



Date: 6 April 2020

From: **NR** Children in Care and Permanence, **I&S**

	To Comment/note	To Decide
Secretary of State	X	
Minister Ford		X
Minister Donelan	X	
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<i>NR; Parliamentary Team; NR; CSC COVID-19, COVID Vulnerable Children</i>		

CHILDREN’S SOCIAL CARE STATUTORY INSTRUMENT – AMENDMENTS TO REGULATIONS DURING COVID-19 OUTBREAK

Purpose

1. Agreement to temporarily amend certain regulations related to children’s social care to help local authorities, services and providers manage the COVID-19 outbreak.

Summary

2. Ensuring that vulnerable children are properly safeguarded and have their welfare promoted remains a top priority. At the same time, we recognise that the challenging context means that local authorities and partners will struggle to meet the full range of statutory duties relating to child protection, safeguarding and care at present. Therefore, we are proposing to lay regulations before Parliament that will make temporary changes to provide additional flexibility in meeting statutory obligations, whilst maintaining appropriate safeguards.
3. Changes are being made to 10 sets of regulations to ensure children’s social care providers and local authorities have sufficient flexibility to respond to COVID-19 while still maintaining safe and effective care. Most changes will ease administrative burdens, allow visits and contact to take place remotely and relax strict timescales where possible. These are low risk changes and will

provide more flexibility to focus on core safeguarding responsibilities. These amendments will be kept under review and in place until the Coronavirus Act renewal date on 25 September.

4. We have engaged with stakeholders on the proposals in confidence, including Ofsted, Association of Directors of Children's Services, the Local Government Association, Principal Social Workers and Practice Leaders. Issues raised by stakeholders which do not require legislative change will be addressed through accompanying operational guidance.

Recommendation

5. That you agree to make the children's social care regulation changes set out at Annex A until 25 September to help local authorities and providers manage the COVID-19 outbreak.

Timing

6. A response by 9 April would allow enough time to ensure the SI is laid by 23 April. This SI has been classified as urgent following a department-wide prioritisation exercise, as the regulations have a direct impact on the rights of individuals and are required for the smooth running of administrative systems.

Background

7. As Ministers will know, we did not take any primary legislative powers in the Coronavirus Act in relation to children's social care. Our analysis was, and remains, that additional flexibilities to support local authority delivery of an effective children's social care system can be met through temporary amendments to existing secondary legislation and through guidance to the sector. We have carried out a review of existing legislation and consulted with colleagues from across the sector including the Association of Directors of Children's Services, the Local Government Association, Principal Social Workers and Practice Leaders. We have also worked closely with Ofsted.
8. While we understand local authorities and their local partners will want to continue to meet their existing statutory duties as far as they can, there will be times in the current circumstances when this may not be possible, so the proposed amendments provide

proportionate flexibility to allow for the pressures of COVID-19. We want local authorities and local safeguarding partners to feel empowered to support families and protect children to the best of their abilities given the challenging context and have set out a series of principles, broadly endorsed by the sector, that they should follow in making decisions:

- **Child-centred** - promoting children's best interests
- **Risk-based** - prioritising support and resources for children at greatest risk
- **Family focused** - harnessing the strengths in families and their communities
- **Evidence informed** - ensuring decisions are proportionate and justified
- **Collaborative** - working in partnership with parents and other professionals
- **Transparent** - providing clarity and maintaining professional curiosity about a child's wellbeing

9. We are therefore proposing to keep in place requirements to do with essential safeguarding. The Child Safeguarding Panel has already relaxed some timescales about the completion of serious case reviews and learning reviews. The duties we propose to amend are listed in this submission as things we want to change which can be done with minimal risk. A summary of the changes we are proposing to make is set out below, with more detail in Annex A.

Summary of the regulation amendments

Residential care

The Children's Homes (England) Regulations 2015

10. The Children's Homes (England) Regulations 2015 set out the standards that must be met for everyone providing residential care. We are proposing to relax the supervision requirements for individuals delivering care relating to health and development, so that supervision by an appropriate person only needs to be in place 'as far as reasonably practicable'. In light of school closures, we are also proposing to relax the education standard so that children's homes only have to use reasonable endeavours to comply with that standard. We propose to amend restraint provision to enable children's homes to enforce any deprivation of liberty that arises as a result of an exercise of powers under section 51 of and Schedule 21 to the Coronavirus Act 2020 without it being a breach of the regulation. We're also suggesting amendments to provide flexibility around how independent visits are conducted and that the registered manager provides suitable facilities for young people to speak privately over the phone or other video-link facility if required to their parents, relatives, advocate etc.

11. We are proposing amendments to enable children's homes to enforce a deprivation of liberty that arises from cases where a young person is infectious or suspected of being infectious. There is no equivalent existing provision in the Fostering Regulations, so there is no amendment required there – however, the powers provided for in the Coronavirus Act 2020 would apply equally in foster homes.
12. The above amendment would only capture cases where the young person has been deemed infectious or suspected of being so and couldn't be used to generally enforce restrictions on movement. In all other cases where restrictions of movement are being sought that amount to a deprivation of liberty, Local Authorities will have to apply for a court order. This could be under s.25 Children Act 1989 for a secure accommodation order on the basis that it was necessary for the safety of the child/young person and for the safety of others but this will encounter capacity issues in the secure accommodation estate. Alternatively, it could be through an application under inherent jurisdiction if section 25 doesn't or can't apply. This would be applicable in all types of setting - foster homes, children's homes and special schools.
13. We reviewed The Children (Secure Accommodation) Regulations 1991 but agreed with Ofsted and ██████████ that no amendments are required at this point. There are no amendments we feel are appropriate to help address the capacity and workforce issues faced by secure children's homes, and we are sending advice separately to the minister on those topics.

Residential Family Centre Regulations 2002

14. The Residential Family Centre Regulations 2002 set out the standards for all establishments providing residential services for parents and their children. The changes that are being proposed provide sufficient scope to enable residential family centres to continue to operate efficiently whilst ensuring focus remains on matters of priority. The proposed amendments will enable the registered manager to use 'reasonable endeavours' to ensure that the centre continues to operate in a manner which will promote and make proper provision for the health and welfare of residents. In recognition of the additional pressures such establishments are facing, we are proposing amendments which will allow for some flexibility around deadlines for notifying complaints and will also allow for greater flexibility around recommended visits by registered providers, and the facilities which can be used when such visits do occur.

Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulation 2015

15. Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulation 2015 prescribe the fees payable to HMCI by a number of schools, agencies and other establishments. The

regulations also set out the minimum frequency of inspections in relation to children's homes. The Secretary of State agreed with Ofsted that it will suspend routine inspections of children's social care services, and we are proposing to amend the frequency of inspection requirement to reflect the suspension.

16. The detail of the amendments needed are still being agreed with Ofsted and legal. We will highlight this change once we send the regulations and Explanatory Memorandum for clearance.

Foster care and care planning

Children Private Arrangements for Fostering Regulations 2005

17. The Children (Private Arrangements for Fostering) Regulations 2005 set out local authorities' duties once they have been notified that a child is, or is going to be, privately fostered and stipulate when and how the visits to privately fostered children should take place. The proposed changes provide flexibility to enable local authorities to use their judgement and be able to prioritise those they feel are most in need of a visit. Therefore, we propose to relax the timeframes for local authorities to make visits to satisfy themselves about the welfare of children in, or proposed to be in, private fostering arrangements.

Care Planning, Placement and Case Review (England) Regulations 2010

18. The Care Planning, Placement and Review (England) Regulations 2010 set out the ways in which placements should be identified for looked after children, and how the child's best interests should be maintained through those placements. They include provisions for making decisions about placements and timings for when placement decisions should be reviewed.
19. We are proposing to amend regulations to remove some of the timescales around formalising a placement plan, moving from before a placement, or within 5 days of the start of a placement, to as soon as reasonably possible after the start of a placement. We would also relax deadlines for placement reviews, allow people who are not 'connected persons' to be approved as temporary foster carers and to increase the timescales for placement with a temporary foster carer. The duration of short breaks would also be expanded to allow increased flexibility and we propose to modify requirements around how visits to the child in placement are conducted and their placement reviews to provide greater flexibility. We are also recommending removing the requirement to get nominated officer approval for Fostering for Adoption placements, to reduce delay in decisions for these children.

Fostering Services (England) Regulations 2011

20. The Fostering Services (England) Regulations 2011 provide the regulatory framework for fostering agencies (i.e. independent fostering agencies and voluntary organisations) and local authority fostering services, by placing duties on the ‘fostering service provider’. These Regulations set out how fostering services should deliver their statutory functions with regards to recruiting, assessing, approving and supervising foster carers. They also set out the expectations in terms of scrutiny and checks for foster parents, and the ways in which fostering services should be structured in order to provide appropriate safeguards to those in fostering placements and the households. The Regulations prescribe how complaints and applications for reviews against decisions should be heard.
21. We are proposing to amend requirements on fostering service providers to notify Ofsted of various matters ‘without delay’, and instead changing this requirement to notify ‘as soon as reasonably practicable’. After consulting with Ofsted, we are proposing to remove the requirement to notify Ofsted of outbreaks of infectious diseases deemed sufficiently serious to be. because of an expectation that this could apply to all fostering service providers over the coming period. We are also recommending making it optional to refer cases and applications to the fostering panel, and propose to reduce the number of people required for a quorate fostering panel. We are advising to remove some time pressures on paperwork and allow suitability assessments (including assessing households) to be carried out whilst awaiting medical and vetting information. In addition, we are proposing to remove the requirement for a formal medical report, to allow individuals to self-report. Lastly, we are proposing to provide greater flexibility for fostering services to assess and approve foster carers and extend the maximum duration of short breaks to 75 days.

Adoption

Adoption Agencies Regulations 2005

22. The Adoption Agencies Regulations 2005 govern how adoption agencies exercise their functions in relation to adoption under the Adoption and Children Act 2002. We are proposing to relax the need to secure medical and DBS checks by the end of stage 1 of the approval process to allow agencies to continue processing applications from prospective adopters. We anticipate these checks will take longer than usual to clear and expect them to be completed as part of stage 2 of the approval process. In recognition of this change, regulations will be amended so applicants do not have access to the Independent Review Mechanism (IRM) where their application is unsuccessful for reasons relating to DBS or health checks at the end of stage 1. We are advising amending the requirement to convene an adoption panel and the minimum number of panel members required would be reduced from 5 to 3 to ensure that adoption approvals and matches can continue even where there are a shortage of panel members because of COVID-19. The requirements, for reviews and visits is also recommended to be amended during this period to provide maximum flexibility to agencies working with families. We are also proposing to relax some timescales within the Regulations to give agencies more flexibility, requiring them to meet timescales “where reasonably practicable”.

23. Separately, we note you and the Secretary of State are interested in ensuring adoptions continue to happen during this period and will provide separate advice on that on Wednesday. We also working up options on how best to support Voluntary Adoption Agencies and will let you have a submission once we have strategic finance and HMT agree.

Local Authorities

The Children Act 1989 Representations Procedure (England) Regulations 2006

24. These regulations set out the formal procedure that local authorities are to follow when considering representations made to them about the services they provide to children and young people and specify some of the instances in which a person may make representations. The procedure covers complaints about the council's services to children in need or in care; about how the Council applies to take a child into care; many complaints about fostering and adoption services and complaints about services to children leaving care. They do not cover complaints about child protection matters or how the council assesses families and prepares reports for the court in private proceedings. These will be dealt with under the council's own complaints procedure. The amendments proposed are intended to recognise that following the procedures may not be feasible in some instances given significant capacity constraints due to the impacts of COVID-19. We propose to change the regulations which currently have set timescales for the completion of the required actions to 'or as soon as is reasonably practicable' to build in flexibility by reducing rigidity of timescales.

Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007

25. These Regulations prescribe the manner and period within which a local authority in England must publish an inspection report and a written statement of proposed action following an inspection by Her Majesty's Chief Inspector of Education, Children's Services and Skills.

26. The regulations currently prescribe a 70 working day time limit within which local authorities are required to produce a written statement of action following an inspection of their children's services by Ofsted. The amendment proposed would require the report to be published within 70 working days or as soon as is reasonably practicable, providing greater flexibility. Ofsted and the Department would continue to work with local authorities that need to improve their services in the meantime.

Children Act 2004 (Joint Area Reviews) Regulations 2015

27. Section 20 of the Children Act 2004 provides for the review of children's services in the area of a local authority in England (joint area reviews).
28. The regulations currently prescribe 70 working day time limit within which the local authority is required to produce a written statement of action following an inspection of their joint services by Ofsted, the Care Quality Commission, HM Inspectorate of Constabulary and HM Inspectorate of Probation. The changes proposed would require the report to be published within 70 working days or as soon as is reasonably practicable, providing greater flexibility. The relevant government departments (the Department for Education, Department for Health and Social Care, Home Office and Ministry of Justice) will continue to work with local partnerships that need to improve their services in the meantime. We have consulted with the other inspectorates who are content with the proposed changes.

Legislative Background

29. The amendments will be made by statutory instrument subject to the negative procedure. Owing to the urgent nature of the amendments being made the regulations will not be subject to the 21-day rule which usually requires 21 days to elapse between laying the instrument and it coming into force. A full justification for breaching this rule will be set out in the Explanatory Memorandum that will accompany the Regulations.
30. The amendments will be in place until the 25 September which is the date by which the powers in the Coronavirus Act are subject for Parliamentary renewal. Whilst these amendments aren't being made under powers in that Act, we advise that we should mirror the renewal date of the Coronavirus Act as the date that our amendments will cease to have effect unless extended. The legislative changes are only being made in the context of a public health emergency and we have no evidence yet the amendments will be necessary for a longer period of time.
31. The regulations will contain an obligation for the Secretary of State to keep the regulations under continuous review. We will have the opportunity to extend the period the amendments are in force in late summer, should the public health emergency or its impacts last longer.

Communications

32. We will share the detail of the regulatory amendments informally with key stakeholders and engage them on how we prepare for them being laid. We are currently considering the best means of ensuring that the changes are shared and understood more

widely but anticipate that this may be through an update to the operational guidance recently published for the children's social care sector.

Next steps

33. Should the Minister agree the proposed changes we will finalise drafting of the SI and preparation of both a Public Sector Equality Duty Assessment and Children's Rights Impact Assessment alongside the Explanatory Memorandum. Drafts of these with comms advice, will be provided as soon as possible. We are not anticipating a need to secure cross-government clearance, and therefore intend to lay the SI by 23 April at the latest. Arrangements will be made for the Minister to sign the SI electronically.



Annex A – proposed changes to Children’s Social Care regulations

Policy area	Regulation	Current requirement	Proposed change (exact wording to be confirmed)
Residential care	Children's Homes (England) Regulations 2015 Regulation 6 – The quality and purpose of care standard	(3c) The registered person must ensure that care is delivered by a person who: has the experience knowledge and skills to deliver that care and is under the supervision of a person who is appropriately skilled and qualified to supervise that care.	To amend the requirement from “must” to “as far as reasonably practicable”
Residential care	Children's Homes (England) Regulations 2015 Regulation 8 – The education standard	(2) The registered person must ensure that staff offer a range of help and support to help children make measurable progress towards achieving their educational potential.	To amend to allow “reasonable endeavours” to be taken to meet the requirement.
Residential care	Children's Homes (England) Regulations 2015 Regulation 20 – Restraint and deprivation of liberty	(3) Restraint regulations do not prevent a child from being deprived of their liberty where that deprivation is authorised in accordance with a court order.	To amend to enable children’s homes to enforce any deprivation of liberty that arises as a result of an exercise of powers under section 51 of and Schedule 21 to the Coronavirus Act 2020 without it being a breach of the regulation.
Residential care	Children's Homes (England) Regulations 2015	(1) The registered person must ensure that suitable facilities are provided within the children’s homes for a child to meet privately at any reasonable time with the child’s parents, friends, relatives etc.	Where this is not possible, the child should be able to speak privately over the telephone or other video-link facility.

	Regulation 22 – Contact and access to communications		
Residential care	Children's Homes (England) Regulations 2015 Regulation 44 – Independent person: visits and reports	(1) The registered person must ensure that an independent person visits the children's home at least once each month.	To allow reasonable endeavour to be taken to meet the requirement.
Residential care	HMCI Frequency of Inspection and Fees Regulations	Detail of proposed change to be confirmed in consultation with Ofsted	
Residential care	Residential Family Centre Regulations 2002 Regulation 10 – Health and welfare of residents	(1) The registered person shall ensure that the residential family centre is conducted so as to (a) promote and make proper provision for the health [(including physical, mental and emotional health)] and welfare of residents; and (b) make such provision for the care, treatment, education and supervision of residents as is appropriate to their age and needs.	To allow reasonable endeavours.
Residential care	Residential Family Centre Regulations 2002 Regulation 20 – Complaints	(5) The registered person shall inform the person who made the complaint of any action that is to be taken within 28 days after the date on which the complaint is made.	To make compliance on the basis of “as far as reasonably practicable”

Residential care	Residential Family Centre Regulations 2002 Regulation 25 – Visits by registered provider	(3) Visits by the Registered Provider shall take place at least once a month and may be unannounced. (4) The person carrying out the visit shall (a) interview, with their consent and in private, such of the residents and persons working at the residential family centre as appears necessary in order to form an opinion of the standard of care provided in the residential family centre; (b) inspect the premises of the residential family centre and records of any complaints.	Visits shall happen “as far as reasonably practicable” To allow interviews to happen or other video-link equipment” and allow inspection on an “as far as reasonably practicable” basis.
Local Authorities	The Children Act 1989 Representations Procedure (England) Regulations 2006 Regulation 18 – Request for Review Panel	(2) If a complainant is dissatisfied with the investigations of their representations, they can request for a review panel. This regulation requires the complainant to make that request within 20 working days from the date they received the response from their local authority and must set out the reasons for the complainant’s dissatisfaction with the outcome of the investigations.	To allow request for a review panel to be made “as soon as reasonably practicable”
Local Authorities	The Children Act 1989 Representations Procedure (England) Regulations 2006 Regulation 19 – Review Panel	(4) The review panel is required to meet within 30 working days of the local authority receiving a request in accordance with regulation 18.	To allow the panel to meet “as soon as is reasonably practicable”.
Local Authorities	The Children Act 1989 Representations	(5) Within 5 working days of the meeting of the review panel, the panel must send its report to the	To allow reports to be sent “as soon as is reasonably practicable”

	<p>Procedure (England) Regulations 2006</p> <p>Regulation 20 – Recommendations</p>	<p>local authority; the complainant and advocate; the independent person and any other person whom the panel consider has sufficient interest in the case.</p>	
Local Authorities	<p>The Children Act 1989 Representations Procedure (England) Regulations 2006 Regulation 20 – Recommendations</p>	<p>(3) Within 15 working days of receiving the panel's recommendations, the local authority must, together with the independent person, consider the recommendations and determine: how the authority will respond to them; what they propose to do in the light of them, and send to the complainant its response and proposals, along with information about making a complaint to a Local Commissioner.</p>	<p>To allow responses as soon as reasonably practicable rather than within a maximum of 15 days.</p>
Local Authorities	<p>Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007</p> <p>Regulation 3 – Local authority inspection action plan</p>	<p>(3) A local authority in England which has received a copy of an inspection report must, within 70 working days of receiving that report, publish a written statement of action which they propose to take in the light of the report.</p>	<p>To allow written statements to be published within 70 working days, "or as soon as reasonably practicable"</p>
Local Authorities	<p>Children Act 2004 (Joint Area Reviews) Regulations 2015</p> <p>Regulation 4 – Joint Targeted Area</p>	<p>(4) The principal authority must make the written statement of proposed action within 70 working days of receiving the inspection report.</p>	<p>To allow the written statement of proposed action within 70 working days, "or as soon as reasonably practicable".</p>

	Inspection and SEND inspection action plan		
Private fostering	<p>Children Private Arrangements for Fostering Regulations 2005</p> <p>Regulation 4 – Action to be taken by local authority on receipt of notification of proposal to foster a child privately</p>	(1) Where a local authority has received notification of a proposal to foster a child privately, they must arrange for an officer of the authority within seven days to: visit the premises where it is proposed that the child will be cared for and accommodated; visit and speak to the proposed private foster carer and to all members of his household; visit and speak to the child, alone unless the officer considers it inappropriate; speak to and, if it is practicable to do so, visit every parent of or person with parental responsibility for the child and establish such matters listed in Schedule 2 as appear to the officer to be relevant.	To allow visits “as soon as reasonably practicable”.
Private fostering	<p>Children Private Arrangements for Fostering Regulations 2005</p> <p>Regulation 7 – Action to be taken by local authority on receipt of notification about a child being fostered privately</p>	(1) Where a local authority has received notification about a child being fostered privately, they must arrange for an officer of the authority within seven days to: visit the premises where it is proposed that the child will be cared for and accommodated; visit and speak to the proposed private foster carer and to all members of his household; visit and speak to the child, alone unless the officer considers it inappropriate; speak to and, if it is practicable to do so, visit every parent of or person with parental responsibility for the child and establish such matters listed in Schedule 2 as appear to the officer to be relevant.	To allow visits “or as soon as reasonably practicable”.
Private fostering	Children Private Arrangements for	(1) Each local authority must arrange for an officer of the authority to visit every child who is being	To allow greater flexibility in when visits take place

	Fostering Regulations 2005 Regulation 8 – Subsequent visits to children who are being fostered privately	fostered privately in their area in the first year of the private fostering arrangement, at intervals of not more than six weeks; and in any second or subsequent year, at intervals of not more than 12 weeks.	
Care Planning	Care Planning, Placement and Case Review (England) Regulations 2010 Regulation 9 – Placement plan	(2) If it is not reasonably practicable for a local authority to prepare a young person’s placement plan before making the placement, the placement plan must be prepared within five working days from the start of the placement.	To allow the placement plan to be prepared “as soon as reasonably practicable” from the start of the placement.
Care Planning	Care Planning, Placement and Case Review (England) Regulations 2010 Regulation 11 – Placement decision	A decision to place the child outside the area of the responsible authority (including a placement outside England) must not be put into effect until it has been approved by a nominated officer, or in the case of a proposed placement which is also at a distance, until it has been approved by the director of children’s services. This does not apply to a decision to place the child outside of the area of the responsible authority with a local authority approved foster parent who is a connected person, or with a local authority foster carer who has been approved by the responsible authority.	This is being amended to allow local authorities to place a child outside the area with “stranger” carers without nominated officer approval.
Care Planning	Care Planning, Placement and Case Review (England) Regulations 2010	Regulation 9 - A placement plan is to be prepared either before making the placement, or where this is not reasonably practicable, within five working days of the start of the placement.	Regulation 9- a placement plan is to be prepared as soon as reasonably practicable from the start of the placement.

	<p>Regulation 9 – placement plan</p> <p>Regulation 5 – Preparation and content of care plan</p> <p>Regulation 18 – Decision to place a child with P</p> <p>Regulation 22B – Where the responsible authority proposes to place the child in a long-term foster placement</p>	<p>Regulation 5 - In some cases, a care plan is required to have a record of the placement plan. A care plan is also required to have a record of the wishes and feelings of the child, their parents, anyone else with parental responsibility for the child and any other relevant person in regard to the placement plan.</p> <p>Regulation 18 -A decision to place a child with P (the child’s parent, someone with parental responsibility for the child, or someone named in a child arrangements order as a person with whom the child was meant to live) must not be put into effect until it has been approved by a nominated officer and the responsible authority have prepared a placement plan for the child.</p> <p>Regulation 22B – The responsible authority may only place a child with a local authority approved foster parent in a long-term foster placement where it has prepared a placement plan for the child, along with other requirements.</p>	<p>Regulation 5 - the recording of information in relation to the placement plan is to be done once the placement plan is prepared.</p> <p>Regulation 18 –removing the requirement for the placement plan to be prepared before the placement.</p> <p>Regulation 22B- removing the requirement for a placement plan to be prepared before the placement.</p>
Care Planning	<p>Care Planning, Placement and Case Review (England) Regulations 2010</p> <p>Regulation 19 – assessment and review of placement with P</p>	<p>Where the nominated officer considers it necessary and consistent with the child’s welfare, the responsible authority can place a child with P before doing an assessment of P’s suitability to care for a child. However, the responsible authority must ensure that the assessment is completed within ten working days of the child being placed with P.</p>	<p>To allow the assessment to be are completed “as soon as reasonably practicable” from the child being placed.</p>
Care Planning	<p>Care Planning, Placement and Case</p>	<p>This regulation applies where the responsible authority decides to place the child in a fostering for</p>	<p>This regulation is being amended to remove the requirement for nominated officer approval. Instead,</p>

	<p>Review (England) Regulations 2010</p> <p>Regulation 22 (A) – conditions to be complied with before placing a child with a local authority foster parent</p>	<p>adoption placement. This placement must not be put into effect until it has been approved by a nominated officer and the responsible authority have prepared a placement plan for the child. Before approving a decision for this placement, the nominated officer must:</p> <ul style="list-style-type: none"> • be satisfied the placement is the most appropriate for the child and will safeguard and promote the child’s welfare; • be satisfied that the requirements in regard to ascertaining the wishes and feelings of the child, and informing the IRO have been met; and • that, if the whereabouts are known, notify the parent or guardian of the proposed placement. 	<p>the responsible authority will be required to consider the points previously assigned to the nominated officer. The reference to a placement plan needing to be prepared before the placement is removed.</p>
Care Planning	<p>Care Planning, Placement and Case Review (England) Regulations 2010</p> <p>Regulation 22 (B) – conditions to be complied with before placing a child with a local authority foster parent (long term foster carer placement)</p>	<p>(2) One of the requirements for a responsible authority to place a child with a local authority foster parent is that they have prepared a placement plan for the child.</p>	<p>Removes the requirement to have a prepared plan in place prior to placement.</p>
Care Planning	<p>Care Planning, Placement and Case Review (England)</p>	<p>(1) Where it is necessary to place the child in an emergency, the responsible authority may place them with any local authority foster parent who has been approved in accordance with [the Fostering</p>	<p>Amendment will allow placements up to 24 weeks rather than 6 working days.</p>

	<p>Regulations 2010</p> <p>Regulation 23 – emergency placement with a local authority foster parent</p>	<p>Services Regulations], even if the terms of that approval are not consistent with the placement, provided that the placement is for no longer than 6 working days.</p> <p>(2) When the period of six working days expires, the responsible authority must terminate the placement unless the terms of that person's approval have been amended to be consistent with the placement.</p>	
Care Planning	<p>Care Planning, Placement and Case Review (England) Regulations 2010</p> <p>Regulation 24 – Temporary approval of relative, friend or other person connected with the child.</p>	<p>The reasonable authority may approve a connected person as local authority foster parent for a temporary period not exceeding 16 weeks (“temporary approval”) provided that they first comply with the requirements of paragraph (2).</p> <p>Clause (3) sets out the definition of “connected person” meaning a relative, friend or other person connected with the child.</p>	Removal of clause 3, definition of a “connected person” allowing placements with a larger range of carers.
Care Planning	<p>Care Planning, Placement and Case Review (England) Regulations 2010</p> <p>Regulation 28 – Frequency of visits</p>	<p>(1) The responsible authority must ensure that their representative visits C in accordance with this regulation, wherever C is living.</p>	To allow visits as soon as is reasonably practicable rather than within a defined timeframe.
Care Planning	<p>Care Planning, Placement and Case Review (England) Regulations 2010</p>	<p>(1) The responsible authority must first review C's case within 20 working days of the date on which C becomes looked after.</p>	To allow the third and subsequent reviews of looked after children to happen where reasonably practical and not within a maximum of 6 months after the previous review.

	Regulation 33 – Timing of reviews	(2) The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months.	
Care Planning	Care Planning, Placement and Case Review (England) Regulations 2010 Regulation 36 – the role of the IRO	(2) The IRO may, if not satisfied that sufficient information has been provided by the responsible authority to enable proper consideration of any of the matters in Schedule 7, adjourn the review meeting once for not more than 20 working days, and no proposal considered in the course of the review may be implemented until the review has been completed.	To allow greater flexibility for the IRO to adjourn the review meeting.
Care Planning	Care Planning, Placement and Case Review (England) Regulations 2010 Application of these Regulations with modifications to children on remand Regulation 47C	(3) Where a child is remanded to local authority accommodation, regulation 9(1) applies with the modification that the placement plan must be prepared within five working days of C being so remanded.	To allow the placement plan to be prepared “as soon as reasonably practicable”.
Care Planning	Care Planning, Placement and Case Review (England) Regulations 2010 Regulation 48 Application of these Regulations with	(c) Short break placements are intended to last for no longer than 17 days; at the end of each placement, the child returns to the care of their parent or whoever has parental responsibility and they do not exceed 75 days in total in any period of 12 months.	The criteria for short break placements to last for no longer than 17 days has been removed.

	modifications to short breaks		
Care Planning	<p>Care Planning, Placement and Case Review (England) Regulations 2010</p> <p>Regulation 48 Application of these Regulations with modifications to short breaks</p>	<p>(c) Regulation 28(2) does not apply, but instead the responsible authority must ensure that R visits C on days when C is in fact placed, at regular intervals to be agreed with the IRO and C's parents (or any person who is not C's parent but who has parental responsibility for C) and recorded in the care plan before the start of the first placement, and in any event—</p> <p>(i) the first visit must take place within three months of the start of the first placement, or as soon as practicable thereafter, and</p> <p>(ii) subsequent visits must take place at intervals of not more than six months, for as long as the short breaks continue,</p> <p>(d) Regulation 33 does not apply, but instead—</p> <p>(i) the responsible authority must first review C's case within three months of the start of the first placement, and</p> <p>(ii) the second and subsequent reviews must be carried out at intervals of not more than six months.</p>	<p>(c) Regulation 28(2) does not apply, but instead the responsible authority must ensure that R visits C at regular intervals during any short break to be agreed with the IRO and C's parents (or any person who is not C's parent but who has parental responsibility for C).</p> <p>(d) Regulation 33 does not apply, but instead the responsible authority must first review C's case 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.</p>
Fostering	<p>Fostering Services (England) Regulations 2011</p> <p>Regulation 4 – review of statement of purpose and children's guide</p>	The fostering service provider must notify the Chief Inspector of revisions to the statement of purpose and children's guide within 28 days	The fostering service provider must notify the Chief Inspector of any such revisions "as soon as reasonably practicable".

Fostering	Fostering Services (England) Regulations 2011 Regulation 6 – appointment of manager	(3) The registered provider must notify the Chief Inspector without delay the name of any person appointed in accordance with this regulation, and the date on which the appointment is to take effect.	The registered provider must notify the Chief Inspector “as soon as reasonably practicable”.
Fostering	Fostering Services (England) Regulations 2011 Regulation 9 – notification of offences Regulation 10 – local authority foster service	Regulation 9: Where the registered person or the responsible individual is convicted of any criminal offence, whether in England and Wales or elsewhere, that person must without delay give notice in writing to the Chief Inspector Regulation 10 (1): Each local authority must appoint one of its officers to manage the local authority fostering service, and must notify the Chief Inspector without delay of the name of the person appointed and the date on which the appointment is to take effect. (3) Local authority must notify the Chief Inspector without delay if the person appointed under paragraph 1 ceases to manage the local authority fostering service.	Regulation 9: to allow notifications “as soon as reasonably practicable.” Regulation 10 (1) and 10 (3): to allow notifications “as soon as reasonably practicable”
Fostering	Fostering Services (England) Regulations 2011 Regulation 23 – Constitution and	(7) The fostering service provider must ensure that the fostering panel has sufficient members, and that individual members have between them the experience and expertise necessary, to effectively discharge the functions of the panel.	(7) The fostering service provider must ensure that “individual members” have between them the experience and expertise necessary, to effectively discharge the functions of the panel. <i>[additional amendments to foster panels to reflect amendments to adoption panels in adoption regulations]</i>

	membership of fostering panel		
Fostering	Fostering Services (England) Regulations 2011 Regulation 24 – Meetings of the fostering panel	(1) No business may be conducted by a fostering panel unless at least the following meet as the panel— (i) either the person appointed to chair the panel or one of the vice chairs, (ii) one member who is a social worker who has at least three years' relevant post-qualifying experience, and (iii) three, or in the case of a fostering panel established under regulation 23(5) four, other members	To amend (iii) to allow just “one other independent person”
Fostering	Fostering Services (England) Regulations 2011 Regulation 26 – assessment of prospective foster parents	(1C) In the event that a foster service provider finds a prospective carer unsuitable, the notification may not be given more than 10 working days after the fostering service provider has obtained all the information set out in paragraph (1A).	To allow notifications that a prospective carer has been found unsuitable, the notification must be sent “as soon as reasonably practicable”
Fostering	Fostering Services (England) Regulations 2011 Regulation 28 – reviews and terminations of approval	(1) The fostering service provider must review the approval of each foster parent in accordance with this regulation. (2) (3) A review must take place not more than a year after approval, and thereafter whenever the fostering service provider consider it necessary, but at intervals of not more than a year.	To allow first reviews “where reasonably practicable” and thereafter whenever the fostering service provider consider it necessary.

Fostering	Fostering Services (England) Regulations 2011 Regulation 42 – application of these Regulations with modifications to short breaks	In relation to short breaks: (2) The circumstances are that the child— (a) is not in the care of a local authority, and (b) is placed in a series of short-term placements with the same foster parent (“short breaks”), where— (i) no single placement is intended to last more than 17 days	Removal of (i) no single placement is intended to last more than 17 days.
Fostering	Fostering Services (England) Regulations 2011 Schedule 3 – information as to prospective foster parent and other members of their household and family	(2) Details of health (supported by a medical report) are required for prospective foster carers.	(3) Removal of requirement for a medical report.
Fostering	Fostering Services (England) Regulations 2011 Schedule 7 – events and notifications	Requirement to notify Ofsted of an outbreak at the home of a foster parent of any infectious disease which in the opinion of a general practitioner attending the home is sufficiently serious to be so notified	Removal of the requirement to notify Ofsted of this.
Adoption	Adoption Agencies Regulations (England) 2005	(1) The adoption agency must constitute one or more adoption panels, as necessary, to perform the functions of an adoption panel.	The adoption agency “may” constitute one or more adoption panels, as necessary, to perform the functions of an adoption panel.

	Regulation 4 – constituting an adoption panel	(2) The adoption agency must ensure that an adoption panel has sufficient members, and individual members have between them the experience and expertise necessary to effectively discharge the functions of the panel.	Removal of requirement for adoption panel to have “sufficient members”, if they decide to host a panel:
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 6 – meetings of adoption panel	(1) No business may be conducted by an adoption panel unless at least the following meet as the panel - (b) one person falling within regulation 3(1)(a), (c) three, or in the case of an adoption panel established under regulation 4(3) four, other members and where the chair is not present and the vice chair is not an independent person, at least one other panel member must be an independent person.	To reduce the requirement for the number of members on a panel.
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 17 – requirement to prepare a child’s permanence report.	(2C) In a case not falling within paragraph (2), the adoption agency must send the information and reports referred to in paragraph (2D) to the adoption panel.	To provide clarity that it is only a requirement for cases that go to panel.
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 19 – Adoption agency	(1) [In any case falling within regulation 17 (2C)] the adoption agency must take into account the recommendation of the adoption panel in coming to a decision about whether the child should be placed for adoption.	To provide clarity that it is only a requirement for cases that go to panel.

	decision and notification		
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 23 – prospective adopters case record	(1) The adoption agency must set up a case record in respect of the prospective adopter (“the prospective adopter's case record”) and place on that case record (e) the written record of the proceedings of the adoption panel under regulation 30A (and where applicable under 30B(8)), its recommendation, the reasons for the recommendation and any advice given by the panel to the agency.	
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 26 – Other pre-assessment information	[The adoption agency must – (b) obtain a written report from a registered medical practitioner about the health of the prospective adopter following a full examination which must include the matters specified in Part 2 of Schedule 4 unless the agency has received advice from its medical adviser that such an examination and report is necessary. (e) where it is not the local authority in whose area the prospective adopter has their home ascertain whether the local authority in whose area the prospective adopter has their home have any information about the prospective adopter which may be relevant to an assessment of the prospective adopter's suitability to adopt and if so obtain from that authority a written report setting out that information.]	To loosen the timings on when checks need to be completed.

Adoption	Adoption Agencies Regulations (England) 2005 Regulation 27 – pre-assessment decision	(1A) - currently not in regulations (2) Subject to paragraph (3), the agency must, make its decision under paragraph (1) within a period of two months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process in accordance with regulation 21.	To loosen the timings on when checks need to be completed, and timings on informing prospective adopters to when reasonably practical.
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 28 – Stage 2 assessment	(1) Regulations 28 to 30G apply where the prospective adopter notifies the adoption agency that they wish to continue with the assessment process within six months from the date which the agency notified the prospective adopter that they may be suitable to adopt under regulation 27(4).	To loosen timings on assessment process.
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 30 – prospective adopter's report.	(5) The adoption agency must— (a) notify the prospective adopter that the prospective adopter's application is to be referred to the adoption panel; (6) At the end of the 5 working days referred to in paragraph (5)(c) (or, where that timescale is extended by the adoption agency, as soon as possible after the prospective adopter's observations are received) the adoption agency send—	To provide clarity that it is only a requirement for cases that go to panel.

Adoption	Adoption Agencies Regulations (England) 2005. Regulation 30B – Adoption agency decision and notification	<p>[(1) Subject to paragraph (2), the adoption agency must decide whether the prospective adopter is suitable to adopt a child within four months of the date on which the agency received the prospective adopter's notification that they wished to proceed with the assessment process.</p> <p>(5) Where the adoption agency considers that the prospective adopter is not suitable to adopt a child, it must—</p> <p>(c) advise the prospective adopter that within 40 working days beginning with the date on which the notification was sent the prospective adopter may—</p> <p>(ii) apply to the Secretary of State for a review by an independent review panel of the qualifying determination.</p> <p>(9) The adoption agency must make a decision on the case but—</p> <p>(b) if the prospective adopter has applied to the Secretary of State for a review by an independent review panel of the qualifying determination, the agency must make the decision only after taking into account the recommendation of the independent review panel and the recommendation of the adoption panel made under regulation 30A.</p>	To loosen the timings on certain aspects of the process. To include clarification some parts of the process are only applicable where the case went to panel. To clarify that adopters who have not been approved at stage 2, for grounds of health/security checks cannot make use of the IRM.
Adoption	Adoption Agencies Regulations (England) 2005	(4) If, at the conclusion of the review, the adoption agency considers that the prospective adopter may no longer be suitable to adopt a child, it must—	To remove the requirement to refer cases to panel. To make clear some requirements are only applicable if the case has gone to panel.

	Regulation 30D – review and termination of approval	(b) notify the prospective adopter that the case is to be referred to the adoption panel; and(5) At the end of the period of 10 working days referred to in paragraph (4)(c) (or earlier if the prospective adopter's comments are received before that period has expired), the adoption agency must, where applicable, send the prospective adopter's review report together with the prospective adopter's observations to the adoption panel.	
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 30E – Duties of the adoption agency in a section 83 case	[Where the adoption agency decides in a section 83 case to approve a prospective adopter as suitable to adopt a child, the agency must send the Secretary of State— (b) all the documents and information which were passed to the adoption panel in accordance with regulation 30; (c) the record of the proceedings of the adoption panel, its recommendation and the reasons for its recommendation;	To provide clarity that it is only a requirement for cases that go to panel.
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 31 – proposed placement	(3) [Where the adoption agency remains of the view that the proposed placement should proceed, it] must notify the prospective adopter that the proposed placement is to be referred to the adoption panel and give him a copy of the adoption placement report, inviting him to send any observations in writing to the agency within 10 working days, beginning with the date on which the notification is sent.	To allow flexibility in decisions around panels and the notifying of adopters.

		(4) At the end of the period of 10 working days referred to in paragraph (3) (or earlier if observations are received before the 10 working days has expired) the adoption agency must send—	
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 33 – Adoption agency decision in relation to proposed placement	The adoption agency must take into account the recommendation of the adoption panel in coming to a decision about whether the child should be placed for adoption with the particular prospective adopter.	To provide clarity that it is only a requirement for cases that go to panel.
Adoption	Adoption Agencies Regulations (England) 2005 Regulation 36 - Reviews	A1 regulation currently not in place	To include a requirement that an adoption agency does not have to carry out a review when not reasonably practical and it isn't needed to safeguard and promote the child's welfare.
Adoption	Care Planning, Placement and Case Review (England) Regulations 2010 Regulation 22A – Placement following consideration in accordance with section 22C(9B)(c) of the Act	(2) The decision to place C must not be put into effect until it has been approved by a nominated officer, and the responsible authority have prepared a placement plan for C. (3) Before approving a decision under paragraph (2), the nominated officer must— (a) be satisfied that the placement is the most appropriate placement available for C and will safeguard and promote C's welfare; (b) be satisfied that the requirements of regulation 9(1)(b) have been complied with; and (c) if their whereabouts are known to the responsible authority, notify the parent or guardian of C of the proposed placement.	Removal of the need of approval from a nominated officer.



Checklist (please keep this as the final page when you submit your advice)

Title of submission: CHILDREN'S SOCIAL CARE STATUTORY INSTRUMENT – AMENDMENTS TO REGULATIONS DURING COVID-19 OUTBREAK SCS clearance of advice before sending: Sophie Langdale

Legislative Considerations

- No legislative (primary or secondary) implications
- Advice requires changes to secondary legislation
- Advice has been cleared by Emran Mian (SRO for legislation) and/or with input from:
- Advice sets out appropriate parliamentary handling consideration
- For secondary legislation: clearance to lay the statutory instrument received from PBL?
- For secondary legislation: what is the unique identifier of your Statutory Instrument?
_____ (please consult the Parliamentary Team)

Communications

- Either Advice cleared by/with input from: [named individual]
Or No communications/handling implications at this stage, agreed by [named individual]

Analysis and data fact-checking

- Either Advice cleared by/with input from: [named individual]
Or No use of analysis/data

Finance and strategic finance (affordability, VfM, Accounting Officer issues)

- Either Advice cleared by/with input from: [named individual]
Or No financial implications

Commercial (procurement, contracts, grants)

- Either Advice cleared by/with input from: [named individual]
Or No commercial implications

Legal Adviser's Office

- Either Advice cleared by/with input from NR

Or No legal implications

Tests and Appraisals - the following tests apply and have been considered. The submission reflects our consideration (and/or confirms when we will provide detailed advice) of:

- DfE principles (the 7 principles which should guide all our work)**
- Policy and/or Delivery tests
- Complies with the public sector equality duty - Equalities impact
- Burdens on the frontline, especially schools workload
- Regulatory impact on private, voluntary and independent sectors
- Child's Rights Impact assessment
- Family test

Business case for investment

- Business case complete and cleared by: [named individual]
- Business case in progress
- Judged not applicable