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| CHANGES TO CHILDREN’S SOCIAL CARE REGULATIONS IN RESPONSE TO COVID-19 |

Purpose of the Report

1. To provide an update on the temporary changes made by the Department for Education to Children’s Social Care regulations, in response to the coronavirus (Covid-19) pandemic;
2. To seek agreement to disapply existing regulations pertaining to ‘connected persons’ foster care and temporary approvals as a foster carer, in line with the emergency legislation enacted.

Information and Advice

1. On Thursday 23 April, the Department for Education (DfE) published the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 (“Amendment Regulations”), which temporarily amend 10 sets of regulations relating to Children’s Social Care. The Amendment Regulations came into force on 24 April and remain in force until the Coronavirus Act renewal date on 25 September 2020, though they will remain under review.
2. The Amendment Regulations are intended to provide greater flexibility for local authorities and providers during the coronavirus (Covid-19) outbreak, representing a relaxation of existing legislative requirements; however, the DfE have made clear that these should only be used when absolutely necessary, with senior management oversight, and must be consistent with the overarching safeguarding and welfare duties that remain in place. It is anticipated that the additional flexibility offered will only be utilised in circumstances such as:

* where staff shortages (due to sickness or other reasons) make it difficult or impossible to meet the original legislative requirements;
* where making use of flexibilities in order to take a different approach is the most sensible, risk-based response in light of other demands and pressures on services; this might involve focussing services on those most at risk;
* where there is a consequential reason to make use of flexibilities, for example due to limited capacity in other providers or partners, making it difficult or impossible to comply with the original requirements.

1. A full breakdown of the legislative changes can be found in Appendix A.
2. The Children and Families Department have therefore considered where it may be necessary to utilise the flexibilities available, whilst remaining proportionate and responsive to the ongoing situation across the Department.

Implementation of Legislative Amendment – Temporary Foster Care

1. In line with the Amendment Regulations, the Department is seeking to implement one amendment relating to temporary, ‘Connected Persons’ foster care:
   1. Under the existing Care Planning, Placement and Case Review (England) Regulations 2010, local authorities had the power to temporarily approve a child’s *“relative, friend or other person connected with”* the child as a temporary foster carer for a period of up to 16 weeks (normally while a longer-term placement is sought).
   2. The Amendment Regulations have now extended this period to 24 weeks and removed the requirement for the temporary foster carers to have an existing family or other connection to the child. Local authorities can therefore now approve anyone who meets the requirements as a temporary foster carer, rather than only those who are connected to a child.
2. This amendment is intended to support the Department to manage placement capacity over the coming months, based on the anticipated increase in children entering local authority care during, and in the aftermath of, the Covid-19 pandemic. The Department is seeking to utilise this amendment as a precautionary measure, in the event that the volume of children entering local authority care exceeds the placement options available.
3. This anticipated growth in children looked after is based on the ongoing impact of the Government’s lockdown and social distancing measures, whereby there is a predicted growth nationally in domestic abuse within households, increase in alcohol and substance misuse, and growth in parental / child mental health issues.
4. The lockdown and social distancing measures, as well as school closures, have also meant that vulnerable children are less visible to public services and therefore more at risk of ‘hidden harm’ at home, including physical, sexual & emotional abuse or neglect.
5. In addition, the ongoing pressures of the Covid-19 pandemic are placing greater economic and social strain on existing foster placements, potentially resulting in further placement breakdowns and a greater need for respite or support care for existing carers.
6. The amendments to the temporary foster carer approvals would therefore allow the Department to recruit temporary foster carers from other areas, including the Nottinghamshire County Council workforce. This would be on a temporary basis and would be managed in line with existing ‘connected persons’ foster carer recruitment procedures; it will include both short-term placements and ‘support care’ fostering. Due consideration would also be given to the Human Resources implications and training requirements, and the Department would ensure that all other appropriate placement options are exhausted before children are placed with temporary foster carers.
7. Should these amendments not be implemented, the volume of children entering local authority care could potentially exceed the volume of care placements available. In turn, the Department may have no option but to place a greater volume of children in residential care placements, and/or in placements outside of Nottinghamshire. Not only does this present greater financial risk for the local authority, but consideration should be given to the impact on the wellbeing, social connection and education of these children and young people, particularly during this period of national crisis. The proposed amendments therefore allow the Department to take proactive, precautionary measures in relation to placement sufficiency, ensuring that temporary, local foster placements can be provided that best meet the needs of children and young people.
8. The Department will continue to review the need to implement any other flexibilities where necessary and will report these accordingly.

Appendix A – legislative changes arising from Amendment Regulations

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| **Amendments to foster care and care planning:** | | |
| **Legislation amended** | **Summary of amendment** | **Nottinghamshire response** |
| The Children (Private Arrangements for Fostering) Regulations 2005; | **Visits to private fostering arrangements:** if the local authority becomes aware of a child who is, or is about to be, privately fostered they now only need to visit them ‘as soon as is reasonably practicable’ rather than within seven days, and then only make reasonable steps to visit every six or 12 weeks in subsequent years. | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |
| The Care Planning, Placement and Case Review (England) Regulations 2010; | **‘Connected Persons’ and temporary approval as foster carer:** temporary approval as a foster carer has been expanded to allow any person, not only relatives, friends and connected persons, to be approved. An emergency placement with an approved foster carer can now last 24 weeks, rather than 6 days, even if that foster carer is not approved to look after that many children. The length of the temporary approval has also been extended from 16 weeks to 24 weeks. It also allows for a child to be placed outside their local area with a carer, even if this carer is not ‘connected’ to them, without approval by a nominated officer.  **Looked After Children reviews:** changes the requirement for care plan reviews to take place every six months – it is now ‘as soon as reasonably practicable’ if the six-month deadline is missed. This also applies to children in short breaks care. They should still be at least every six months where ‘reasonably practicable’.  **Placement Plans:** amends the requirements to complete placement plans within five or ten days once a child has been placed (depending on circumstances) – now to be completed as soon as reasonably practicable. This also applies to children on remand.  **Short break care:** The definition of a short-break ‘placement’ has been altered. Children can stay with short breaks carers for up to 75 days in one go, rather than 17 days in one go (the 75 day per year total remains the same).  **Visits to a child:** timescales for visits have been relaxed to as soon as is ‘reasonably practicable’. Consideration has also been given to the social distancing rules, allowing for visits to a child to take place by telephone, video link or other electronic means where necessary. | **Temporary approval as a foster carer:** The Department is seeking to utilise this amendment as a precautionary measure, in the event that the volume of children entering local authority care exceeds the placement options available.  The remainder of the amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |
| The Fostering Services (England) Regulations 2011; | **Medical reports:** removes the requirement for a medical report at the initial stages of foster care approval | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations |
| **Amendments to Adoption** | | |
| **Legislation amended** | **Summary of amendment** | **Nottinghamshire response** |
| The Adoption Agencies Regulations 2005; | **Adoption Panels & Timescales for the Adoption Process:** the amendments "remove the duty on adoption agencies to refer cases to the adoption panel, make some amendments to the adopter approval process, to enable information that currently has to be collected during stage 1 of the approval process to be collected during stage 2, and relax some timescales within which adoption agencies must take steps.” The amendments also reduce the number of people required on an adoption panel, if it does go ahead.  **Medical & DBS checks**: a potential adopter can go through the first stage of pre-assessment without medical or DBS checks, although these would still be needed before final approval.  **Adoption reviews:** relaxes the requirement for adoption reviews for agencies where it is not reasonably practical to do so, unless the agency has concerns about the welfare of the child | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |
| **In relation to residential care** | | |
| **Legislation amended** | **Summary of amendment** | **Nottinghamshire response** |
| The Children’s Homes (England) Regulations 2015 | **Contact with a child in a children’s home:** Where a children’s home is unable to provide a safe private meeting area for a child to have contact with their parents, a private telephone or video link should be provided for contact.  **Education for children living in children’s homes:** there should be a ‘reasonable endeavour’ to make sure children achieve the education standard in Children’s Homes.  **Deprivation of Child’s Liberty for social isolation purposes:** children can be deprived of their liberty under public health powers of the Coronavirus Act 2020 if they are symptomatic.  **Care home staffing:** changes the requirement for care from staff outside the home to be delivered by someone with the knowledge and skills to do it, to make this only ‘as far as reasonably practicable’.  **Regulation 44 visits:** independent visitors should ‘make reasonable endeavours’ to visit monthly. | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |
| Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (Fees and Frequency of Inspections) (Children’s Homes etc.) Regulations 2015. | **Inspections of Children’s Homes:** stops the requirement for children’s homes to be inspected twice a year. | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |
| The Residential Family Centres Regulations 2002; | **Parent & Baby Units:** For residential family centres (such as parent and baby units) the provider must only make ‘reasonable endeavours to ensure’ that they promote and provide for the health, welfare, care, treatment and education of residents rather that that they ‘shall’ do so. Complaints can be responded to within 28 days ‘as far as reasonably practicable’ rather than a hard time limit. Also allows for the registered provider to only have to make ‘reasonable endeavours’ to visit the unit once a month.  **Complaints**: allows for complaints to be responded to within 28 days ‘as far as reasonably practicable’ rather than a hard time limit.  **Visits:** registered provider only has to make ‘reasonable endeavours’ to visit the unit once a month. | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |
| **Amendments in relation to Local Authority responsibilities** | | |
| **Legislation amended** | **Summary of amendment** | **Nottinghamshire response** |
| The Children Act 1989 Representations Procedure (England) Regulations 2006; | **Children’s representations:** review panels into complaints only have to respond to complainants ‘as soon as reasonably practical’ rather than to statutory timescales. | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |
| The Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007  AND  The Children Act 2004 (Joint Area Reviews) Regulations 2015; | **Ofsted Inspections:** relaxes the requirement to provide a response and proposed plan of action within 70 days of an Ofsted inspection of local authority services. The same change applies after joint area inspections. | Amendments do not need to be applied at this stage; the local authority is able to respond in line with existing regulations. |

RECOMMENDATION/S

1. That approval is given to the Department’s temporary disapplication of the provisions pertaining to approvals of temporary foster carers and Connected Person foster care, as amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020;
2. That approval is given to recruiting temporary foster carers from the Nottinghamshire County Council workforce.

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For any enquiries about this report please contact:

**Background Information**

[**The Adoption and Children (Coronavirus) (Amendment) Regulations 2020**](https://www.legislation.gov.uk/uksi/2020/445/contents/made)

**[The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 Explanatory Memorandum](https://www.legislation.gov.uk/uksi/2020/445/pdfs/uksiem_20200445_en.pdf)**