

Government Expectations around using Coronavirus “Flexibilities”

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CoramBAAF members have asked a number of questions about expectations around the use of the “flexibilities” introduced under the Adoption and Children (Coronavirus) (Amendment) Regulations 2020, and have been confused about the guidance that accompanies them.

In most cases, our members have indicated to us that they have not needed to use any of the flexibilities to date, with the exemption of obtaining medical reports, that has presented a problem for some. A few adoption and fostering services have taken the opportunity to reduce the number of panel members, but the majority have not needed to do this. Where flexibilities have been used, this has tended to be in a very limited way, and often at the beginning of the crisis only.

The extent to which the flexibilities have been used was raised in a Parliamentary written question (46754) on 13 May from Tulip Siddiq (MP for Hampstead and Kilburn):

To ask the Secretary of State for Education, how many local authorities have used the new flexibilities on statutory duties for children’s social under the Adoption and Children (Coronavirus) (Amendment) Regulations 2020.

Minister Vicky Ford provided the following answer on 18 May 2020:

Local authorities are not required to log this information with the department; however, we are working with the sector to monitor their use. We are not currently aware of any local authorities having made use of the new flexibilities.

Following the temporary regulation changes made on Friday 24 April, it is for local authorities to decide whether it is appropriate to make use of these flexibilities, taking account of all available information. Decisions to do so will need to be agreed at senior manager level and recorded. Amendments should only be used when absolutely necessary and must be consistent with the overarching safeguarding and welfare duties that remain in place. We expect the regulator/inspector of services, Ofsted, to take note of any use of these flexibilities, so local authorities should be ready to explain why their use was necessary.

*Guidance relating to the amendments is available at:
<https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-childrens-social-care-services>.*

*Our latest guidance on vulnerable children is set out below:
<https://www.gov.uk/government/collections/coronavirus-covid-19-guidance-for-schools-and-other-educational-settings>.*

The key elements set out within this statement regarding Government expectations are that:

- Flexibilities ‘should only be used when absolutely necessary’.
- Decisions about this need to be ‘agreed at senior manager level and recorded’.

- Local authorities should be prepared to explain to Ofsted why it was necessary to use the flexibilities.