

Explanatory Memorandum to the Regulated Adoption Services (Service Providers and Responsible Individuals) and Adoption Support Services (Local Authorities) (Miscellaneous Amendments) (Wales) Regulations 2026, and the Adoption Support Services (Adoption Support Agencies) (Wales) Regulations 2026

This Explanatory Memorandum has been prepared by the Health Social Care and Early Years Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Regulated Adoption Services (Service Providers and Responsible Individuals) and Adoption Support Services (Local Authorities) (Miscellaneous Amendments) (Wales) Regulations 2026, and the Adoption Support Services (Adoption Support Agencies) (Wales) Regulations 2026. I am satisfied that the benefits justify the likely costs.

Dawn Bowden MS
Minister for Children and Social Care
27 January 2026

PART 1

1. Description

The Regulated Adoption Services (Service Providers and Responsible Individuals) and Adoption Support Services (Local Authorities) (Miscellaneous Amendments) (Wales) Regulations 2026

- 1.1 The Regulated Adoption Services (Service Providers and Responsible Individuals) and Adoption Support Services (Local Authorities) (Miscellaneous Amendments) (Wales) Regulations 2026 introduce a series of targeted amendments to two existing sets of regulations:
 - The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the 2019 Regulations”), and
 - The Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (“the 2005 Regulations”).
- 1.2 These amendments are made under powers conferred on the Welsh Ministers by the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) and the Adoption and Children Act 2002 (“the 2002 Act”).
- 1.3 The purpose of the instrument is to clarify and modernise the regulatory framework governing adoption and adoption support services in Wales. It aims to ensure that the legal definitions and responsibilities reflect current practice, support consistency in service delivery, and remove ambiguity in the interpretation of key terms and provisions.
- 1.4 The instrument introduces the following changes:

Extension of existing exemption from registration for adoption services providing support services under contract

Currently, adoption support services provided by an individual under a contract with a registered adoption service or local authority does not fall within the definition of an “adoption service” for regulatory purposes. Amendment to the 2019 Regulations extends this to also exempt those services delivered by partnerships and corporate bodies under contract.

Exemption from registration for the provision of adult counselling in relation to adoption

An additional exemption is introduced to the 2019 Regulations for counselling in relation to adoption provided to adults (aged 18 and over). The provision of these services will not require registration with CIW.

Clarity in scope of prescribed services, expanded eligibility and terminology updates

The amendments to the 2005 Regulations:

- **Modernise terminology** by replacing references to “natural parent” with “birth parent” and likewise with similar expressions. Whilst the 2002 Act does not expressly define “natural” in relation to family relationships, its meaning is generally understood from the context of the 2002 Act. To support this change in terminology and provide clarity, the instrument introduces a definition of “birth parent” to the 2005 Regulations. This term is to be interpreted in the same way as “natural parent” under the 2002 Act, and other references to relationships by birth are to be construed accordingly.
- **Extend eligibility for certain adoption support services** to include former guardians of an adoptive child, recognising the evolving nature of family structures and the importance of inclusive support. The 2002 Act’s definition of “guardian” applies to the 2005 Regulations by virtue of the Interpretation Act 1978.
- **Clarify the scope of certain adoption support services** prescribed in regulation 3 of the 2005 Regulations. This includes specifying that respite care involving accommodation must be provided under specific statutory provisions to qualify as an adoption support service.
- **Make consequential amendments** to update cross-references, ensuring consistency and legal clarity across the regulations.

The Adoption Support Services (Adoption Support Agencies) (Wales) Regulations 2026

1.5 The Adoption Support Services (Adoption Support Agencies) (Wales) Regulations 2026 are made by the Welsh Ministers under powers conferred by the Adoption and Children Act 2002. These Regulations revoke and replace the Adoption Support Services (Wales) Regulations 2019.

1.6 The instrument, which revokes and replaces the Adoption Support Services (Wales) Regulations 2019, sets out to:

- **Prescribe additional adoption support services**
Section 2(6) of the 2002 Act defines “adoption support services” as counselling, advice and information, and any other services prescribed by regulations, in relation to adoption. Certain adoption support services that local authorities provide in Wales, as part of the service they maintain under the 2002 Act, are already prescribed in the *Adoption Support Services (Local Authorities) (Wales) Regulations 2005* for the purposes of section 2(6) of the 2002 Act. In addition, an intermediary service is prescribed as an adoption support service in the *Adoption*

Information and Intermediary Services (Pre-Commencement Adoptions) (Wales) Regulations 2005 for the purposes of the 2002 Act. This instrument prescribes additional adoption support services for the purposes of the section 2(6) definition, and which are subject to registration and regulatory requirements in Wales unless otherwise exempt. These services provided by adoption support agencies include therapeutic interventions, assistance with contact arrangements, training for adoptive parents, respite care, and mediation where placements are disrupted.

- **Clarify that services prescribed are subject to regulation requirements under the 2016 Act**
Section 8(1) of the 2002 Act defines an “adoption support agency” as an undertaking the purpose of which, or one of the purposes of which, is the provision of adoption support services. In Wales, adoption support agencies must be registered under Part 1 of the 2016 Act to provide prescribed adoption support services. This instrument prescribes adoption support services for that purpose, ensuring compliance with quality and safety standards in the provision of those services.
- **Support adoptive persons and their relatives**
The instrument prescribes assistance for adopted persons aged 18 and over and their relatives to access information and facilitate contact as adoption support services.
- **Establish definitions**
The instrument establishes clear definitions for terms such as adoptive child, adoptive parent, related person and guardian to ensure uniform application.
- **Make consequential amendments**
To maintain consistency, consequential amendments resulting from the revocation of the Adoption Support Services (Wales) Regulations 2019 are made to related legislation.

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

2.1 None.

3. Legislative background

The Regulated Adoption Services (Service Providers and Responsible Individuals) and Adoption Support Services (Local Authorities) (Miscellaneous Amendments) (Wales) Regulations 2026

- 3.1 These Regulations are made by the Welsh Ministers under powers conferred on them by sections 2(3) and 187(1)(b) of the 2016 Act and sections 2(6)(b), 3(3)(a) and 4(b), and 142(4) and (5)(a) of the 2002 Act.
- 3.2 The amendments to the 2005 Regulations are subject to the Senedd annulment procedure by virtue of section 140 of the 2002 Act, paragraph 5 of Schedule 1A to the Legislation (Wales) Act 2019 and paragraphs 30 and 34 of Schedule 11 to the Government of Wales Act 2006 (“GOWA 2006”).
- 3.3 The amendments to the 2019 Regulations are subject to the Senedd approval procedure by virtue of section 187(2)(b) of the 2016 Act and paragraph 3 of Schedule 1A to the Legislation (Wales) Act 2019.
- 3.4 These Regulations are therefore made using the Senedd approval procedure pursuant to section 37G(2) and (3)(a) of the Legislation (Wales) Act 2019, which makes provision regarding the combining of instruments subject to different Senedd procedures.

The Adoption Support Services (Adoption Support Agencies) (Wales) Regulations 2026

- 3.5 These Regulations are made by the Welsh Ministers under powers conferred on them by sections 2(6)(b), 140(7), and 142(4) and (5)(a) of the 2002 Act. They are made under the Senedd annulment procedure by virtue of section 140 of the 2002 Act, paragraph 5 of Schedule 1A to the Legislation (Wales) Act 2019 and paragraphs 30 and 34 of Schedule 11 to GOWA 2006.

4. Purpose and intended effect of the legislation

- 4.1 The Welsh Government is committed to ensuring that adoption support services in Wales are accessible, proportionate, and responsive to the needs of children, adults, and families affected by adoption. The overarching policy objective is to remove unnecessary regulatory barriers that limit access to support, while maintaining appropriate safeguards and service quality.
- 4.2 The Regulated Adoption Services (Service Providers and Responsible Individuals) and Adoption Support Services (Local Authorities) (Miscellaneous Amendments) (Wales) Regulations 2026, together with the Adoption Support Services (Adoption Support Agencies) (Wales) Regulations 2026, aim to:

- Clarify and modernise the regulatory framework for adoption support services.
- Align regulatory requirements in Wales with those in England to support cross-border placements and consistency.
- Improve access to counselling and therapeutic services for adults affected by adoption.
- Reduce administrative burdens on providers operating under local authority contracts.
- Ensure the legislation reflects current practice and is easier to interpret and apply.

4.3 The current regulatory framework for adoption support services in Wales presents several challenges that the proposed legislation seeks to address. Adults affected by adoption, including adoptees, birth parents, and adoptive parents, often face difficulties accessing counselling and therapeutic services. This is largely due to the requirement for providers to register with CIW, which has reduced the number of professionals available to offer such support.

4.4 In addition, while individual providers delivering adoption support services under contract with local authorities or registered adoption services are exempt from registration, partnerships and corporate bodies are not. This inconsistency creates confusion and adds unnecessary administrative burden.

4.5 There is also some overlap and inconsistency between the prescribed adoption support services in the 2005 Regulations and the Adoption Support Services (Wales) Regulations 2019, which can create challenges for providers and commissioners in determining the extent of the applicability of these two sets of regulations to local authority adoption services and services regulated under the 2016 Act.

4.6 The proposed legislation (and revocation of the Adoption Support Services (Wales) Regulations 2019) introduces a number of improvements to address these issues. It will exempt the provision of counselling in relation to adoption to individuals aged 18 and over from requiring CIW registration, thereby improving access and continuity of care. It will also extend the existing exemption from the registration requirement to include individuals, partnerships and corporate bodies delivering adoption support services under contract with local authorities or registered adoption services. The legislation will clarify definitions and update terminology, such as replacing “natural parent” with “birth parent,” and align the regulatory lists of prescribed services across the regulatory framework to remove duplication and improve clarity. These changes are designed to reduce bureaucracy, enhance service access, and ensure the regulatory framework is proportionate and fit for purpose.

- 4.7 The legislation will have a positive impact on several groups. Adopted adults, birth parents, and adoptive families will benefit from improved access to counselling and therapeutic services. Counsellors and therapists will no longer face the barrier of CIW registration to provide adoption-related services to adults. Local authorities and adoption agencies will gain greater flexibility in commissioning services from a broader range of providers. CIW will benefit from a reduced volume of registration applications, allowing it to focus resources on higher-risk services.
- 4.8 If the legislation is not made, adults affected by adoption may continue to face barriers to accessing essential support. Providers may be discouraged from offering services due to the complexity and burden of registration. The inconsistencies in the regulatory framework will persist, leading to confusion and potential non-compliance. Wales will also remain out of step with England, potentially complicating cross-border placements and service delivery.
- 4.9 The legislation will enable more efficient operation across the sector by removing the need for CIW registration in low-risk, contract-based service arrangements, reducing delays associated with the registration process, and allowing local authorities to commission services more flexibly. It also clarifies legal definitions and prescribed services, reducing the need for legal interpretation or additional guidance.
- 4.10 The legislation is expected to significantly improve access to support for individuals affected by adoption-related challenges, including those experiencing trauma or separation. It will also enhance services for adoptive families in need of therapeutic or crisis support, as well as birth parents and former guardians who are often excluded from existing post-adoption support frameworks. By removing regulatory barriers and broadening eligibility, the legislation promotes greater inclusion and equity in access to services.
- 4.11 The subordinate legislation applies to Wales only. However, by aligning with recent changes in England, it supports consistency across borders and facilitates smoother placement and support arrangements for families moving between jurisdictions.

5. Consultation

- 5.1 A 12-week consultation ran from 4 August 2025 to 27 October 2025 on the proposed changes. The consultation was drawn to the attention of a range of key stakeholders including local authorities, third sector organisations, independent fostering providers, third sector fostering providers, adoption agencies, the National Adoption Service and Foster Wales.

5.2 14 responses were received to the consultation. There was broad agreement to all of the proposals, and no further amendments were considered necessary.

5.3 The consultation documents and a summary of the responses are available [here](#)

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

6.1 Two options have been considered in the analysis of the costs, benefits, and risks of addressing the challenges within the current adoption support services framework in Wales:

- Option 1: Do Nothing (retain the existing regulatory framework)
- Option 2: Amend the 2019 Regulations and the 2005 Regulations and revoke and replace the Adoption Support Services (Wales) Regulations 2019.

Option 1: Do Nothing

6.2 This option involves retaining the current regulatory framework without introducing any changes or new regulations. The Adoption Support Services (Wales) Regulations 2019 would remain in force, along with the existing provisions in the 2005 Regulations and 2019 Regulations, meaning that current definitions, registration requirements, and eligibility criteria continue unchanged. No consequential amendments would be made, and the existing approach to prescribing services for agencies and local authorities would remain as it is.

Costs

6.3 Whilst there are no additional costs associated with this option, continued inefficiencies and complexities in the system may mean that avoidable costs are incurred by providers of adoption support services and local authorities such as those associated with regulatory compliance, contract management and duplication of effort. Limited availability of registered providers may force authorities to commission more expensive or less tailored services and delays in accessing therapeutic support could result in higher long-term costs due to escalation of needs.

Benefits

6.4 The current framework is well-established and familiar to providers, commissioners, and regulators, which helps maintain continuity and predictability across the sector. Retaining the existing system avoids transitional disruption and removes the need for retraining or reinterpreting new definitions and exemptions.

6.5 Mandatory registration with CIW ensures oversight and accountability for all providers, including those offering adult counselling services. This

requirement maintains a consistent standard of care and protection for vulnerable individuals affected by adoption.

- 6.6 The current system distinguishes between individual and corporate providers, which supports clear assignment of liability and compliance with statutory duties. This clarity helps ensure that responsibilities are properly understood and enforced.
- 6.7 CIW registration provides a mechanism for tracking service provision, enabling better data collection and performance monitoring. This oversight helps local authorities and the Welsh Government maintain a comprehensive view of service coverage and identify gaps in provision.
- 6.8 Retaining registration requirements for adult counselling services may prevent the entry of unqualified or poorly monitored providers into the sector. It ensures that therapeutic services remain within a regulated environment, which is particularly important for trauma-informed care.

Risks

- 6.9 Adults affected by adoption, such as adoptees, birth parents, and adoptive parents, will continue to face barriers in accessing counselling and therapeutic services due to CIW registration requirements. This restriction limits the pool of qualified professionals, particularly those who are not part of large organisations or who work independently.
- 6.10 Current regulations exempt individual providers under local authority contracts from registration, but not partnerships or corporate bodies, even when delivering identical services. This inconsistency creates confusion and may discourage collaborative or organisational service models.
- 6.11 Overlapping provisions in the 2005 Regulations and the Adoption Support Agency (Wales) Regulations 2019 create interpretive challenges for both providers and commissioners. Ambiguities in key definitions, such as “adoptive parent,” combined with outdated terminology, such as “natural parent” further hinder clarity and compliance. The term “natural parent” is now considered inappropriate as it implies a hierarchy between birth and adoptive parents; the sector now uses “birth parent,” which is clearer, neutral, and reflects modern inclusive practice. Addressing these inconsistencies is essential to ensure transparency, accuracy, and effective implementation.
- 6.12 Providers must navigate complex registration and compliance processes, which can be time-consuming and resource intensive. This burden may deter new entrants and reduce innovation in service delivery.

- 6.13 Differences between Welsh and English regulatory frameworks complicate cross-border placements and service provision. These inconsistencies can delay support for families moving between jurisdictions or accessing services across borders.
- 6.14 Uneven access to registered providers across regions may lead to geographic disparities in support availability. Vulnerable individuals may be disproportionately affected by gaps in service coverage.

Option 2: Amend the 2019 Regulations and the 2005 Regulations and revoke and replace the Adoption Support Services (Wales) Regulations 2019 (preferred option)

- 6.15 Under this option, the framework for adoption support services will be modernised and regulations will work cohesively with one another. The amendments to the 2019 Regulations will include exemptions from CIW registration for adult counselling services in relation to adoption and for individuals, partnerships and corporate bodies delivering adoption support services under contract with local authorities or registered adoption services, enhancing accessibility and availability of services for adoptive families.
- 6.16 This option will involve revoking and replacing the Adoption Support Services (Wales) Regulations 2019 so that the regulations compliment and work cohesively together. The implementation of both sets of regulations will clarify the distinction between prescribed adoption support services for the purposes of adoption support agencies under section 8 of the 2002 Act and prescribed services that local authorities provide in Wales as part of the service maintained by them under section 3(1) of the 2002 Act.

Costs

- 6.17 Local authorities and providers will need targeted awareness-raising activities to ensure they fully understand the new exemptions, updated definitions, and compliance requirements. Clear communication and training will be essential to support a smooth transition to the revised framework. To achieve this, webinar and training sessions will be delivered to raise awareness of these changes, open to adoption regions, Voluntary Adoption Agencies (VAAs), and any other interested parties. The estimated cost for these sessions is £3,400 which will be covered by Welsh Government. Local authorities and providers will incur additional operational pressures, including dedicating staff time to attend sessions, updating internal processes, and ensuring compliance with the revised framework. The associated costs cannot be precisely quantified at this stage, as they will vary depending on factors such as

staff availability, organisational size, and the extent of internal changes required.

- 6.18 Providers will save time and resources previously spent on preparing annual registration documentation, policies, and inspections. These processes vary significantly between providers, making it difficult to estimate the amount of staff time saved, but the overall reduction in administrative burden is expected to be substantial.
- 6.19 Better cross-border alignment between Wales and England may reduce delays and duplication in service commissioning for families moving between jurisdictions. However, transitioning to the new framework will require updates to statutory guidance at a cost of £5,950 which will be covered by Welsh Government.

Benefits

- 6.20 Exempting adult counselling services from CIW registration removes a major barrier to service provision, enabling more professionals to offer support to adoptees, birth parents, and adoptive families. This change is expected to increase the availability, responsiveness, and continuity of therapeutic care for adults affected by adoption.
- 6.21 Improved access to adult counselling services may reduce long-term reliance on more intensive public services, such as mental health crisis intervention. Removing the registration barrier will also allow adopted adults to access a wider pool of counsellors, meeting any increase in demand for therapeutic services more effectively.
- 6.22 Aligning definitions and prescribed services across the 2005 Regulations, which prescribe adoption support services that local authorities provide in Wales as part of the service maintained by them, and the new Adoption Support Services (Adoption Support Agencies) (Wales) Regulations 2026 eliminates duplication and confusion. Modernised terminology, such as replacing “natural parent” with “birth parent,” reflects current practice and supports inclusive language, improving engagement with service users.
- 6.23 Extending registration exemptions to partnerships and corporate bodies delivering services under contract simplifies compliance for providers. Local authorities will also benefit from reduced contract management complexity and fewer legal ambiguities around provider eligibility.
- 6.24 Aligning Welsh regulations with those in England facilitates smoother cross-border placements and service coordination. This alignment supports families who move between jurisdictions and helps ensure continuity of care across national boundaries.

- 6.25 Removing unnecessary regulatory barriers encourages more professionals and organisations to enter the field, particularly smaller providers and voluntary sector organisations. This fosters a more diverse and resilient provider market, improving choice and innovation in service delivery.
- 6.26 Streamlining registration and compliance processes reduces administrative costs for providers and local authorities. Resources can therefore be redirected toward frontline service delivery rather than administrative overhead.
- 6.27 The proposed legislation reflects current practice and is designed to be easier to interpret and apply. This ensures the framework remains relevant and adaptable to evolving service models and therapeutic approaches.

Risks

- 6.28 Exempting adult counselling services from CIW registration may reduce formal oversight of providers delivering sensitive therapeutic support. Without registration, there is a risk that service quality and safeguarding standards could vary, particularly among smaller or newly established providers.
- 6.29 While the exemption aims to improve access, it may inadvertently allow unregulated or underqualified individuals to offer services to vulnerable adults affected by adoption. This could expose service users to inconsistent care or, in rare cases, harm if providers are not subject to robust checks. This risk can be mitigated through adoption agencies and local authorities, who will continue to carry out robust pre-employment checks, qualification verification, and safeguarding assessments under contractual arrangements. These measures will be supported by updated statutory guidance and ongoing monitoring to ensure providers remain “fit to work” and adhere to professional standards. Transitioning to the new framework will also require updates to statutory guidance, training for local authorities and providers, and clear communication to stakeholders.
- 6.30 Providers and commissioners may need to revise contracts and service agreements to reflect the new exemptions and definitions. This could incur legal costs and administrative effort, particularly for partnerships and corporate bodies adapting to the new framework.
- 6.31 If the exemptions are not clearly defined or communicated, there is a risk that some providers may incorrectly assume they are exempt from registration. This could lead to non-compliance or disputes over regulatory responsibilities.

6.32 Some stakeholders may be concerned about the removal of regulatory safeguards, particularly in relation to therapeutic services. There may be calls for alternative quality assurance mechanisms to ensure standards are maintained outside the CIW registration system.

Conclusion and Recommendation

6.33 **Option 2** is recommended as it offers the most comprehensive and 'balanced solution to the challenges currently facing adoption support services in Wales. By removing unnecessary regulatory barriers, improving access to adult counselling services, and clarifying the legislative framework, this option supports the Welsh Government's commitment to proportionate, responsive, and inclusive service delivery. It reduces administrative burden, enhances cross-border consistency, and modernises terminology to reflect current practice. Importantly, it does so without compromising service quality or safeguarding, as robust contractual checks, updated statutory guidance, and ongoing monitoring will ensure providers remain qualified and standards are maintained. These measures make Option 2 the most effective and sustainable choice for long-term improvement.

7. Competition Assessment

7.1 A competition filter test has been undertaken as part of this Regulatory Impact Assessment. The analysis indicates that the adoption support services sector in Wales is not characterised by market concentration. No single provider holds more than 10% or 20% of market share, and the largest three providers do not collectively account for 50% or more of the market. The sector is primarily composed of regional public partnerships and voluntary organisations, with limited private sector involvement. As such, the proposed regulations are not expected to have a significant impact on competition or market dynamics

8. Post implementation review

8.1 A Post-Implementation Review will be conducted to assess whether the remade regulations are delivering their intended outcomes. This will include monitoring application volumes, panel decisions, and adherence to timelines, alongside stakeholder feedback and legal analysis. An initial review will take place within 24 months, followed by ongoing annual monitoring and a full review within 3–5 years. Findings will inform any necessary updates to ensure the regulations remain effective, fair, and aligned with policy objectives.