



## Public Sector Equality Duty: Equalities Impact Assessment

### Amendments to children's social care regulations during the COVID-19 pandemic: The Adoption and Children (Coronavirus) (Amendment) (No 2) Regulations 2020

#### Introduction

1. This document provides an equality impact assessment of a small number of amendments to children's social care regulations to provide continued flexibility in a limited number of circumstances during the coronavirus (COVID-19) pandemic. These are intended to support children's social care to continue to provide the best support to vulnerable children.
2. This document and the analysis within fulfil the Secretary of State's duty under section 149 of the Equality Act 2010 to have due regard to the need to:
  - a. *Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;*
  - b. *Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:*
    - *Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*
    - *Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;*
    - *Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.*
  - c. *Foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:*

- *Tackle prejudice, and*
- *Promote understanding.*

## **Amendments to regulations relating to children's social care**

3. In April 2020, the Government made changes to ten sets of regulations to ensure children's social care providers and local authorities had sufficient flexibility to respond to coronavirus (COVID-19) while still maintaining safe and effective care. The amending regulations called the Adoption and Children (Coronavirus) (Amendment) Regulations 2020
4. These amendments have been kept under review since their introduction on 24 April 2020 and will expire on 25 September 2020.
5. Following a public consultation, the Government has decided to provide a small number of flexibilities for a further period ending on 31 March 2021. Government believes these are essential to being able to maintain delivery during the recovery stage of the pandemic and to support continued effective operation of children's social care. These regulations specifically address the following points:

### Medical reports

The National Health Service still faces significant challenges as we enter a period of recovery. Amended regulations will allow more time for General Practitioners and other health professionals to provide information to support the process of approving much needed potential adopters and foster carers. This will not remove the requirement for medical information to be provided but provides additional time during the process for these. In all cases the medical report will continue to be needed before final approval.

### Virtual visits

Over the last few months virtual visits have been used successfully across children's social care and in many cases virtual contact has been welcomed by children. Whilst national measures to reduce the spread of coronavirus (COVID-19) have been gradually relaxed we must be able to keep essential services operating during any local lockdowns to contain the spread of the virus and in cases where households are being required to self-isolate due to a case, or suspected case, of coronavirus (COVID-19), or contact with someone who has tested positive for coronavirus (COVID-19), in line with medical advice from the NHS test and trace service. Therefore, flexibility will continue to enable contact in these situations to happen virtually. However, in all other situations we would expect face to face visits to take place.

## Ofsted inspections

As announced on 6 July Ofsted are planning to carry out a phased return to routine inspections. This will include risk-based assurance visits to children's social care settings, based on the previous inspection judgement, the amount of time since a setting was last inspected and other information Ofsted hold about the setting. These assurance visits will occur between September 2020 and March 2021. At this point full graded inspections will recommence. The regulations therefore enable the continued suspension of the regulation that sets out the minimum number of Ofsted inspections required in various settings until 31 March 2021. This will better allow Ofsted to provide the most assurance, to the sector and the wider public, about the safety and care of children by enabling them to carry out visits to as many settings as possible based on the criteria set out above. Without this amendment the prescribed inspection intervals would be reinstated. This would mean some children's homes would need to be inspected twice in the remaining six months of the inspection year, and would therefore prevent Ofsted directing their resources towards providing assurance about those settings that they are currently concerned about or that have not been inspected for some time.

Ofsted continue to have the ability to inspect any regulated social care provider where they have concerns about practice.

## **Evidence and analysis**

6. The changes introduced by the Regulations affect all local authorities, children's homes, secure children's homes, fostering services, adoption services and Ofsted during the coronavirus (COVID-19) pandemic. The flexibilities provided are much more limited than initially provided in April 2020 and reflect our understanding and consideration of which flexibilities have needed to be used; what continue to be needed whilst coronavirus (COVID-19) remains present to prevent widespread disruption to practice and to protect safeguarding and the result of consultation and discussion with sector partners and interested parties. The flexibilities will remain in force to 31 March 2021.
7. Core child protection and safeguarding requirements remain unchanged, as does the clear principle that the best interests of the child should always be the primary consideration in the delivery of children's social care services. The new regulations are largely procedural in nature, and we have not identified any negative impacts that will affect those with certain protected characteristics more than others and no equality issues have been raised in relation to the flexibilities that have been in place since April 2020. We have considered the Public Sector Equality Duty ("PSED") in relation to each individual regulation which is proposed to be extended. Where other extensions have not been specifically mentioned below, this is because we consider them neutral and therefore will not have a negative impact on equality. A summary of the key issues that arise from these proposals in relation to the PSED are set out below.

## Ethnicity

8. In 2011, the proportion of all under 18s in England that are BAME was 21%<sup>1</sup>. In 2019, 26% of looked-after children were from BAME backgrounds,<sup>2</sup> Therefore it appears that BAME children are over-represented in care and may be disproportionately affected by these changes, however we are comparing different data sources from different times.
9. According to the Department's annual census of child and family social workers of those social workers whose ethnicity was 78% were white, 12% black, 6% Asian and 4% mixed<sup>3</sup>.
10. In a review of 'disparities in the risk and outcomes of COVID-19' published by [Public Health England](#) on 7 June, the risk of contracting, or dying from, coronavirus (COVID-19) was found to be higher in those belonging to BAME groups.
11. Our proposed extensions to allow virtual visits will have a positive impact and should benefit both children and workers in this group as they promote virtual contact where face-to-face contact with a social worker is not possible due to local lockdown or self-isolation. This will help to reduce the risk of BAME workers and children from contracting or dying from coronavirus (COVID-19).

## Age

12. The proposed flexibilities are more likely to impact on children than any other age group, although they will also affect how social workers, as adults, are able to do their jobs.
13. According to the Department's annual census of child and family social workers 29% were aged 50 or over.
14. The proposed extensions to allow virtual visits will have a positive impact by promoting virtual contact where face-to-face contact with a social worker is not possible due to lockdown; self-isolation or a reason relating to coronavirus (COVID-19). Some children may, however, be less able to use technologies as a result of their age. Guidance will therefore explain that local authorities should continue to carry out face to face visits when they are necessary to meet the needs of individual children.
15. In a review of 'disparities in the risk and outcomes of COVID-19' published by [Public Health England](#) on 7 June, the risk of contracting, or dying from, coronavirus (COVID-19) was found to be higher in older people. Our proposed extensions should benefit social workers in this group as they

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<sup>1</sup> [Nomis 2011 dataset DC2101EW - Ethnic group by sex by age](#)

<sup>2</sup> [Children looked-after in England including adoption statistics.](#)

<sup>3</sup> [Children's Social Work Workforce 2019](#)

allow for virtual contact by social workers who may need to self-isolate, instead of requiring face to face contact, enabling them to continue their important work.

## Disability

16. While the Government does not publish data on disabilities for looked after children, Government is of the view that this protected characteristic should not be adversely affected by the proposed changes. Looked-after children are a subset the wider children in need population. In 2019, 55.9% of looked-after children had a special educational need, compared to 46.0% of children in need and 14.9% of all children<sup>4</sup>.
17. In a review of 'disparities in the risk and outcomes of COVID-19' published by [Public Health England](#) on 7 June, the risk of contracting, or dying from, coronavirus (COVID-19) was found to be higher in people with pre-existing health conditions. Our proposed extensions should benefit both children and social workers in this group as they promote virtual contact where face to face contact with a social worker is not possible due to local lockdown and self-isolation.
18. The proposed extensions to allow virtual visits will have a positive impact by promoting virtual contact where face-to-face contact with a social worker is not possible due to, for example, lockdown; self-isolation or a reason relating to coronavirus (COVID-19). Some children may, however, be less able to use technologies as a result of their disability. Guidance will therefore explain that local authorities should continue to carry out face to face visits when they are necessary to meet the needs of individual children.
19. We do not expect the proposals on medical reports to have a disproportionate impact on disabled foster carers or adopters. The proposed extension relates to all prospective foster carers and adopters and we understand that any delays due to the provision of information by the NHS would be due to local NHS capacity rather than the health circumstances of the prospective adopter or foster carer.

## Sex

20. Government is of the view that this protected characteristic should not be adversely affected by the proposed changes. Of the 78,150 looked-after children at 31 March 2019, 56% were male, 44% were female.<sup>5</sup>
21. The overwhelming majority of FTE children and family social workers are female (86%), compared to male (14%).

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<sup>4</sup> [Outcomes for children looked after by LAs: 31 March 2019](#)

<sup>5</sup> [Children looked after in England including adoption: 2018 to 2019, Statistical First Release.](#)

22. In a review of ‘disparities in the risk and outcomes of COVID-19’ published by [Public Health England](#) on 7 June, the risk of contracting, or dying from, coronavirus (COVID-19) was found to be higher in men. Our proposed extensions should benefit both children and workers in this group as they promote virtual contact where face to face contact with a social worker is not possible in cases of local lockdowns, self-isolation a reason relating to coronavirus (COVID-19).

## Other characteristics

23. Government is of the view that other characteristics should not be adversely impacted by these amendments.

24. In light of the above, we do not consider that any negative impacts on equality are disproportionate, and that limits on the use of the flexibilities provided along with effective decision making at a local level will provide appropriate constraints limiting any adverse impact balanced against the positive enhancements to safety and wellbeing that the flexibilities provide within the context of the coronavirus (COVID-19) pandemic. We have considered the need to advance equality and foster good relations.

## Mitigations and next steps

25. To mitigate the effect of these flexibilities on affected children Government will issue guidance on the use of flexibilities, and has set out specific requirements on the use of virtual visits within the regulations as outlined above that the Government considers provide an appropriate level of assurance that any detriment will be limited. Furthermore, while the Government recognises not all children will have access to technology it has provided laptops and tablets and connectivity for children with social workers and care leavers to help them keep in touch with the services they need. The use of the flexibilities will continue to be monitored, including through Ofsted visits and inspections where they occur.