

Ensuring Adequate Fostering Capacity during the Coronavirus Pandemic

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The context

The coronavirus pandemic has created a number of challenges for fostering services; not least in relation to maintaining fostering capacity as foster carers are faced with a range of challenging issues such as becoming ill, self-isolating, or deciding that they cannot be open to having children being placed with them. This is compounded by the fact that many foster carers are of an age that places them in the vulnerable category regarding the health risks from coronavirus. It is feared that the demand for foster care might increase as a result of additional difficulties within families that are already under severe pressure, either in the short term, or when the social restrictions that were put in place to address coronavirus start to be loosened.¹

In response to these concerns, the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 were introduced on 24 April, and will continue to at least 25 September 2020, the date on which the Coronavirus Act 2020 will be reviewed. Amongst other things, these new regulations offer “flexibilities” during that period in relation to the assessment and approval of foster carers. In terms of increasing fostering capacity during the coronavirus pandemic, there are now five basic options available:

- 1) Increase the use of regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010 to temporarily approve “connected persons” for children who need to be looked after.
- 2) Make use of the recent amendments to regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010 to temporarily approve foster carers, even where they are not “connected” to the child who needs to be looked after.
- 3) Make greater use of approved foster carers by placing more children with them as “emergency” placements, outside of their terms of approval for up to 24 weeks.
- 4) Continue to assess and approve carers in the traditional way, albeit potentially making use of some specific “flexibilities” that are now available.
- 5) Undertake “truncated” fostering assessments that broadly comply with regulatory requirements, but disregard what the sector has come to establish over many years as “best practice”.

There is a further option for situations where the plan is for the child to be adopted. In these circumstances, the local authority could consider placing the child in an early permanence placement with prospective adopters who are either dually approved as foster carers, or who could be approved as temporary foster carers under regulation 25A of the Care Planning,

¹ It is currently unclear whether demand for foster care is going to increase during the coronavirus pandemic. It may even be that it reduces while children are not attending school. The other possibility is that demand spikes following a reopening of schools and the identification of children at risk.

Placement and Case Review (England) Regulations 2015. This issue will be addressed in a forthcoming CoramBAAF document.

Practice principles

Before considering the details of these five options, it is worth acknowledging the reality as set out by both the Department for Education (DfE) and Ofsted. The DfE has stated that ‘local authorities will need to ensure that the accommodation provided to children meets their needs to the best of their ability given the current context’. This includes recognising that they will need to make ‘sensible risk-based judgments’.² Ofsted has helpfully set out their position as follows:

We expect everyone to follow Government guidance on Covid-19 and self-isolation. We also expect all providers to continuously risk assess their actions and follow Public Health England advice.

...we fully recognise that we are in exceptional circumstances and this will require pragmatic decisions to be made in the best interests of children. Please carry out a careful risk assessment of any action you take and keep a clear record of the decisions that you make.³

In making decisions that address the need to increase fostering capacity, the following principles might be helpfully applied:

- Fostering services must comply with Government guidance that prioritises the safety of foster children, foster carers and others. Assessments should be completed in a way that complies with social distancing and will likely mean virtual visits and using technology to undertake a home safety check.
- Fostering services should make use of the “flexibilities” within the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 only when it is not possible to fully comply with the existing regulatory framework.
- Fostering services may need to adapt their compliance with the regulations or guidance where this is in the best interests of individual children or foster carers during the period of the coronavirus pandemic.
- Moving away from recognised good practice should only happen where there is no alternative and this is unavoidable.

It is inevitable that making use of the recently introduced “flexibilities”, or going outside of the regulatory framework or normal recognised good practice, will bring risks that do not exist when the Fostering Services Regulations 2011 (as amended in 2013) and recognised good practice are being fully adhered to. This suggests that either course of action should

² Ibid

³ <https://corambaaf.org.uk/sites/default/files/coronavirus/fostering/Ofsted%20letter%20-%20Message%20from%20Yvette%20Stanley.pdf>

therefore only be used when necessary, and where the exceptional impact of the coronavirus pandemic makes this unavoidable.

It is therefore suggested that:

- Each fostering service develops and agrees a clear coronavirus protocol that sets out the circumstances in which it will rely on the “flexibilities” in the Adoption and Children (Coronavirus) (Amendment) Regulations 2020, or will not comply with regulations or guidance.
- As a part of the protocol, a robust process should be put into place in relation to each individual case. Decisions in relation to individual children or foster carers will need to be recorded and agreed by a senior manager within the fostering service.
- There should also be an identified objective to return to full compliance with regulations and guidance at the earliest opportunity, which may be by 25 September, or when the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 cease to be in force.

Each of the five options for assessment and approval of foster carers during the coronavirus pandemic are considered in further detail below.

1) Increase the use of Regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010 to temporarily approve “connected persons” for children who need to be looked after

It is already the case that local authorities must prioritise family members and other connected persons before making a placement with an unrelated foster carer, and this is an approach that might be extended and used more widely during the coronavirus pandemic. A number of fostering services have considered the possibility of approving social workers, teachers, residential workers and other professionals as foster carers for individual children with whom they have some form of a relationship.⁴ Regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010 allows for temporary but immediate placements to be made with such people. The guidance (paragraph 3.11) specifically notes that “connected persons” may include ‘someone who knows the child in a more professional capacity such as a childminder, a teacher or a youth worker’. Local authorities will have arrangements in place to undertake the assessments necessary to make such placements, and these are routinely completed at short notice.

It may be that placements with connected persons, including “known professionals”, can be utilised more widely during the coronavirus pandemic, and in a way that might not be appropriate in normal circumstances. Under regulation 24, it is normally the case that the temporary approval will cease after 16 weeks, or 24 weeks (if extended), but because of changes within the Adoption and Children (Coronavirus) (Amendment) Regulations 2020,

⁴ There are specific issues that will need to be considered in relation to social workers employed by the same local authority that is responsible for the child. Thought will need to be given to who undertakes the assessment, and whether that can reasonably be done by a colleague. Similar questions will need to be asked about arrangements for supervision. Social workers should be aware that if things get difficult, and there are concerns about standards of care, for example, then this could have implications for their employment with that local authority.

this period has been lengthened to 24 weeks, or 32 weeks (if extended). It continues to be necessary for the fostering panel to be consulted prior to agreeing the extension.

When approving a “connected person” on a temporary basis, it is necessary for the local authority to ‘make immediate arrangements’ for the ‘full assessment process’ to begin, and surprisingly this requirement was not removed by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. However, local authorities might decide that this element of the regulations needs to be given a lower priority for the duration of the pandemic in the context of making pragmatic decisions in the best interests of children. In this situation, it must be a priority to ensure that arrangements are in place to move the child to a fully compliant placement as soon as possible following the pandemic.

In many cases, prospective foster carers who are childcare professionals will already have a Disclosure and Barring Service (DBS) check, and an employment reference will be easy to organise. By adhering to the temporary approval assessment criteria, including the requirement to gather the information in schedule 4 of the Care Planning, Placement and Case Review (England) Regulations 2010, this could be seen to be offering an appropriate level of safeguarding for children needing foster care, and increasing foster care capacity in the short term. It will also allow for the benefits of children being placed with someone they know, even if a subsequent placement becomes necessary at some point in the future.

2) Make use of the recent amendments to regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010 to temporarily approve foster carers even where they are not “connected” to the child who needs to be looked after

The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 introduced the opportunity for local authorities to use regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010 to temporarily approve non-connected persons as foster carers. It removes the requirement for the child to know, or be known to, the prospective carer, and has been introduced to allow an immediate placement to be made with a stranger where necessary.

This means that an assessment will be required that takes into account all of the matters in schedule 4 of the Care Planning, Placement and Case Review (England) Regulations 2010. While much of that will be irrelevant because there is no relationship with the particular child, it will include:

- Capacity to meet the physical and health needs of the child
- Capacity to safeguard them and keep them safe
- Suitability of the home environment
- Capacity to promote learning and development
- Provision of a stable family environment
- Capacity to promote contact as required
- Health assessment, including medical history
- History of domestic abuse and/or substance misuse
- Family composition and relationships
- Family history, including childhood experiences
- Relationships with parents and siblings

- Educational experiences
- Chronology of significant life events
- Particulars of any criminal offences
- Past and present employment and income
- Information about the neighbourhood and community support

The assessment will need to consider the applicant, and any other adults living in their household. As noted above, it will still be necessary for the local authority to ‘make immediate arrangements’ for the ‘full assessment process’ to begin, and so using this approach with people who do not want to be fully assessed will not technically comply with Regulations.

For local authorities that are considering using this route to temporary approval, they should consider whether this actually brings advantages compared to undertaking a “truncated” but “full” fostering assessment under regulation 26 of the Fostering Services Regulations 2011 (see option 5 below). It could be argued that the information required for that non-temporary assessment can be gathered at least as quickly as the information required under schedule 4. Against that, it is worth noting that temporary approval does not require a DBS check to be completed, nor does it require a local authority check, although it does require consideration of criminal offences, possibly using the DBS fast track service or Police National Computer (PNC) checks.

Where a local authority chooses to assess and approve non-connected persons, there will be issues to consider in terms of how to best support these carers, given the absence of a recognised preparation process. Some of these issues will be familiar to those routinely working with connected persons, but will likely be compounded by the fact that they do not know the children they are caring for, and by the restrictions and challenges brought about by the coronavirus pandemic. The requirement remains to monitor and visit children in such temporarily approved placements more frequently than if placed in fully approved foster placements.

3) Make greater use of approved foster carers by placing more children with them as “emergency” placements, outside of their terms of approval for up to 24 weeks

Another option for fostering services, be they local authority or independent fostering providers, is to increase capacity by making greater use of existing foster carers. The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 have extended the permitted duration of a placement with an approved foster carer from six days to 24 weeks. This means that up to three children (or more if they are all one sibling group) can be placed with each foster carer for that 24 week period, disregarding any terms of approval that may have been set as part of the assessment or review processes.

The possibilities that come with this change are most obviously appropriate for “respite” or “short break” foster carers, who may be off work and available to foster for the duration of the pandemic, and who will be unable to continue with any of their existing respite arrangements because of social distancing requirements. Other foster carers may also be available to take other children depending on their circumstances. In some cases, there may be an additional adult at home because they are unable to undertake their normal work during the pandemic.

It is important to be clear that for foster carers to look after more than three unrelated children, they will need to seek exemptions to the usual fostering limit. The DfE highlights the possibility in relation to this:

Schedule 7 of the Children Act 1989 currently allows for some flexibility in placing multiple children together by allowing local authorities to grant exemptions to the usual fostering limit in specific placements...⁵

Each local authority should have clear procedures in place for agreeing exemptions that should not be done in an *ad hoc* way by individual supervising social workers or others. The same system that is normally in place for exemptions should apply equally in the context of the pandemic.

It is important that foster carers have a clear picture of the demands that will be placed on them and their capacity to appropriately respond. In that sense, each case will need to be considered on its own merits. Careful matching will be an important consideration in an effort to avoid making placements that cannot be sustained and which disrupt prematurely. Many foster carers will likely be struggling with the fact that children and young people are unable to leave home, and in most cases will not be attending school. The challenges associated with this should not be underestimated, and adding further children into that home may not be a good idea.

4) Continue to assess and approve carers in the traditional way, albeit potentially making use of some specific “flexibilities” that are now available

The 2011 Fostering Services Regulations (as amended in 2013) set out the requirements for the assessment and approval of foster carers. These requirements should be complied with wherever possible, as they bring with them significant safeguarding elements. However, the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 allow fostering services to use specific flexibilities if these are necessary as a result of the pandemic.

The most important of these flexibilities addresses the difficulty that many fostering services have been reporting in relation to getting medical assessments completed in the usual way, as the work of medical practitioners has been severely disrupted during the pandemic. While it is still necessary for the fostering assessment to consider the health of the applicant, the requirement for a “medical report” has been removed. So, in situations where it is not possible to obtain a medical report, the fostering service may decide to address health in a different way, such as by self-assessment, with the issues being considered by the assessing worker in the body of the assessment. CoramBAAF has produced two “self-declaration of health” forms and associated guidance that might be of assistance to fostering services that are undertaking assessments during this pandemic.⁶

The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 have also changed the requirement for fostering services to constitute a fostering panel, and if they do decide to have a panel then quoracy requirements are reduced to three.⁷ The requirement to refer a case to a fostering panel has also been removed, meaning that the fostering service provider has

⁵ <https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-childrens-social-care-services/coronavirus-covid-19-guidance-for-local-authorities-on-childrens-social-care>

⁶ <https://corambaaf.org.uk/coronavirus/health>

⁷ Chair/Vice-Chair, a social worker with three years' experience and one other independent person.

the option to proceed to make their decision about approval without the case having been considered by a panel.

Good practice principles require that the fostering service only makes use of these “flexibilities” where there is no other option. Approving a foster carer without a medical report will usually mean that their medical records have not been accessed, and this constitutes a safeguarding risk that is best avoided wherever possible. Likewise, fostering panels are recognised as bringing a safeguarding element to the assessment and approval process, and the vast majority of fostering services have managed to set up virtual panels and report them to be functioning well for the most part. In most cases, it will not be necessary to approve foster carers without having presented their assessments to a fostering panel, and CoramBAAF has provided advice about virtual fostering panels.⁸

It is worth noting that it may be easier to approve people who have previously been approved as foster carers or adopters. This would include approved adopters who are awaiting a placement and are willing to take a foster placement, and recently retired foster carers. The DfE comments on this:

In terms of approving recently retired or de-registered carers, we would agree that the current regulations allow for a proportionate assessment that can take account of the existing knowledge of carers. In terms of how agencies carry out that assessment, we understand that, under the current extraordinary circumstances, they will need to make pragmatic decisions in the best interests of children. We expect agencies to carry out a careful risk assessment of any action they take and keep a clear record of the decisions made.⁹

5) Undertake “truncated” fostering assessments that broadly comply with regulatory requirements, but disregard the requirements of “good practice”

Many fostering services fear that completing standard fostering assessments in line with the Fostering Services Regulations 2011 (even without a medical report and presentation at panel) will not allow them to increase capacity as quickly as they need to in order to address the demand that will come with the coronavirus pandemic. This has meant that some fostering services have been exploring shortened recruitment and assessment processes using virtual visits, offering limited virtual preparation, and undertaking fewer checks and references than would be the norm. It is possible to do this and still comply with the regulatory framework, and schedule 3 of the Fostering Services Regulations 2011(as amended 2013) sets out what information must be sought:

- Details of household members and family
- Details of health
- Particulars of the accommodation
- Previous applications to foster, adopt, or childmind
- Information about any previous fostering
- Two personal references
- DBS check

⁸ <https://corambaaf.org.uk/updates/coronavirus-adoption-and-fostering-panel-virtual-meetings>

⁹ <https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-childrens-social-care-services/coronavirus-covid-19-guidance-for-local-authorities-on-childrens-social-care>

- Information about previous marriages, civil partnerships or similar relationships
- Details of personality
- Racial, cultural, religious and linguistic background
- Past and present employment and standard of living
- Leisure activities and interests
- Experience and competence in caring for children

It could be argued that this information is no more time consuming to gather than the information that is required for a non-connected person (see option 2 above). One key exception to this is the requirement to undertake a DBS check that is required for “full” assessments but not for temporary approvals. Although DBS has put in place specific arrangements to assist with undertaking quicker checks during the pandemic, in cases where a fostering service is attempting to complete “full” but “truncated” assessments, it may decide that it is reasonable and pragmatic to accept a DBS check that has been conducted by another organisation where they can make arrangements to see a copy of that certificate. Alternatively, it may decide to ask their local police force to undertake a PNC check. It is important to understand that this does not comply with regulations.

In normal circumstances, fostering services do considerably more than comply with regulations when assessing prospective foster carers, and instead adhere to good practice principles that include collecting and analysing much more information than the minimum required. They do this for good reason, and where such standards are relaxed for reasons of necessity, this will almost certainly create problems that could have been avoided if a full assessment and preparation had been possible. This will likely include situations where children are not adequately safeguarded.

If a fostering service does decide to undertake “truncated” assessments, then the following principles should be applied and/or considered:

- Assessments should only be “truncated” to the extent that this is necessary in relation to the local demand for placements.
- “Truncated” assessments should follow agreed policies and procedures that are developed specifically in response to, and for the duration of, the pandemic.
- The policies and procedures should cover which checks and references will and will not be completed, and provide guidance on expectations around health assessments, home safety checks, pet assessments, and the like.
- Assessors should use a suitable assessment format that meets the legal requirements for a fostering assessment, or makes very clear where regulations or good practice requirements cannot be met. Deficits in the completed assessment should be clearly highlighted.
- Where someone has been approved following a “truncated” assessment, this should be clearly recorded in a way that differentiates them from other foster carers who have been approved in the normal way following a full-length assessment.

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- Matching children with these foster carers will need to be considered very carefully, not least to take into account the limits of the preparation and training process.
- Careful thought will be needed about how best to support these carers, given the limited nature of their approval and preparation processes. That could include arrangements such as contact with more experienced carers through a “buddy” system.
- Arrangements should be made to review these foster carers at the earliest opportunity, and to complete any outstanding preparation and assessment activity if the carers wish to continue fostering.

Conclusion

CoramBAAF has given careful consideration to the idea of producing an assessment form and associated process for use by fostering services during the pandemic. On balance, we have decided against doing this because each fostering service will need to make their own decisions in the context of local circumstances. This will include making decisions about which assessment route they choose.

Some fostering services will conclude that they can continue to work to current standards, and other services will feel the need to make quite radical changes to approve additional carers with minimal assessment. Others will fall in between these two positions. In this context, it is not helpful to offer a single process to all fostering services, but rather to offer practice guidance, including principles that should be taken into account.

It could not be more important at this time for fostering services to vary usual practice only to the extent that is necessitated by the demands of the current situation. Recognised good practice has been established over a number of years for good reason; it should only be lapsed where there really is no other alternative.