treatment, and health needs;
  - (b) having due regard to, and taking account of, any changes in service users' needs; and
  - (c) only providing care to service users if the care that the registered person is able to provide under the terms of the registered person's registration is suitable for the service user's needs and circumstances.
- (5) A registered person must –

- (a) where service users are in receipt of care home services or children’s home services –
  - (i) have in place arrangements for service users to receive any necessary health care and personal care, including access to general medical or dental services when so required, and
  - (ii) refer the service user to another person or agency to meet those needs where so required; and
- (b) have in place procedures to deal with emergencies and mitigate the risks to service users arising from those emergencies.”.

## 9 Regulation 9 (personal plans and care records) amended

For the text of Regulation 9 there is substituted –

- “(1) A registered person must, in consultation with the service user or, if applicable, the service user’s representative, prepare a written plan, known as the “personal plan”, setting out how the service user’s health, safety and welfare needs are to be met.
- (2) A registered person must, when preparing the personal plan, have due regard to the service user’s age, disability (if any) and capacity.
- (3) The registered person must –
  - (a) give the service user access to the service user’s personal plan;
  - (b) if the service user has a representative, give the service user’s representative access to the personal plan but only if the registered person considers it appropriate to do so; and
  - (c) review and where appropriate revise the personal plan if requested to do so by the service user, or the service user’s representative, and whenever there is a significant change in the service user’s health, safety, welfare or support needs.
- (4) A registered person must prepare and maintain a care record that is sufficiently detailed, contemporaneous and relevant to ensure that a service user’s health, safety and welfare needs, and circumstances, are properly documented, and this record must include –
  - (a) the personal plan together with the documentation relating to the assessment of the service user’s needs; and
  - (b) a record of the care or treatment actually provided or delivered to the service user.
- (5) The service user may access the service user’s care record.
- (6) The service user’s representative may, if the registered person considers it appropriate to do so, access the service user’s care record.
- (7) Personal plans and care records must –
  - (a) be available at all times for inspection so as to enable the Commission to judge the effectiveness of the assessment, planning, delivery and evaluation of the care or support offered; and

- (b) in the case of a service user who is under the age of 18, be retained for not less than 75 years.”.

## 10 New Regulation 9A inserted

After Regulation 9 there is inserted –

### “9A Need for consent

- (1) A registered person must only provide care and treatment to a service user with the consent of the service user or, if applicable, the service user’s representative.
- (2) If the service user is aged 16 or over but lacks capacity within the meaning of Article 4 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#) (the “2016 Law”), the registered person must, in providing care and treatment to the service user, act in accordance with the provisions of that Law.
- (3) However, if Part 6 (treatment requiring consent) of the Mental Health Law applies to a service user, the registered person must act in accordance with the provisions of that Law.
- (4) Nothing in this Regulation affects the operation of Article 8 (permitted acts in connection with care and treatment of persons lacking capacity) of the 2016 Law as read with Article 9 (certain acts of restraint etc. which are not permitted) of that Law.”.

## 11 Regulation 10 (health and safety) amended

In Regulation 10 for “care receivers” there is substituted “service users”.

## 12 Regulation 11 (safeguarding) amended

In Regulation 11 –

- (a) for the opening line of paragraph (1) there is substituted –  
“(1) A registered person must safeguard service users from harm or abuse, by –”;
- (b) in paragraph (1)(a) for “care receivers” and “care receiver” there is respectively substituted “service users” and “service user”;
- (c) in paragraph (1)(b) after “risk of” there is inserted “harm or”;
- (d) in paragraph (1)(c) after “abuse” there is inserted “or ill treatment whether of a physical or psychological nature”;
- (e) in both places in paragraph (1)(g) for “care receiver” there is substituted “service user”;
- (f) in paragraph (1)(h) for “care receiver” there is substituted “service user”;
- (g) in paragraph (2) “care receivers from harm” there is substituted “service users from harm or abuse”;
- (h) After paragraph (2) there is inserted –



- “(3) For the purposes of this Regulation “abuse” means –
- (a) any behaviour towards a service user that is –
    - (i) an offence under Part 10 (safeguarding: offences against those in receipt of care etc.) of the Mental Health Law, or
    - (ii) an offence under the [Sexual Offences \(Jersey\) Law 2018](#);
  - (b) theft, misuse or misappropriation of money or property belonging to a service user; or
  - (c) neglect of a service user.”.

### **13 Regulation 12 (cleanliness and infection control) amended**

In Regulation 12(2) for “care receivers” there is substituted “service users”.

### **14 Regulation 13 (nutrition and hydration)**

In Regulation 13 –

- (a) in sub-paragraph (a), for “care receivers’ ” there is substituted “service users’ ”;
- (b) for sub-paragraph (d) there is substituted –
  - “(d) parenteral nutrition and dietary supplements when prescribed by a doctor or health care professional registered to engage in a registrable occupation;
  - (e) support to enable service users to eat and drink sufficient amounts for their needs.”.

### **15 Regulation 14 (management of medicines) amended**

- (1) In Regulation 14(1) and (2) for “care receivers” there is substituted “service users”.
- (2) After Regulation 14(3) there is inserted –
  - “(4) Where equipment or medicines are supplied by the registered person, that person must ensure that there are sufficient quantities of them to ensure the safety of service users and to meet their needs.”.

### **16 Regulation 15 (shared responsibilities) amended**

- (1) For Regulation 15(1) and (2) there is substituted –
  - “(1) Where responsibility for a service user’s care is shared with or transferred to any other person or agency, a registered person must work collaboratively with that other person or agency so as to ensure the health, safety and welfare of the service user.
  - (2) For the purposes of paragraph (1), a registered person must request and share information relating to the service user with the other person or agency so as to ensure that, as far as practicable, the

registered person receives sufficient information from that other person or agency about the service user.”.

- (2) In Regulation 15(3) for “care receiver” in each place it occurs there is substituted “service user”.

#### **17 Regulation 16 (control and restraint) amended**

In Regulation 16(1) and (3) for “care receiver” in each place there is substituted “service user”.

#### **18 Regulation 17 (workers) amended**

- (1) In Regulation 17(2)(b) for “care receiver” there is substituted “service user”.
- (2) In Regulation 17(3)(c) and (4)(a), (b), and (c) and (4)(f) for “care receivers” there is substituted “service users”.

#### **19 Regulation 17A (modification of application of Regulation 17 due to outbreak of Covid-19) amended**

In Regulation 17A(6) and (10) for “Regulation 34A” there is substituted “Regulation 83”.

#### **20 Regulation 18 (premises and equipment) amended**

- (1) In Regulation 18(1)(a) after “purpose” there is inserted “and properly and regularly maintained”.
- (2) In Regulation 18(2)(a) and (b) for “care receivers” there is substituted “service users”.
- (3) In Regulation 18(3)(a) for “care receiver” there is substituted “service user”.
- (4) In Regulation 18(3)(b), (c), (d) and (f) for “care receivers” in each place there is substituted “service users”.

#### **21 Regulation 19 (reviewing quality of service) amended**

- (1) In Regulation 19(1) for “care receiver” there is substituted “service user”.
- (2) In both places in Regulation 19(2)(a) and in Regulation 19(3) for “care receivers” there is substituted “service users”.
- (3) In Regulation 19(4)(b) for “Regulation 32” there is substituted “Regulation 80”.

#### **22 Regulation 21 (notification of incidents, accidents and other events)**

In Regulation 21 for “care receivers” there is substituted “service users”.

## 23 Regulation 22 (complaints) substituted

For Regulation 22 there is substituted –

### “22 Complaints and representations

- (1) A registered person must establish a written procedure for identifying, receiving, investigating and considering complaints or representations made by or on behalf of service users.
- (2) The procedure must, in particular, provide –
  - (a) for an opportunity for informal resolution of a complaint at an early stage;
  - (b) that no individual who is the subject of a complaint takes part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;
  - (c) for dealing with complaints about the registered person;
  - (d) for complaints to be made by a person acting on behalf of a service user; and
  - (e) for the procedure to be made known to –
    - (i) service users and, where appropriate, their representatives, and
    - (ii) persons working for, or on behalf of, the registered person.
- (3) The registered person must supply a copy of the procedure if requested by a person mentioned in paragraph (2).
- (4) The registered person must ensure that a written record is made of any complaint or representation, the action taken in response to it, and the outcome of the investigation.
- (5) The registered person must, on request, supply the Commission with a statement containing a summary of any complaints made during the preceding 12 months and the action taken in response.
- (6) In this Regulation –

“complaint” means a statement in writing (including in electronic form) expressing dissatisfaction or disquiet about an act done by or on behalf of the registered person in relation to a service user;

“representation” may include a complaint, or may be a statement, enquiry or comment which requires a response.”.

## 24 Regulation 23 (service records) amended

In both places in Regulation 23(3)(a) for “care receiver” there is substituted “service user”.

## 25 Regulation 24 (financial viability) amended

In Regulation 24(4) for “care receiver” there is substituted “service user”.

**26 Regulation 25 (charges) amended**

- (1) In Regulation 25(2) for “care receiver” there is substituted “service user”.
- (2) In Regulation 25(3) for “care receivers” there is substituted “service users”.

**27 Regulation 26 (commissioned services) amended**

In Regulation 26(2) for “care receivers” there is substituted “service users”.

**28 Regulation 27 (absence of manager) amended**

In Regulation 27(5) –

- (a) for “consists of home care” there is substituted “is a home care service”;
- (b) for “the care provided” there is substituted “the home care service provided”;
- (c) for “care receiver” and “care receiver’s” there is respectively substituted “service user” and “service user’s”.

**29 Part 5 sub-heading (children’s homes and support services) amended**

In the sub-heading for Part 5, for “HOMES” there is substituted “HOME SERVICE”.

**30 Regulation 28 (education, employment and leisure activity) amended**

For the text of Regulation 28(1) and (2) there is substituted –

- “(1) Where the regulated activity is a children’s home service, or a child is provided with a home care service and is not living with a parent, the registered person must ensure that proper provision is made for the education and leisure of any child who is a service user.
- (2) In particular, the registered person must promote the child’s educational attainment by –
  - (a) implementing a procedure for monitoring educational achievement, progress and school attendance;
  - (b) promoting regular school attendance and participation in school activities;
  - (c) providing the child with any information and assistance, including equipment, that may be necessary to meet the child’s educational needs;
  - (d) making provision and providing opportunities for private independent study;
  - (e) maintaining effective links with schools;
  - (f) facilitating and encouraging leisure interest and activities; and

- (g) where a child is over compulsory school age, assisting and supporting the child with further education, training or employment.”.

### **31 Regulation 29 (behaviour management, discipline and restraint) amended**

- (1) In Regulation 29(1) for “care receiver” there is substituted “service user”.
- (2) In Regulation 29(1)(c) after “a court order” there is inserted “or as may be agreed within the child’s personal plan”.
- (3) For Regulation 29(2) there is substituted –
  - “(2) Where the regulated activity is a children’s home service, the registered person must prepare, implement, review and, where necessary, revise a behavioural management policy, which includes –
    - (a) the measures to be taken to prevent a child from going missing from the children’s home; and
    - (b) the procedure to be followed when a child is missing from the children’s home unexpectedly or without permission.
  - (3) The behavioural management policy must be agreed with the States of Jersey Police Force.”.

### **32 Regulation 30 (appointment of independent persons) amended**

- (1) For Regulation 30(1) there is substituted –
  - “(1) A registered provider must appoint, at the registered provider’s expense, a person (the “independent person”) to visit the premises of the children’s home and report on the children’s home service that the registered provider carries on at the children’s home.”.
- (2) In Regulation 30(2) –
  - (a) after “home” there is inserted “service”;
  - (b) for “homes” there is substituted “children’s home services”.
- (3) In Regulation 30(3) –
  - (a) in sub-paragraph (a) for “the carrying on of its social services functions relating to children”, there is substituted “the provision of a social work service for children and young people”;
  - (b) in sub-paragraph (c) for “care home”, there is substituted “children’s home”;
  - (c) in sub-paragraphs (d) and (e) for “home”, there is substituted “children’s home service”;
  - (d) in sub-paragraph (f)(ii) for “home”, there is substituted “children’s home”.
- (4) In Regulation 30(4)(a) for “home” there is substituted “children’s home service”.
- (5) In Regulation 30(5) after “home” there is inserted “service”.

- (6) In Regulation 30(6) for “the home under Regulation 31” there is substituted “the children’s home service under Regulation 31”.
- (7) In Regulation 30(7) –
  - (a) for “the home under Regulation 31” there is substituted “the children’s home service under Regulation 31”;
  - (b) in sub-paragraph (b) for “home”, there is substituted “children’s home service”.

### **33 Regulation 31 (independent person: visits and reports) amended**

- (1) In Regulation 31(1) after “home” there is inserted “service”.
- (2) In Regulation 31(2) –
  - (a) in sub-paragraph (a) for “home” there is substituted “premises of the children’s home”;
  - (b) in sub-paragraph (b) for “premises of the home” there is substituted “premises of the children’s home”.
- (3) In Regulation 31(3) for “home” there is substituted “premises of the children’s home”.
- (4) In Regulation 31(4)(b) for “home” there is substituted “children’s home service”.
- (5) In Regulation 31(6) for “home” there is substituted “premises of the children’s home”.
- (6) In Regulation 31(8) for “Health and Social Services” there is substituted “Children and Education”.

### **34 Part 6 (miscellaneous) substituted**

For Part 6 there is substituted –

## **“PART 6**

### ADOPTION SERVICE

#### **32 Application and interpretation of Part**

- (1) This Part applies where the regulated activity is an adoption service.
- (2) Regulations 35 to 42 apply in respect of a child that the adoption service is considering placing for adoption.
- (3) Regulations 43 to 48 apply in respect of a prospective adopter that the adoption service is considering may be suitable to adopt a child.
- (4) Regulations 49 to 59 apply in respect of a prospective adopter that the adoption service has decided may be suitable to adopt a child.
- (5) In this Part and Schedules 1 to 3, words or expressions not otherwise defined in the Law or in Regulation 1 have the same definitions as given in the Adoption Law or Children Law, as the case may be, and –

“child’s permanence report” is construed in accordance with Regulation 41;

“medical adviser” is construed in accordance with Regulation 33;

“proposed placement” is construed in accordance with Regulation 54;

“prospective adopter’s assessment plan” is construed in accordance with Regulation 49;

“prospective adopter’s matching plan” is construed in accordance with Regulation 53;

“prospective adopter’s plan” is construed in accordance with Regulation 43;

“prospective adopter’s report” is construed in accordance with Regulation 50;

“prospective adopter’s review report” is construed in accordance with Regulation 52.

### **33 Requirement to appoint a medical adviser**

- (1) For the purpose of securing the matters set out in Article 14(2)(b) of the Law, the registered person must appoint at least one doctor to be the adoption service’s medical adviser.
- (2) The medical adviser must be consulted in relation to the arrangements for access to, and disclosure of, health information which is required or permitted under any enactment (including these Regulations).

### **34 Requirement to prepare written policy and procedures**

- (1) For the purposes of Article 14(3)(a) of the Law, the registered person must, in consultation with the Adoption Panel and medical adviser (or advisers, if more than one) appointed under Regulation 33, prepare and implement written policy and procedural instructions governing the exercise of the functions of the adoption service and Adoption Panel in relation to adoption.
- (2) The instructions must be kept under review and, where appropriate, revised by the registered person in consultation with the Adoption Panel and medical adviser (or advisers).

### **35 Requirement to set up child’s adoption case record**

- (1) For the purposes of Article 14(3)(a) and (f) of the Law, the registered person must set up a case record in respect of a child that the adoption service is or was considering placing for adoption.
- (2) The registered person must place the following on the case record –
  - (a) information and reports obtained or prepared by the adoption service in the discharge of its functions;
  - (b) the child’s permanence report;

- (c) where applicable, the written record of the proceedings of the Adoption Panel, its recommendation and the reasons for its recommendation and any advice given by the Adoption Panel to the adoption service;
- (d) the record of the adoption service's decision under Article 3 (welfare of child to be paramount) of the Adoption Law in relation to the proposed adoption of the child and any notification given of that decision;
- (e) a copy of any document signifying or evidencing the agreement to adoption of a child aged 14 or over, for the purposes of Article 3A (agreement of child having sufficient understanding) of the Adoption Law;
- (f) a copy of any document signifying or evidencing agreement to the making of an adoption order for the purposes of Article 10A (consent of spouse or civil partner of adoptive parent) of the Adoption Law;
- (g) a copy of any document signifying consent to the making of an adoption order for the purposes of Article 14 (evidence of consent of parent or guardian) of the Adoption Law;
- (h) a copy of any order made under Article 12 (freeing for adoption) of the Adoption Law;
- (i) a copy of any notice given by the Minister or former parent under Article 12A (progress reports to former parents) of the Adoption Law;
- (j) a copy of any order made under Article 12B (revocation of Article 12 order) of the Adoption Law;
- (k) details of any prospective adopters for the child identified under Regulation 36; and
- (l) having regard to any published standards, any other documents or information obtained by the adoption service which the registered person considers should be included in the child's case record.

### **36 Requirement to identify potential prospective adopters**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must, in respect of a child –
  - (a) seek to identify prospective adopters who may be suitable to adopt the child;
  - (b) seek to identify, if and as soon as reasonably practicable, a particular prospective adopter with whom the adoption service proposes the child is placed; and
  - (c) where the adoption service is considering adoption for 2 or more siblings, seek to identify prospective adopters who may



be suitable to adopt 2 or more of the siblings together, having regard to the best interests of each sibling.

- (3) In determining whether a prospective adopter may be suitable to adopt the child, the registered person must cause an assessment to be carried out of the ability of the prospective adopter to meet the needs of the child throughout childhood.

### **37 Requirement to provide counselling and information for, and ascertain wishes and feelings of, the child**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must, so far as is reasonably practicable, in respect of a child –
  - (a) provide a counselling service for the child;
  - (b) explain to the child in an appropriate manner the procedure in relation to, and the legal implications of, adoption for the child and provide that child with appropriate written information about these matters; and
  - (c) ascertain, having regard to the child’s age and understanding, the child’s wishes and feelings regarding –
    - (i) the child’s adoption,
    - (ii) the possibility of placement for adoption with a new family,
    - (iii) the child’s religious persuasion, racial origin, and cultural and linguistic background, and
    - (iv) contact with the child’s parent or guardian or other relative or with any other individual the adoption service considers relevant.
- (3) Paragraph (2) does not apply if the registered person is satisfied that the requirements of that paragraph have been carried out in respect of the child by an equivalent adoption service in another jurisdiction.

### **38 Requirement to provide counselling and information for, and ascertain wishes and feelings of, the parent or guardian of the child and others**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must, so far as is reasonably practicable, in respect of a child –

- (a) provide a counselling service for the parent or guardian of the child; and
  - (b) explain to that parent or guardian, and provide appropriate written information about –
    - (i) the procedure in relation to both placement for adoption and adoption, and
    - (ii) the legal implications of adoption; and
  - (c) ascertain the wishes and feelings of the parent or guardian of the child, and of any other person the adoption service considers relevant, regarding –
    - (i) the child,
    - (ii) the placement of the child for adoption and subsequent adoption, including any wishes and feelings about the child's religious persuasion, racial origin, and cultural and linguistic background, and
    - (iii) contact with the child if the child is placed for adoption or adopted.
- (3) Paragraph (2) does not apply if the registered person is satisfied that the requirements of that paragraph have been carried out in respect of the parent or guardian, and any other person the registered person considers relevant, by an equivalent adoption service in another jurisdiction.
- (4) Paragraph (5) applies where –
- (a) the father of the child does not have parental responsibility for the child; and
  - (b) the father's identity is known to the adoption service.
- (5) Where the father of the child meets the description in paragraph (4), and the registered person is satisfied it is appropriate to do so, the registered person must –
- (a) carry out in respect of the father the requirements of paragraph (2) as if they applied to him; and
  - (b) ascertain so far as possible whether the father –
    - (i) wishes to acquire parental responsibility for the child under Article 5 of the Children Law, or
    - (ii) intends to apply for a residence order or a contact order with respect to the child under Article 10 of the Children Law.

### **39 Requirement to obtain information about the child**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must, in respect of a child –

- (a) obtain, so far as is reasonably practicable, the information about the child specified in Part 1 of Schedule 1;
  - (b) arrange for the examination of the child by a registered medical practitioner;
  - (c) obtain from that practitioner a written report (“the child’s health report”) on the state of the child’s health which must include any treatment which the child is receiving, any need for health care and the matters specified in Part 2 of Schedule 1, unless the adoption service has received advice from its medical adviser that an examination and report are unnecessary; and
  - (d) arrange for any other medical or psychiatric examinations or tests of the child as are recommended by the medical adviser and obtain written reports in respect of those examinations and tests.
- (3) However, paragraph (2)(b) and (d) does not apply if the child is of sufficient understanding to make an informed decision and refuses to submit to the examinations or tests.

#### **40 Requirement to obtain information about the child’s family**

- (1) This Regulation applies for the purposes of –
- (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must, in respect of a child, obtain so far as is reasonably practicable information about –
- (a) the child’s family as specified in Part 3 of Schedule 1; and
  - (b) the health of each of the child’s natural parents and of the child’s brothers or sisters, if any, of the full blood or half - blood, specified in Part 4 of Schedule 1.

#### **41 Requirement to prepare child’s permanence report**

- (1) This Regulation applies for the purposes of –
- (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) and (h) of the Law.
- (2) The registered person must, in respect of a child –
- (a) prepare a written report (“the child’s permanence report”) to include the information specified in paragraph (3); and
  - (b) provide the child’s permanence report to the Adoption Panel for the purposes of the Panel’s consideration of the question of the child’s proposed adoption.
- (3) The information referred to in paragraph (2)(a) is as follows –
- (a) information about the child and the child’s family, as specified in Parts 1 and 3 of Schedule 1;

- (b) a written summary by the medical adviser, of the state of the child's health as at the date of the report, health history and any known need for health care which might arise in the future;
- (c) the wishes and feelings of the child regarding the matters ascertained under Regulation 37(2)(c);
- (d) the wishes and feelings of the child's parent or guardian, and, where Regulation 38(5)(a) applies, the child's father, and any other person the registered person considers relevant, regarding the matters ascertained under Regulation 38(2)(c);
- (e) the views of the adoption service about the child's need for contact with the child's parent or guardian or other relative or with any other person the adoption service considers relevant and the arrangements the service proposes to make for allowing any person contact with the child;
- (f) an assessment of the child's emotional and behavioural development and any related needs;
- (g) an assessment of the parenting capacity of the child's parent or guardian and, where Regulation 38(5)(a) applies, the child's father;
- (h) a chronology of the decisions and actions taken by the adoption service with respect to the child;
- (i) an analysis of the options for the future care of the child which have been considered by the adoption service and why placement for adoption is considered the preferred option; and
- (j) any other information which the adoption service considers relevant.

#### **42 Requirement to consider Adoption Panel's recommendation**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must –
  - (a) ensure that the adoption service gives consideration to –
    - (i) the recommendation of the Adoption Panel in coming to a decision about whether the child should be placed for adoption, and
    - (ii) any advice given by the Adoption Panel as to the arrangements the adoption service should make for allowing any person contact with the child once that child is placed for adoption;
  - (b) ensure that no member of the Adoption Panel takes part in any decision made by the adoption service; and
  - (c) if their whereabouts are known to the adoption service, notify in writing the parent or guardian and, where Regulation 38(4)

applies and the agency considers it is appropriate, the father of the child of its decision.

#### **43 Requirement to prepare prospective adopter's plan**

For the purposes of Article 14(2) and (3) of the Law, the registered person must, in consultation with the prospective adopter, prepare a written plan which must include –

- (a) information about the counselling, information and preparation for adoption to be provided under Regulation 45;
- (b) an explanation of the procedure for carrying out police checks under Regulation 46;
- (c) details of any training that the prospective adopter has agreed to undertake;
- (d) information about the role of the prospective adopter in the adoption process;
- (e) any applicable timescales;
- (f) information about the process for making a representation or complaint; and
- (g) any other information that the adoption service considers relevant.

#### **44 Requirement to set up prospective adopter's case record**

(1) For the purposes of Article 14(3)(a) and (f) of the Law, the registered person must set up a case record in respect of a prospective adopter, and place on that case record –

- (a) the prospective adopter's plan;
- (b) the enhanced criminal record certificate referred to in Regulation 46 and information and reports referred to in Regulation 47;
- (c) the prospective adopter's assessment plan;
- (d) the prospective adopter's report and the prospective adopter's observations on that report;
- (e) the written record of the proceedings of the Adoption Panel, its recommendation, the reasons for the recommendation and any advice given by the Panel to the adoption service;
- (f) the record of any of the adoption service's decisions referred to in Regulation 51(6);
- (g) where applicable, the prospective adopter's review report and the prospective adopter's observations on that report;
- (h) the prospective adopter's matching plan; and
- (i) any other documents or information obtained by the adoption service which the registered person considers should be included in that case record.

- (2) The registered person may ask the prospective adopter to provide any further information which the adoption service may reasonably require.

#### **45 Requirement to provide counselling, information and preparation for adoption**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(a), (b) and (c) of the Law; and
  - (b) Article 14(3)(a) and (h) of the Law.
- (2) The registered person must, in respect of a prospective adopter –
  - (a) provide a counselling service for the prospective adopter;
  - (b) in a prospective overseas adoption case, explain to the prospective adopter, and provide written information about, the procedure in relation to, and the legal implications of, adopting a child from the country from which the prospective adopter wishes to adopt;
  - (c) in any other case, explain to the prospective adopter, and provide written information about, the procedure in relation to, and the legal implications of, placement for adoption and adoption;
  - (d) provide the prospective adopter with any information and training materials relating to adopting a child; and
  - (e) make arrangements for the prospective adopter to receive any preparation for adoption as the adoption service considers appropriate.
- (3) In paragraph (2)(e) “preparation for adoption” includes the provision of information to the prospective adopter about –
  - (a) the age range, sex, likely needs and background of children who may be placed for adoption by the adoption service;
  - (b) the significance of adoption for a child and the child’s family;
  - (c) contact between a child and the child’s parent or guardian or other relatives where a child is to be placed for adoption or is adopted;
  - (d) the skills which are necessary for an adoptive parent;
  - (e) the adoption service’s procedures in relation to the assessment of a prospective adopter and the placement of a child for adoption; and
  - (f) the procedures in relation to placement for adoption and adoption.

#### **46 Requirement to carry out police checks**

- (1) This Regulation applies for the purposes of –

- (a) securing the matters set out in Article 14(2)(b) of the Law;  
and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must, in respect of a prospective adopter and any other member of the prospective adopter's household who is aged 18 or over, obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997 of the United Kingdom as extended to Jersey, with modifications, by the Police Act 1997 (Criminal Records) (Jersey) Order 2010 (S.I. 2010/765 of the United Kingdom).
- (3) The registered person must ensure that no prospective adopter is considered as suitable to adopt a child if the prospective adopter or any member of the prospective adopter's household who is aged 18 or over has been convicted of a specified offence committed at the age of 18 or over.
- (4) In paragraph (3) "specified offence" means an offence listed in paragraph 2 of Schedule 4 (disqualification for caring for children) to the Children Law.
- (5) Where the registered person becomes aware that a prospective adopter or a member of the prospective adopter's household has been convicted of an offence referred to in paragraph (3), the registered person must notify the prospective adopter as soon as possible in writing that they cannot be considered suitable to adopt a child.

#### **47 Requirement to obtain information in respect of prospective adopter**

- (1) This Regulation applies for the purposes of –
- (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must obtain, in respect of a prospective adopter –
- (a) the information specified in Part 1 of Schedule 2;
  - (b) a written report from a registered medical practitioner about the health of the prospective adopter following a full examination which must include the matters specified in Part 2 of Schedule 2 unless the adoption service has received advice from its medical adviser that an examination and report are unnecessary;
  - (c) a written report of any interviews held with the persons nominated by the prospective adopter to provide personal references for the prospective adopter; and
  - (d) if the adoption service considers it necessary, a personal reference from the prospective adopter's former spouse, civil partner, or partner.

#### **48 Requirements in respect of adoption service's preliminary decision as to prospective adopter's suitability**

- (1) This Regulation applies for the purposes of Article 14(3)(a), (f) and (h) of the Law.
- (2) The registered person must, in respect of a prospective adopter –
  - (a) ensure that the adoption service takes full account of the information obtained under Regulations 46 and 47, and that a timely decision is made as to whether the prospective adopter –
    - (i) may be suitable to adopt a child, or
    - (ii) is not suitable to adopt a child;
  - (b) ensure that a record is kept of the decision under subparagraph (2)(a);
  - (c) where the adoption service decides that the prospective adopter may be suitable to adopt a child –
    - (i) as soon as practicable, notify the prospective adopter in writing of the adoption service's decision, and
    - (ii) explain to the prospective adopter that if they wish to continue with the assessment process they must, within 6 months of the date on which the notification is given under clause (i), notify the adoption service of that wish; and
  - (d) where the adoption service decides that the prospective adopter is not suitable to adopt a child, notify the prospective adopter as soon as possible in writing of the adoption service's decision together with reasons for the adoption service's decision.

#### **49 Requirements in respect of prospective adopter's assessment plan**

For the purposes of Article 14(3)(a) and (h) of the Law, the registered person must, in consultation with a prospective adopter, prepare a written plan which includes the following matters –

- (a) the procedure for assessing the prospective adopter's suitability to adopt a child;
- (b) any applicable timescales;
- (c) the arrangements for the prospective adopter to receive any additional counselling or preparation for adoption;
- (d) details of any training that the prospective adopter has agreed to undertake;
- (e) information about the role of the prospective adopter in the assessment process;
- (f) information about the process for submitting representations to the adoption service;



- (g) any other matters which the adoption service considers relevant.

## **50 Requirements in respect of prospective adopter's report**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) and (h) of the Law.
- (2) The registered person must, in respect of a prospective adopter –
  - (a) obtain the information about the prospective adopter specified in Part 3 of Schedule 2;
  - (b) prepare a written report (the “prospective adopter’s report”) which includes –
    - (i) the information about the prospective adopter and the prospective adopter’s family specified in Parts 1 and 3 of Schedule 2,
    - (ii) a summary, written by the medical adviser, of the state of health of the prospective adopter,
    - (iii) the result of the enhanced criminal record certificate referred to in Regulation 46 and the information and reports required under Article 47,
    - (iv) the adoption service’s assessment of the prospective adopter’s suitability to adopt,
    - (v) in an overseas adoption case –
      - (A) the name of the country from which the prospective adopter wishes to adopt a child (“country of origin”),
      - (B) confirmation that the prospective adopter meets the eligibility requirements to adopt from the country of origin,
      - (C) any additional information obtained as a consequence of the requirements of the country of origin, and
      - (D) the adoption service’s assessment of the prospective adopter’s suitability to adopt a child whose country of origin is outside the British Islands, and
    - (vi) any other information which the adoption service considers relevant;
  - (c) where applicable, notify the prospective adopter that the prospective adopter’s application is to be referred to the Adoption Panel;
  - (d) give the prospective adopter a copy of the prospective adopter’s report;

- (e) where notification is given under sub-paragraph (c), invite the prospective adopter to send any observations in writing to the adoption service within 5 working days, beginning with the date on which the notification is given; and
  - (f) explain to the prospective adopter that the adoption service may, in exceptional circumstances, extend the timescale referred to in sub-paragraph (e).
- (3) At the end of the 5 working days referred to in paragraph (2)(e) (or, where that timescale is extended by the adoption service, as soon as possible after the prospective adopter's observations are received) the registered person must decide whether or not to refer the case to an Adoption Panel and, if the case is referred to an Adoption Panel, the registered person must send to the Adoption Panel –
- (a) the prospective adopter's report and the prospective adopter's observations if any;
  - (b) the written reports and references referred to in Regulation 47(2)(b) to (d) but, in the case of reports obtained in accordance with Regulation 47(2)(b), only if the medical adviser so advises; and
  - (c) any other relevant information obtained by the registered person.
- (4) The registered person must –
- (a) obtain, so far as is reasonably practicable, any other relevant information which may be required by the Adoption Panel; and
  - (b) send that information to the Adoption Panel.

## **51 Requirements in respect of adoption service's final decision as to prospective adopter's suitability**

- (1) This Regulation applies for the purposes of Article 14(3)(a), (f) and (h) of the Law.
- (2) The registered person must, in respect of a prospective adopter –
  - (a) ensure that the adoption service takes into account the recommendation of the Adoption Panel in coming to a decision about whether the prospective adopter is suitable to adopt a child;
  - (b) ensure that no member of the Adoption Panel takes any part in that decision;
  - (c) where the adoption service decides to approve the prospective adopter as suitable to adopt a child, notify the prospective adopter in writing of that decision; and
  - (d) where the adoption service considers that the prospective adopter is not suitable to adopt a child –
    - (i) notify the prospective adopter in writing that the adoption service declines to approve the prospective adopter as suitable to adopt a child,

- (ii) send with that notification the adoption service's reasons together with a copy of the Adoption Panel's recommendation if that recommendation is different, and
  - (iii) advise the prospective adopter that within 40 working days beginning with the date on which the notification was given under clause (ii), the prospective adopter may submit to the adoption service any representations the prospective adopter wishes to make in respect of the decision.
- (3) If, within the period of 40 working days the registered person receives representations from the prospective adopter, the registered person must refer the case together with all relevant information to the Adoption Panel for further consideration.
- (4) The registered person must ensure that the adoption service makes a decision on the case only after the adoption service has taken into account the recommendations of the Adoption Panel following the Panel's further consideration.
- (5) As soon as possible after the adoption service has made its decision in accordance with paragraph (4), the registered person must notify the prospective adopter in writing of –
  - (a) the decision and, if the adoption service does not consider the prospective adopter suitable to adopt a child, the reasons for that decision; and
  - (b) the Adoption Panel's recommendation on further consideration if this is different from the adoption service's decision.
- (6) The registered person must keep a record of the decisions taken under this Regulation.

## **52 Requirements as to review and termination of approval**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a), (f), (h) and (j) of the Law.
- (2) The registered person must ensure that the adoption service reviews the approval of each prospective adopter in accordance with this Regulation.
- (3) A review must take place whenever necessary but, in any case, a first review must take place not more than one year after approval and thereafter a review must take place at intervals of not more than one year.
- (4) When undertaking a review, the registered person must –
  - (a) make enquiries and obtain information the registered person considers necessary in order to review whether the prospective adopter continues to be suitable to adopt a child; and

- (b) seek and take into account the views of the prospective adopter.
- (5) If, at the conclusion of the review, the adoption service considers that the prospective adopter may no longer be suitable to adopt a child, the registered person must –
- (a) prepare a written report (“the prospective adopter’s review report”) which includes the adoption service’s reasons;
  - (b) notify the prospective adopter that the case is to be referred to the Adoption Panel; and
  - (c) give the prospective adopter a copy of the report inviting the prospective adopter to send any observations to the adoption service within 10 working days beginning with the date on which the report is given to the prospective adopter.
- (6) No later than the end of the period of 10 working days referred to in paragraph (5)(c), the registered person must send the prospective adopter’s review report together with the prospective adopter’s observations to the Adoption Panel.
- (7) The registered person must obtain, so far as is reasonably practicable, any other relevant information which may be required by the Adoption Panel and send that information to the Panel.
- (8) The registered person must ensure that the adoption service makes a decision as to whether the prospective adopter continues to be suitable to adopt a child, but only after the adoption service has taken into account the recommendations of the Adoption Panel following the Panel’s consideration of the prospective adopter’s review report.
- (9) The registered person must ensure that no member of the Adoption Panel takes any part in that decision.
- (10) As soon as possible after the adoption service has made its decision under paragraph (8), the registered person must notify the prospective adopter in writing of –
- (a) the decision and, if the adoption service no longer considers the prospective adopter suitable to adopt a child, the reasons for that decision; and
  - (b) the Adoption Panel’s recommendation if this is different from the adoption service’s decision.
- (11) The registered person must keep a record of the decision.

### **53 Requirements as to prospective adopter’s matching plan**

For the purposes of Article 14(3)(a) and (h) of the Law, where an adoption service has approved a prospective adopter as suitable to adopt a child in accordance with Regulation 51, the registered person must prepare a written plan (the “prospective adopter’s matching plan”) in consultation with the prospective adopter, which must include –

- (a) information about the requirements under Regulations 54 to 60;

- (b) information about the role of the prospective adopter in identifying a child for whom they would be an appropriate adopter;
- (c) information about the process for making a representation or complaint; and
- (d) having regard to any published standards, any other matters that the adoption service considers relevant.

#### **54 Requirements in respect of child's proposed placement**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a), (f) and (h) of the Law.
- (2) Where an adoption service is considering placing a child for adoption with a particular prospective adopter (the “proposed placement”) the registered person must –
  - (a) provide the prospective adopter with a copy of the child's permanence report and any other information the adoption service considers relevant;
  - (b) meet with the prospective adopter to discuss the proposed placement;
  - (c) ascertain the views of the prospective adopter about –
    - (i) the proposed placement, and
    - (ii) the arrangements the adoption service proposes to make for allowing any individual contact with the child; and
  - (d) provide a counselling service for, and, having regard to any published standards, provide any further information to, the prospective adopter, as may be required.
- (3) Where the adoption service considers that the proposed placement should proceed, the registered person must –
  - (a) where the adoption service is the Adoption Service, arrange for an assessment of the needs of the child and the prospective adopter and any children of the prospective adopter (“the adoptive family”) to receive payment of an allowance under Article 9 of the Adoption Law;
  - (b) where the adoption service is an approved adoption society operating independently of the Adoption Service –
    - (i) notify the prospective adopter that the registered person may request the Adoption Service to carry out an assessment of the child's needs for payment of an allowance under Article 9 of the Adoption Law, and
    - (ii) pass to the Adoption Service, at the Adoption Service's request, a copy of the child's permanence report and prospective adopter's report;

- (c) consider the arrangements for allowing any person contact with the child; and
  - (d) prepare a written report (the “adoption placement report”) which must include –
    - (i) the adoption service’s reasons for proposing the placement,
    - (ii) the information obtained by the adoption service under paragraph (2),
    - (iii) where the adoption service is the Adoption Service, proposals for the payment of any allowance to the adoptive family under Article 9 of the Adoption Law,
    - (iv) the arrangements, if any, which the adoption service proposes to make for allowing any person contact with the child, and
    - (v) having regard to any published standards, any other relevant information;
  - (e) notify the prospective adopter that the proposed placement is to be referred to the Adoption Panel;
  - (f) give the prospective adopter a copy of the adoption placement report; and
  - (g) invite the prospective adopter to send any observations in writing to the adoption service within 10 working days, beginning with the date on which the notification is sent.
- (4) No later than the end of the period of 10 working days the registered person must send to the Adoption Panel –
- (a) the adoption placement report;
  - (b) the child’s permanence report; and
  - (c) the prospective adopter’s report and observations.
- (5) The registered person must –
- (a) obtain, so far as is reasonably practicable, any other relevant information which may be requested by the Adoption Panel in connection with the proposed placement; and
  - (b) send that information to the Panel.
- (6) This paragraph applies where an adoption service (“service A”) intends to refer a proposed placement to the Adoption Panel and an equivalent adoption service in another jurisdiction (“service B”) made the decision that –
- (a) the child should be placed for adoption; or
  - (b) the prospective adopter is suitable to be an adoptive parent.
- (7) Where paragraph (7) applies, the registered person in respect of service A may only refer the proposed placement to the Adoption Panel if service A has consulted service B about the proposed placement.
- (8) The registered person in respect of service A must –
- (a) where paragraph (7)(a) applies, open a child’s case record; or

- (b) where paragraph (7)(b) applies, open a prospective adopter's case record,  
and must place on the appropriate record the information and documents received from service B.

## **55 Requirements in respect of adoption service's decision in relation to proposed placement**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a), (f) and (h) of the Law.
- (2) The registered person must ensure –
  - (a) that the adoption service takes into account –
    - (i) any recommendation of the Adoption Panel in coming to a decision about whether the child should be placed for adoption with a particular prospective adopter, and
    - (ii) any advice given by the Adoption Panel as to the arrangements the adoption service should make for allowing any person to have contact with the child once that child is placed for adoption; and
  - (b) that no member of the Adoption Panel takes part in the adoption service's decision.
- (3) If the adoption service decides that the proposed placement should proceed, the registered person must as soon as possible after the adoption service has made its decision, –
  - (a) notify in writing the prospective adopter, of the decision;
  - (b) if their whereabouts are known to the adoption service, notify in writing the parent or guardian;
  - (c) where Regulation 38(4) applies and the registered person considers it is appropriate, notify in writing the father of the child of the fact that the child is to be placed for adoption; and
  - (d) explain the decision to the child in an appropriate manner having regard to the child's age and understanding.
- (4) The registered person must place on the child's case record –
  - (a) the prospective adopter's report;
  - (b) the adoption placement report and the prospective adopter's observations on that report;
  - (c) the written record of the proceedings of the Adoption Panel, its recommendation, the reasons for its recommendation and any advice given by the Panel to the adoption service; and
  - (d) the record and notification of the adoption service's decision.

## **56 Requirements in respect of overseas adoption**

- (1) This Regulation applies for the purposes of –

- (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) and (f) of the Law.
- (2) Where, in an overseas adoption case, the adoption service receives from the foreign adoption authority information about a child to be adopted by a prospective adopter, the registered person must –
  - (a) send a copy of the information to the prospective adopter unless the registered person is aware that the prospective adopter has received a copy;
  - (b) consider that information and meet with the prospective adopter to discuss the information; and
  - (c) if appropriate, provide a counselling service for the prospective adopter; and
  - (d) having regard to any published standards, provide any further information to the prospective adopter as may be required.

## **57 Requirements before child may be placed for adoption**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a), (f) and (h) of the Law.
- (2) This paragraph applies where –
  - (a) an adoption service has decided to place a child for adoption with a particular prospective adopter; and
  - (b) the registered person has met with the prospective adopter to consider the arrangements which the adoption service proposes to make for the placement of the child with that individual.
- (3) Where paragraph (2) applies, the registered person must, as soon as possible, send the prospective adopter a placement plan in respect of the child which covers the matters specified in Schedule 3 (the “adoption placement plan”).
- (4) Where the child in question is less than 6 weeks old, the registered person must, if practicable, obtain the agreement to the placement for adoption in writing of that child’s parent or guardian.
- (5) Where the child already has a home with the prospective adopter, the registered person must notify the prospective adopter in writing of the date on which the child is placed for adoption with that individual by the adoption service.
- (6) The registered person must, before the child is placed for adoption with the prospective adopter, send to the prospective adopter’s general practitioner written notification of the proposed placement and send with that notification a written report of the child’s health history and current state of health.
- (7) The registered person must –



- (a) notify the prospective adopter in writing of any change to the adoption placement plan; and
- (b) place on the child's case record –
  - (i) in the case of a child who is less than 6 weeks old, a copy of any agreement referred to in paragraph (4), and
  - (ii) a copy of the adoption placement plan and any changes to that plan.

## **58 Requirements as to reviews**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a), (f) and (h) of the Law.
- (2) Where a child is not for the time being placed for adoption, the registered person must carry out a review of the child's case –
  - (a) not more than 3 months after the date on which the adoption service first decides to place the child for adoption; and
  - (b) thereafter and until the child is placed for adoption, not more than 6 months after the date of the previous review.
- (3) Paragraphs (4) and (5) apply where a child is placed for adoption.
- (4) Unless the child is returned to the adoption service by the prospective adopter or an adoption order is made, the registered person must carry out a review of the child's case –
  - (a) not more than 4 weeks after the date on which the child is placed for adoption (the "first review");
  - (b) not more than 3 months after the first review; and
  - (c) thereafter not more than 6 months after the date of the previous review.
- (5) The registered person must –
  - (a) arrange for the child and the prospective adopter to be visited within one week of the placement and thereafter at least once a week until the first review and thereafter, having regard to any published standards, as frequently as the registered person decides at each review;
  - (b) ensure that written reports are made of the visits; and
  - (c) provide advice and assistance to the prospective adopter as the adoption service considers necessary.
- (6) When carrying out a review under this Regulation the registered person must –
  - (a) consider each of the matters set out in paragraph (7); and
  - (b) so far as is reasonably practicable, in relation to any of the matters set out in paragraph (7) that the registered person considers appropriate, ascertain the views of –

- (i) the child, having regard to the child's age and understanding,
  - (ii) if the child is placed for adoption, the prospective adopter, and
  - (iii) any other person the adoption service considers relevant.
- (7) The matters referred to in paragraph (6) are –
  - (a) whether the adoption service remains satisfied that the child should be placed for adoption;
  - (b) the child's needs, welfare and development, and whether any changes need to be made to the existing arrangements to meet the child's needs or assist the child's development;
  - (c) the existing arrangements for contact, and whether they should continue or be altered;
  - (d) the existing arrangements in relation to the exercise of parental responsibility for the child, and whether they should continue or be altered;
  - (e) in consultation with the appropriate agencies, the existing arrangements for assessing and meeting the child's health care and educational needs; and
  - (f) the frequency of the reviews.
- (8) The registered person must ensure that the following matters are recorded in writing and placed on the child's case record –
  - (a) the information obtained in the course of a review or visit in respect of a child's case, including the views expressed by the child;
  - (b) the details of the proceedings of any meeting arranged by the registered person to consider any aspect of the review of the case; and
  - (c) details of any decision made in the course of or as a result of the review.
- (9) Where the child is returned to the adoption service, the registered person must conduct a review of the child's case no earlier than 28 days, or later than 42 days, after the date on which the child is returned, and when carrying out that review the registered person must consider the matters set out in paragraph (7)(a), (b), (c) and (e).

## **59 Requirements in respect of independent reviewing officers**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) In the case of each child to be placed for adoption by the adoption service, the registered person must appoint a person (the "independent reviewing officer") whose function is –

- (a) as far as is reasonably practicable, to attend any meeting held in connection with the review of the child's case under Regulation 58; and
  - (b) to chair any meeting so attended.
- (3) The independent reviewing officer appointed under paragraph (2) must be a social worker –
- (a) who works under the direction or supervision of the registered manager of the independent monitoring and reviewing service referred to in paragraph 10 of Schedule 1 to the Law; and
  - (b) who has sufficient relevant social work experience in relation to adoption cases.
- (4) The registered person must inform the independent reviewing officer of –
- (a) any significant failure to make the arrangements agreed at a review under Regulation 58; and
  - (b) any significant change in the child's circumstances after a review.

#### **60 Requirements in respect of case records**

- (1) This Regulation applies for the purposes of Article 14(3)(a) and (f) of the Law.
- (2) The registered person must ensure that the child's case record and the prospective adopter's case record and the contents of those case records are at all times kept in secure conditions and in particular that all appropriate measures are taken to prevent the theft, unauthorised disclosure, loss, or destruction of, or damage to, the case record or its contents.
- (3) The registered person must keep the child's case record and the prospective adopter's case record for not less than 75 years.
- (4) The registered person must treat the contents of the child's case record and the prospective adopter's case record as confidential.

#### **61 Requirements as to access to case records and disclosure of information**

- (1) This Regulation applies for the purposes of Article 14(3)(a), (f) and (h) of the Law.
- (2) This paragraph applies where, despite Regulation 60, an adoption service gives access to its case records or discloses information in its possession, as may be required –
  - (a) by, and to the extent specified in, these Regulations for the purposes of carrying out its functions as an adoption service;
  - (b) by the Commission in the exercise of its functions under the Law or these Regulations; or
  - (c) by the Court in the exercise of powers to make orders under the Adoption Law or Children Law.

- (3) Where paragraph (2) applies, the registered person must keep a written record of any access provided or disclosure made.

## **62 Requirements in respect of the transfer of case records**

- (1) This Regulation applies for the purposes of Article 14(3)(a), (f) and (h) of the Law.
- (2) Where a registered person transfers a copy of a child's case record or prospective adopter's case record (or part of that record) to an equivalent adoption service in another jurisdiction, a written record must be kept of any transfer."

## **35 New Parts 7 to 9 inserted**

After new Regulation 62 there are inserted Parts 7 to 9 as follows –

### **"PART 7**

#### **FOSTERING SERVICE**

## **63 Application and interpretation of Part**

- (1) This Part applies where the regulated activity is a fostering service.
- (2) In this Part –
  - (a) "Minister" means the Minister for Children and Education;
  - (b) "Placement Regulations" means the [Children \(Placement\) \(Jersey\) Regulations 2005](#); and
  - (c) words or expressions not otherwise defined in the Law or these Regulations have the same definitions as given in the Children Law or the Placement Regulations, as the case may be.

## **64 Requirements in respect of children's welfare**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must ensure that –
  - (a) the welfare of children placed or to be placed with foster parents is safeguarded and promoted at all times; and
  - (b) before making any decision affecting a child placed or to be placed with a foster parent, due consideration is given to the child's –
    - (i) wishes and feelings (having regard to the child's age and understanding), and

- (ii) religious persuasion, racial origin and cultural and linguistic background.

## **65 Requirements as to arrangements for the protection of children placed with foster parents**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(a), (b) and (d) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must prepare and implement a written policy which –
  - (a) is intended to safeguard children placed with foster parents from abuse or neglect; and
  - (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

## **66 Requirements as to behaviour management and children missing from foster parent's home**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (d) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must prepare and implement a written policy on acceptable measures of control, restraint and discipline of children placed with foster parents.
- (3) The registered person must ensure that foster parents are aware of, and understand the effect of, Article 79 (abolition of defence of reasonable corporal punishment) of the Children Law.
- (4) The registered person must take all reasonable steps to ensure that –
  - (a) no child placed with a foster parent is exposed to any measure of control, restraint or discipline which is excessive or unreasonable; and
  - (b) restraint is used on a child only where it is necessary to prevent injury to the child or other persons, or serious damage to property.
- (5) The registered person must prepare, implement, review and where necessary revise a policy, which is agreed with the States of Jersey Police Force, setting out –
  - (a) the measures to be taken to prevent a child placed with foster parents from going missing from the child's placement; and
  - (b) the procedure to be followed when a child is missing from a foster parent's home unexpectedly or without permission.

**67 Requirement to promote contact in respect of child placed with foster parents**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must, having regard to the provisions of the child's personal plan and any order of the Court relating to contact, promote contact between a child placed with a foster parent and the child's parents, relatives, and friends unless the contact is not reasonably practicable or consistent with the child's welfare.

**68 Requirement to promote health of children placed with foster parents**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) and (c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must promote the health and development of children placed with foster parents.
- (3) In particular the registered person must ensure that each child so placed –
  - (a) is registered as a patient with a registered medical practitioner;
  - (b) has access to any medical, dental, nursing, psychological and psychiatric or other mental health advice, treatment and other services as the child may require;
  - (c) is provided with any individual support, aids and equipment which the child may require as a result of any particular health needs or disability the child may have; and
  - (d) is provided with guidance, support and advice on health, personal care and health promotion issues appropriate to the child's needs and wishes.

**69 Requirement to promote the educational achievement of children placed with foster parents**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(c) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must promote the educational achievement of children placed with foster parents.
- (3) In particular the registered person must –

- (a) implement a procedure for monitoring the educational achievement, progress and school attendance of children placed with foster parents;
  - (b) promote the regular school attendance and participation in school activities of children of compulsory school age placed with foster parents; and
  - (c) provide foster parents with any information and assistance, including equipment, that may be necessary to meet the educational needs of children placed with them.
- (4) The registered person must ensure that any education provided for any child placed with a foster parent who is of compulsory school age, but who is not attending school, is delivered efficiently and suitable to the child's age, ability, aptitude and any special educational needs the child may have.
  - (5) The registered person must ensure that foster parents promote the leisure interests of children placed with them.
  - (6) Where any child placed with a foster parent is above compulsory school age, the registered person must assist with the making of, and give effect to, the arrangements made for the child's education, training and employment.

#### **70 Requirement to provide support, training and information for foster parents**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) of the Law; and
  - (b) Article 14(3)(a) and (c) of the Law.
- (2) The registered person must provide foster parents with the training, advice, information and support, including support outside office hours, as appears necessary in the interests of children placed with them.
- (3) The registered person must take all reasonable steps to ensure that foster parents are familiar with, and act in accordance with, the policies established in accordance with Regulations 65(2) and 66(2) and (5).
- (4) The registered person must ensure that, in relation to any child placed or to be placed with a foster parent, the foster parent is given information, which is kept up to date, to enable the foster parent to provide appropriate care for the child, and in particular that each foster parent is provided with a copy of the most recent version of the child's personal plan.

#### **71 Requirements in respect of complaints procedure**

- (1) This Regulation applies for the purposes of Article 14(3)(a) and (k) of the Law.

- (2) The registered person must, in respect of the written procedure established under Regulation 22, ensure that the procedure includes a procedure for considering complaints or representations made by or on behalf of children placed by the fostering service, and by foster parents approved by the fostering service.
- (3) The procedure must, in particular, provide –
  - (a) for complaints to be made by a person acting on behalf of a child; and
  - (b) for the procedure to be made known to –
    - (i) children placed by the fostering service (having regard to their age and understanding),
    - (ii) the parents of those children, and
    - (iii) persons working for, or on behalf of, the fostering service, including foster parents.
- (4) The registered person must ensure that –
  - (a) children are enabled to make a complaint or representation; and
  - (b) no child is exposed to any reprisal for making a complaint or representation.

## **72 Requirements in respect of fostering panel**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(a) and (d) of the Law; and
  - (b) Article 14(3)(a) and (b) of the Law.
- (2) The registered person must maintain a list of individuals who are considered by the registered person to be suitable to be members of a fostering panel, including one or more social workers who have at least 3 years' relevant post-qualifying experience.
- (3) The registered person must ensure that –
  - (a) members of the fostering panel have between them the experience and expertise necessary, to discharge the functions of the panel effectively; and
  - (b) an individual who is independent of the fostering service is appointed to chair the fostering panel.
- (4) For the purposes of this Regulation and Regulation 73, an individual is not independent of the fostering service if the individual –
  - (a) is currently approved as a foster parent;
  - (b) is employed by a Department or agency of the States in connection with the provision of a social work service for children and young people;
  - (c) has a financial interest in the fostering service or receives any payment from the fostering service in connection with the provision of services to the fostering service (other than for services as an independent person); or



- (d) is a member of the States.

### **73 Requirements in respect of meetings of the fostering panel**

- (1) For the purposes of Article 14(3)(a) of the Law, the registered person must ensure that no business is conducted by the fostering panel unless at least the following meet as the panel –
  - (a) the individual appointed to chair the panel, or another individual (the “vice chair”) appointed to act if the individual appointed to chair the panel is absent or that office is vacant;
  - (b) one member who is a social worker who has at least 3 years’ relevant post-qualifying experience; and
  - (c) 3 other members.
- (2) Where the chair is not present and the vice chair who is present is not independent of the fostering service, the registered person must ensure that at least one of the other panel members is independent of the fostering service.
- (3) The registered person must ensure that the fostering panel makes a written record of its proceedings and the reasons for any recommendations made under Regulation 74.

### **74 Requirements as to the discharge of fostering panel’s functions**

- (1) This Regulation applies for the purposes of –
  - (a) securing the matters set out in Article 14(2)(a) and (d) of the Law; and
  - (b) Article 14(3)(a) and (b) of the Law.
- (2) The registered person must ensure that the fostering panel carries out the following functions –
  - (a) to consider whether or not to recommend that an individual is suitable to be approved as a foster parent in accordance with Regulation 14 (approval of foster parents) of the Placement Regulations;
  - (b) where the fostering panel recommends approval, to recommend the terms of any specification mentioned in Regulation 14(5) of the Placement Regulations in respect of which the approval is to be given;
  - (c) to recommend whether or not an individual remains suitable to be a foster parent, and whether or not the terms of the specification of the individual’s approval (if any) remain appropriate on the occasion of any review carried out in accordance with Regulation 15 (reviews and termination of approval) of the Placement Regulations;
  - (d) in a case where the recommendations of an independent review have been referred to the panel in accordance with the procedures established under Regulation 75, to consider whether or not to recommend –

- (i) that an individual is, or remains suitable to, approved as a foster parent, or
  - (ii) that the terms of a foster parent's specification should be revised; and
- (e) to advise and make recommendations on any other matters or cases as the registered person may refer to the panel.
- (3) The registered person must ensure that no member of the fostering panel takes any part in any decision made by the Minister under Regulations 14 and 15 of the Placement Regulations.
- (4) The registered person must obtain any information the fostering panel requires and send that information to the panel.
- (5) In this Regulation "advise" and "recommend" means advise, or recommend to, the Minister.

## **75 Requirements where people are not approved, or no longer approved as foster parents**

- (1) This Regulation applies for the purposes of Article 14(3)(a) and (k) of the Law.
- (2) This Regulation applies where the Minister gives notice of the Minister's decision –
  - (a) under Regulation 14(7) of the Placement Regulations, not to approve an individual as a foster parent;
  - (b) under Regulation 15(3) of the Placement Regulations, to revise the terms of a foster parent's specification mentioned in Regulation 14(5) of those Regulations; or
  - (c) under Regulation 15(3) of the Placement Regulations, to terminate an individual's approval as a foster parent.
- (3) The registered person must, having regard to any published standards, establish a procedure –
  - (a) for receiving representations from an individual affected by any decision mentioned in paragraph (2);
  - (b) for a timely independent review of any decision; and
  - (c) for any recommendations of that review to be referred to, and considered by, the fostering panel in a timely fashion.

## **76 Requirement to comply with Placement Regulations**

For the purposes of Article 14 of the Law, the registered person must ensure that the fostering service discharges the functions of the Minister in accordance with Part 4 (placement with foster parents), Part 5 (records) and Part 6 (miscellaneous provisions) of the Placement Regulations.

## **PART 8**

### **REGULATED ACTIVITIES UNDER PARAGRAPHS 9 TO 11 OF SCHEDULE 1 TO THE LAW**

#### **77 Requirement in respect of provision of a social work service for children and young people**

- (1) This Article applies where the regulated activity is the provision of a social work service for children and young people, and for the purposes of Article 14 of the Law.
- (2) Where the regulated activity is provided in connection with paragraph 9(3) of Schedule 1 to the Law, the registered person must discharge the relevant Minister's functions in accordance with the relevant enactment.
- (3) In paragraph (2) –  
“relevant Minister” means the Minister for the time being assigned responsibility for the functions of the Minister in the relevant enactment;  
“relevant enactment” in this Regulation and in Regulation 78 means an enactment in relation to children or young people.

#### **78 Requirement in respect of provision of an independent monitoring and review service in respect of looked after children's cases**

- (1) This Article applies where the regulated activity is the provision of a service for the independent monitoring and review of looked after children's cases, and for the purposes of Article 14 of the Law.
- (2) The registered person must discharge the functions of the Minister for Children and Education in relation to the monitoring and review of looked after children's cases in accordance with the relevant enactment.

#### **79 Requirements in respect of provision of a child contact centre service**

- (1) This Regulation applies where the regulated activity is the provision of a child contact centre service and for the purposes of –
  - (a) securing the matters set out in Article 14(2)(b) of the Law; and
  - (b) Article 14(3)(a) of the Law.
- (2) The registered person must ensure that a worker always directly supervises contact between a child and any of the people listed in paragraph 11(2) of Schedule 1 to the Law.
- (3) For the purposes of paragraph (2), direct supervision requires that the worker must either be physically present in the same room or

have a constant line of sight into the room either through a window or by video-link.

## PART 9

### MISCELLANEOUS

#### **80 Requirement for Commission to carry out certain inspections**

- (1) The Commission must carry out inspections at least once every 12 months of regulated activities for one or more of the following purposes –
  - (a) to monitor compliance with the Law and these Regulations;
  - (b) to review and evaluate the effectiveness of the regulated activity against the Commission's published standards; and
  - (c) to encourage improvement in the provision of the regulated activity.
- (2) However, this Regulation does not apply in the case of a regulated activity carried on by a registered person who is an individual directly employed by, or personally in receipt of any reward from, the service user for the service provided.
- (3) Paragraph (4) applies where the Commission believes that there are serious risks to service users due to a lack of suitably qualified workers resulting directly or indirectly from an outbreak of Covid-19 in Jersey or its aftermath.
- (4) Where this paragraph applies the Commission must as soon as reasonably practicable report its concerns about the standard or quality of care being provided to the Minister and to the Minister for Health and Social Services and make written recommendations as to the steps that should be taken to address the serious risks to service users.
- (5) The Commission must publish the recommendations and the fact that it has reported its concerns to the Ministers.

#### **81 Compliance with Regulations**

Unless these Regulations provide otherwise, every requirement of these Regulations applies to all registered persons irrespective of there being more than one person providing the regulated activity concerned.

#### **82 Offences and improvement notices**

- (1) A person commits an offence if that person –
  - (a) contravenes a requirement of these Regulations; and
  - (b) fails to comply with an improvement notice within the period specified in the notice for compliance with it.
- (2) An improvement notice is a notice –

- (a) informing the registered person that these Regulations have been contravened;
  - (b) specifying the time frame within which remedial action must be taken; and
  - (c) explaining the consequences of a failure to take that remedial action.
- (3) A person who contravenes a requirement of these Regulations commits an offence where, as a result of the contravention, a service user has suffered, or was at significant risk of suffering, serious harm.
  - (4) Where the Commission has served an improvement notice under this Regulation it must publish the fact.
  - (5) A person who commits an offence under this Regulation is liable to a fine of £50,000.

### **83 Expiry of Regulations 3A, 17A and 80(3) to (5)**

Regulations 3A, 17A and 80(3) to (5) expire at the end of 30th April 2022.

### **84 Citation**

These Regulations may be cited as the [Regulation of Care \(Standards and Requirements\) \(Jersey\) Regulations 2018](#).

## **36 New Schedules inserted**

After new Part 9 there are inserted Schedules 1 to 3 as follows –

### **“SCHEDULE 1**

(Regulations 39(2)(a) and (c), 40(2) and 41(3)(a))

#### **INFORMATION RELATING TO THE CHILD**

##### **PART 1**

### **1 Information about the child**

- (1) Name, sex, date and place of birth and address.
- (2) A photograph and physical description.
- (3) Nationality.
- (4) Racial origin and cultural and linguistic background.
- (5) Religious persuasion (including details of baptism, confirmation, or equivalent ceremonies).
- (6) Details of any order made by the court with respect to the child under the Children Law including the date on which the order was made.

- (7) Whether the child has any rights to, or interest in, property or any claim to damages under any enactment or rule of customary law, or under the law of any other jurisdiction or otherwise, which the child stands to retain or lose if the child is adopted.
- (8) A chronology of the child's care since birth.
- (9) A description of the child's personality, including social, emotional and behavioural development.
- (10) Whether the child has any difficulties with activities such as feeding, washing or dressing.
- (11) The child's educational history, including –
  - (a) the names, addresses and types of nurseries or schools attended with dates;
  - (b) a summary of the child's progress and attainments;
  - (c) whether there is any plan maintained for the child by the Minister for Children and Education or Minister for Health and Social Services in respect of the child's education and any associated health or care needs;
  - (d) any special needs the child has in relation to learning; and
  - (e) where the child is looked after by the Minister, details of any personal education plan prepared by the Minister for Children and Education.
- (12) Information about –
  - (a) the child's relationship with –
    - (i) the child's parent or guardian,
    - (ii) any brothers or sisters or other relatives the child may have, and
    - (iii) any other individual the registered person considers relevant;
  - (b) the likelihood of any relationship described in clause (a) continuing and the value to the child of it doing so; and
  - (c) the ability and willingness of the child's parent or guardian, or any other individual the registered person considers relevant, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs.
- (13) The current arrangements for and the type of contact between the child's parent or guardian or other individual with parental responsibility for the child, the child's father, and any relative, friend or other individual.
- (14) A description of the child's interests, likes and dislikes.
- (15) Any other relevant information which may assist the Adoption Panel and adoption service.

## PART 2

### 2 Matters to be included in the child's health report

- (1) The child's name, date of birth, sex, weight and height.
- (2) A neo-natal report on the child, including –
  - (a) details of the child's birth and any complications;
  - (b) the results of a physical examination and screening tests;
  - (c) details of any treatment given;
  - (d) details of any problem in management and feeding;
  - (e) any other relevant information which may assist the Adoption Panel and the adoption service; and
  - (f) the name and address of any registered medical practitioner who may be able to provide further information about any of the above matters.
- (3) A full health history of the child, including –
  - (a) details of any serious illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given;
  - (b) details and dates of immunisations;
  - (c) a physical and developmental assessment according to age, including an assessment of vision and hearing and of neurological, speech and language development and any evidence of emotional disorder;
  - (d) for a child over the age of 5, the school health history (if available);
  - (e) how the child's physical and mental health and medical history have affected the child's physical, intellectual, emotional, social or behavioural development; and
  - (f) any other relevant information which may assist the Adoption Panel and adoption service.

## PART 3

### 4 Interpretation for Part

In this Part "parent" includes the father of the child regardless of whether he has parental responsibility for the child.

### 5 Information about each parent of the child

- (1) Name, sex, date and place of birth and address.
- (2) A photograph, if available, and physical description.
- (3) Nationality.
- (4) Racial origin and cultural and linguistic background.

- (5) Religious persuasion (if any).
- (6) A description of the parent's personality and interests.

## **6 Information about the child's brothers or sisters**

- (1) Name, sex, and date and place of birth.
- (2) A photograph, if available, and physical description.
- (3) Nationality.
- (4) Address, if appropriate.
- (5) If the brother or sister is under the age of 18 –
  - (a) where and with whom the brother or sister is living;
  - (b) details of any court order made with respect to the brother or sister under the Children Law, including the date on which the order was made; and
  - (c) whether the brother or sister is also being considered for adoption.

## **7 Information about the child's other relatives and any other individual the registered person considers relevant**

- (1) Name, sex and date and place of birth.
- (2) Nationality.
- (3) Address, if appropriate.

## **8 Family history and relationships**

- (1) Whether the child's parents were married to, or civil partners of, each other at the time of the child's birth (or have subsequently married or formed a civil partnership) and if so, the date and place of marriage or civil partnership.
- (2) Whether –
  - (a) if the child's parents have been married to each other, they are divorced or separated; or
  - (b) if the child's parents have been civil partners of each other, the partnership has been dissolved or they are separated.
- (3) Where the child's parents are not married or civil partners, whether the father has parental responsibility for the child and, if so, how it was acquired.
- (4) If the identity or whereabouts of the child's father are not known, the information about him that has been ascertained and from whom, and the steps that have been taken to establish paternity.
- (5) Where the child's parents have been previously married or formed a civil partnership, the date of the marriage or the date and place of registration of the civil partnership.



- (6) So far as is possible, a family tree with details of the child's grandparents, parents and aunts and uncles with their ages (or ages at death).
- (7) Where it is reasonably practicable, a chronology of each of the child's parents from birth.
- (8) The observations of the child's parents about their own experiences of being parented and how this has influenced them.
- (9) The past and present relationship of the child's parents.
- (10) Details of the wider family and their role and importance to –
  - (a) the child's parents; and
  - (b) any of the child's brothers or sisters.

## **9 Other information about each parent of the child**

- (1) Information about the parent's home and the neighbourhood in which the parent lives.
- (2) Details of the parent's educational history.
- (3) Details of the parent's employment history.
- (4) Information about the parenting capacity of the child's parent, particularly their ability and willingness to parent the child.
- (5) Any other relevant information which might assist the Adoption Panel and adoption service.

## **PART 4**

## **10 Information relating to the health of the child's natural parents and brothers or sisters**

- (1) Name, date of birth, sex, weight and height of each parent.
- (2) A health history of each parent, including details of any serious physical or mental illness, any hereditary disease or disorder, drug or alcohol misuse, disability, accident, or hospital admission and in each case any treatment given where the adoption service considers that information to be relevant.
- (3) A health history of the child's brothers or sisters (of the full blood or half-blood), and any other children of each parent with details of any serious physical or mental illness and any hereditary disease or disorder.
- (4) A summary of the mother's obstetric history, including any problems in the ante-natal, labour, and post-natal periods, with the results of any tests carried out during or immediately after the pregnancy.
- (5) Details of any present illness, including treatment and prognosis.
- (6) Any other relevant information which may assist the Adoption Panel and adoption service.

## SCHEDULE 2

(Regulations 47(2)(a) and (b) and 50(2)(a) and (b))

### INFORMATION RELATING TO PROSPECTIVE ADOPTER

#### PART 1

##### 1 Information about the prospective adopter

- (1) Name, sex, date and place of birth and address.
- (2) If the prospective adopter is married or has formed a civil partnership but is applying alone for an assessment of their suitability to adopt, the reasons for this.
- (3) Details of any previous family court proceedings in which the prospective adopter has been involved.
- (4) Names and addresses of 3 referees who will give personal references on the prospective adopter, not more than one of whom may be a relative.
- (5) Name and address of the prospective adopter's registered medical practitioner.
- (6) If the prospective adopter –
  - (a) is married, the date and place of the marriage;
  - (b) has formed a civil partnership, the date and place of registration of that partnership; or
  - (c) has a partner, details of that relationship.
- (7) Details of any previous marriage, civil partnership or relationship which has ended.
- (8) Whether the prospective adopter is domiciled or habitually resident in a part of the British Islands and if habitually resident for how long they have been habitually resident.
- (9) Details of other members of the prospective adopter's household, including any children of the prospective adopter whether or not resident in the household.

#### PART 2

##### 2 Report on the health of the prospective adopter

- (1) Name, date of birth, sex, weight and height.
- (2) Past health history, including details of any serious physical or mental illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given.
- (3) Details of any present illness, including treatment and prognosis.
- (4) Details of any consumption of alcohol that may give cause for concern or whether the prospective adopter smokes or uses habit-forming drugs.

- (5) Obstetric history (if applicable).
- (6) Infertility or reasons for deciding not to have children (if applicable).
- (7) A family health history of the parents, any brothers or sisters or any children of the prospective adopter, with details of any serious physical or mental illness and any hereditary disease or disorder.
- (8) Any other relevant information which may assist the Adoption Panel and the adoption service.

### **PART 3**

#### **3 Information for purposes of prospective adopter's report**

- (1) A photograph and physical description.
- (2) Racial origin and cultural and linguistic background.
- (3) Religious persuasion (if any).
- (4) Relationship to the child (if applicable).
- (5) A description of the prospective adopter's personality and interests.
- (6) A family tree with details of the prospective adopter, the prospective adopter's siblings, and any children of the prospective adopter, with their ages (or ages at death, if applicable).
- (7) A chronology of the prospective adopter from birth.
- (8) The observations of the prospective adopter about their own experience of being parented and how this has influenced them.
- (9) Details of any experience the prospective adopter has had of caring for children (including as a parent, step-parent, foster parent, child minder or prospective adopter) and an assessment of the prospective adopter's ability in this respect.
- (10) Any other information which indicates how the prospective adopter and anybody else living in the prospective adopter's household is likely to relate to a child placed for adoption with the prospective adopter.
- (11) A description of the prospective adopter's wider family and their role and importance to the prospective adopter and their likely role and importance to a child placed for adoption with the prospective adopter.
- (12) Information about the prospective adopter's home and the neighbourhood in which the prospective adopter lives.
- (13) Information about the prospective adopter's local community, including the degree of the family's integration with its peer groups, friendships and social networks.
- (14) Details of the prospective adopter's educational history and attainments and the prospective adopter's views about how this has influenced them.
- (15) Details of the prospective adopter's employment history and the observations of the prospective adopter about how this has influenced them.

- (16) The prospective adopter's current employment and the prospective adopter's views about achieving a balance between employment and child care.
- (17) Details of the prospective adopter's income and expenditure.
- (18) Information about the prospective adopter's capacity to –
  - (a) provide for a child's needs, particularly emotional and behavioural development needs;
  - (b) share a child's history and associated emotional issues; and
  - (c) understand and support a child through possible feelings of loss and trauma.
- (19) The prospective adopter's –
  - (a) reasons for wishing to adopt a child;
  - (b) views and feelings about adoption and its significance;
  - (c) views about their parenting capacity;
  - (d) views about parental responsibility and what it means;
  - (e) views about a suitable home environment for a child;
  - (f) views about the importance and value of education;
  - (g) views and feelings about the importance of a child's religious persuasion, racial origin, and cultural and linguistic background; and
  - (h) views and feelings about contact between the child's parent or guardian or other individual with parental responsibility for the child, the child's father, and any relative, friend or other individual.
- (20) The views of other members of the prospective adopter's household and wider family in relation to adoption.
- (21) Any other relevant information which may assist the Adoption Panel and the adoption service.

### **SCHEDULE 3**

(Regulation 57(3))

#### **ADOPTION PLACEMENT PLAN**

- (1) Whether the child is placed with the consent of the parent or guardian.
- (2) The arrangements for preparing the child and the prospective adopter for the placement.
- (3) Date on which it is proposed to place the child for adoption with the prospective adopter.
- (4) The arrangements for review of the placement.
- (5) Whether parental responsibility of the prospective adopter for the child is to be restricted, and if so, the extent to which it is to be restricted.

- (6) Whether the Minister for Children and Education is to pay an allowance under Article 9 of the Adoption Law and if so, the amount of the allowance and how and when it is to be paid.
- (7) The arrangements which the adoption service has made for allowing any individual contact with the child, the form of contact, the arrangements for supporting contact and the name and contact details of the person responsible for facilitating the contact arrangements (if applicable).
- (8) The dates on which the child’s later life letter and life story book are to be passed by the adoption service to the prospective adopter.
- (9) Details of any other arrangements that need to be made.
- (10) Contact details of the child’s social worker, the prospective adopter’s social worker and out of hours contacts.
- (11) In this Schedule –
  - “later life letter” means a letter prepared by the child’s social worker explaining the child’s history from birth and containing factual details about the child’s birth family and life before adoption;
  - “life story book” is an account of a child’s life in words, pictures and documents to assist a child in understanding the child’s early history and life before adoption.”.

### **37 Citation and commencement**

These Regulations may be cited as the Regulation of Care (Standards and Requirements) (Amendment) (Jersey) Regulations 202- and come into force immediately after the commencement of the Regulation of Care (Regulated Activities) (Amendment of Law) (Jersey) Regulations 202-.