

The Adoption and Children (Coronavirus) (Amendment) Regulations 2020

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These were laid on 24 April and continue until 25 September, the date on which the Coronavirus Act 2020 will be reviewed.

The majority of the amendments are designed to relax strict timescales and replace them, where appropriate, by a requirement that if the timescales cannot be met, they should be met as soon as reasonably practicable.

Other major amendments are the removal of the obligation to refer cases to adoption or fostering panels, the removal of the definition of connected persons from the temporary approval of foster carers, and the extension of emergency placement of children with foster carers outside their terms of approval from six days to 24 weeks.

The Regulations as amended

Reg 3 amends the Residential Family Centres Regulations 2002 to allow the registered person in respect of a Residential Family Centre to *use reasonable endeavours* to ensure that the centre meets the health, welfare, care, etc, needs of the residents. It allows action on complaints and required inspection visits to the centre to meet the relevant timetables *as far as reasonably practicable*, and allows interviews with residents and workers to be carried out by ‘phone or video’.

Reg 4 amends the Adoption Agencies Regulations 2005.

- i) The requirement that an agency **must** constitute an adoption panel into an agency is replaced by the flexibility that it *may* constitute an adoption panel. The obligation to ensure that a panel has sufficient members is replaced by a quoracy requirement that a panel meeting is sufficient when it has a Chair/Vice-Chair, a social worker of three years’ qualification, and one other independent person.
- ii) It removes the requirement to refer a relinquished baby to panel, and allows an agency to decide whether or not to refer a non-court case to panel before making a “should be placed for adoption” decision. It then logically requires the agency to consider the panel’s recommendation only if the case has been referred to panel.
- iii) It allows an agency to make the decision to proceed with an assessment of a prospective adopter even if police and medical checks have not yet been received, and amends the requirement that the decision **must** be made within two months to *must where reasonably practicable* be made within two months of the decision to proceed with pre-assessment.
- iv) It removes the six month time limit on prospective adopters giving notice of their intention to proceed to Stage 2 assessment.
- v) It allows an agency to decide whether or not to refer a prospective adopter’s case to panel before deciding on their suitability.
- vi) It amends the requirement to make a decision on suitability within four months of the prospective adopter’s notification that they wish to proceed with an assessment to *where reasonably practicable within four months*, and prohibits the making of a decision on suitability until the police and medical checks have been completed.

- vii) It removes the option of application to the IRM for review when an agency decides that the prospective adopter is not suitable to adopt a child as a result of information received in police or medical checks.
- viii) It removes the requirement for termination of a prospective adopter's suitability to be referred to panel for recommendation, and allows the agency to decide whether or not to refer the case to panel before making their decision.
- ix) In an intercountry adoption case, the requirement to send the Department for Education (DfE) the information that was submitted to panel and the panel minutes and recommendation is removed, if the decision was made without referral to panel.
- x) It removes the requirement to refer a case to a matching panel, and allows the agency to decide whether or not the panel will be asked to consider a match before the agency decision-maker makes their decision.
- xi) It removes the requirement to carry out reviews of the child's case under Reg 36 where the agency decides that it is not reasonably practicable to do so, unless the agency *is satisfied that a review is necessary to safeguard and promote the welfare of the child.*

Reg 5 amends the Children (Private Arrangements for Fostering) Regulations 2005. It amends the timetable for the local authority to take action to visit and report on a private fostering arrangement from **seven working days** to *seven working days or as soon as reasonably practicable*. Visits to privately fostered children, which must take place every six weeks in the first year and every 12 weeks in subsequent years, must take place at those intervals *where reasonably practicable*.

Reg 6 amends the Children Act 1989 Representations Procedure (England) Regulations 2006 so that where a complaint has been referred to a review panel, the timetable is amended to the original timescales *or as soon as reasonably practicable*.

Reg 7 amends the Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007 to give the timetable for publication of a statement of proposed action the flexibility of *as soon as reasonably practicable*.

Reg 8 amends the Care Planning, Placement and Case Review (England) Regulations 2010.

- i) If a placement plan is not prepared before a placement is made, the time within which it must be prepared is varied from **within five working days** to *as soon as reasonably practicable after the start of the placement*.
- ii) The prohibition on placing a child with a parent without a placement plan is removed, and the requirement to make a decision on placement **within ten working days** of the assessment being completed is replaced with *as soon as reasonably practicable after the assessment is completed*.
- iii) It allows an early permanence placement with a foster carer who is also an approved adopter to be made without the requirement that the placement be approved by a nominated officer, and without a placement plan being required.
- iv) Reg 22B, which sets out various conditions that have to be met before a child can be placed in a long-term foster placement, is removed.
- v) It extends the permissible length of an emergency placement with a foster carer outside their terms of approval from **six working days** to *24 weeks*.
- vi) It removes the requirement that a person temporarily approved to care for a child must be a relative, friend or other person connected with the child, and allows temporary approval for any person if the local authority is satisfied that it is the most appropriate

- placement (subject to the same assessment criteria as were applied to connected persons).
- vii) The requirements to visit a child as set out in Reg 28 remain, but the local authority must visit within the timescales or *as soon as reasonably practicable thereafter*, and allow any visit to be conducted by telephone, video or other electronic means.
 - viii) The requirement for ongoing looked after reviews to be held at maximum six month intervals is replaced by *where reasonably practicable*.
 - ix) The power of an IRO to **adjourn the review meeting once** if not satisfied that enough information has been provided is changed to the power to *adjourn the review meeting for not more than 20 working days*. Implicit in this variation is that the IRO may adjourn for any reason, not limited to lack of information, and may do so more than once.
 - x) The requirement to prepare a placement plan for a child remanded to local authority accommodation is varied from **within five working days** to *as soon as is reasonably practicable from the date of remand*.
 - xi) The limit of 17 days is removed from the definition of short breaks, and the visiting requirements are now *regular intervals during any short break to be agreed with the IRO and C's parents*. Visits may be by telephone, video link or other electronic means. Reviews must take place *as soon as is reasonably practicable from the start of the first placement, and subsequent reviews must be carried out at regular intervals during any short break*.

Reg 9 amends the Fostering Services (England) Regulations 2011.

- i) It amends various requirements in the conduct and management of the fostering service for notification and actions to take place **without delay** to *as soon as reasonably practicable*.
- ii) It removes the obligation on a fostering provider to constitute a fostering panel and replaces **must constitute** to *may constitute*.
- iii) If a panel is held, quoracy will be achieved by the attendance of the Chair or Vice-Chair, a social worker with three years' experience and *one other independent person*.
- iv) The functions of a fostering panel set out in Reg 25(4) (to advise on and monitor procedures, to oversee assessments and to give advice) are changed from obligations (**must**) to optional powers (*may*).
- v) The time limit for notifying a prospective foster carer that the fostering service provider does not intend to proceed to a Part 2 assessment is changed from **10 working days** to *must be sent as soon as is reasonably practicable*.
- vi) The requirement to refer a case to a fostering panel has been removed. The fostering service provider has the option of referring a case to panel for recommendation, or to proceed to make their decision without the case being considered by a panel.
- vii) The fostering service provider may proceed to Part 2 of the assessment even though medical and DBS checks have not been received.
- viii) If a fostering service provider decides that a person is not suitable to be a foster carer, and that person makes written representations to the fostering service provider, the fostering service provider *may* (but does not have to) refer the matter back to a panel.
- ix) The requirement to review a foster carer's approval is changed from **not more than a year after approval** and thereafter **at intervals of not more than a year** to *where reasonably practicable ...not more than a year after approval and thereafter whenever the fostering service provider considers it necessary*.
- x) The requirement for health details to be **supported by a medical report** is removed.

The amendments included in these Regulations will cease to apply on 25 September 2020, but any placement, application to be approved as an adopter or foster carer, complaint, etc, started between 24 April and 25 September will be continued and completed as if the amendments were still effective.

The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 can be found at: www.legislation.gov.uk/uksi/2020/445/contents/made.