



Department
for Education

Children's Social Care

Government consultation response

March 2021

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Introduction

On 11 March 2020, the World Health Organisation (WHO) confirmed coronavirus (COVID-19) was a global pandemic. The UK Government has taken an unprecedented series of actions to address the pandemic across all parts of society including to support vulnerable children and families. As part of its response to COVID-19 the Department for Education carefully considered flexibilities to support the effective delivery of children's social care services, whilst always ensuring children's safety remained paramount. The purpose of these flexibilities is to ensure that children and families could continue to be supported in the best way possible despite the restrictions arising from the pandemic.

The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 came into force on 24 April 2020 and made temporary amendments to a set of 10 children's social care regulations. They provided for extra flexibility in some circumstances which may arise as a direct result of COVID-19 for example high levels of staff sickness. The duties to our most vulnerable children that are set out in primary legislation remain unchanged. The temporary amendments did not reduce the responsibility that local authorities (LAs) have towards protecting children and young people from significant harm and protecting their welfare.

In August 2020 we reviewed these flexibilities and consulted on whether to continue a small number of them for a further six months. Those to be continued were in relation to the stage of the respective approvals process for adopters and foster carers that the medical reports would be needed, virtual visits/contacts and Ofsted inspection intervals. Following the consultation, these flexibilities were extended and are due to elapse on 31 March 2021.

Given the continued impact of the COVID-19 pandemic, we have now sought views on whether those regulations should again be extended for continued use to 30 September 2021. Alongside, we consulted on two proposed amendments to adoption regulations. The consultation was available online at [gov.uk](https://www.gov.uk) between 9 February and 28 February 2021 and respondents could respond to the consultation either online, by email or post.

To support the consultation, we held three engagement events, opening them up to interested parties, including LAs, charities, children's rights organisations, and Other Government Departments (OGDs). We also held meetings with the Office of the Children's Commissioner (OCC) and member organisations including the Association of Directors of Children's Services (ADCS) and Local Government Association. We made sure that children and young people's views were considered by asking, amongst others, the Children Care Councils within LAs to collect their views on the flexibilities.

Summary of responses received and the Government's response

In total there were 212 responses. Most of the responses were from individuals who worked or had contact with children in care (for example social workers, health professionals, adoption/fostering panel members).

	Number of respondents	Percent of respondents
Individual	75	35.38%
Local authority	68	32.08%
Charity	20	9.43%
Other organisation	46	21.70%
Not Answered	3	1.42%

In addition to the written responses received, we also discussed the proposals with a range of stakeholders, including children's charities and groups of children and young people.

A list of organisations that responded to the consultation can be found at Annex A.

Main findings from the consultation

Analysis of the responses indicated that the majority of those responding agreed with our proposals to extend the existing flexibilities in relation to virtual visits, medical reports (for fostering and adoption) and the minimum frequency of Ofsted inspections. Over 95% of respondents agreed that other relevant healthcare professionals should be considered to complete medical reports for adoptions, but concerns were raised about who these professionals would be and whether they would have the appropriate skills. The proposal to remove the full examination in adoption received the most disagreement, on the grounds of safeguarding concerns.

Extending flexibilities for Virtual Visits, Medical Reports (fostering and adoption) and the minimum frequency of Ofsted inspections

A majority of responses were in favour of each of the proposals to extend individual regulations on medical reports, virtual visits, and the continued suspension of the regular cycle of Ofsted inspections of children's services providers.

Respondents offered a range of opinions and many agreed the temporary flexibilities were required to manage the ongoing challenges of COVID-19. Respondents agreed that the flexibilities should only be used where necessary and in a proportionate, risk assessed way to meet the needs of children, young people and their families during this challenging time. Respondents agreed that these flexibilities should be introduced for use only where usual practice is not possible due to COVID-19 related pressures on the NHS. In the case of visits, virtual visits should only be used where a visit face to face was not possible, but it was important that engagement with the child, young person and their family was maintained.

Respondents agreed that given the ongoing concerns and restrictions in relation to COVID-19, the continuation of the suspension of minimum frequency of Ofsted

inspections was appropriate and would support all in ensuring Ofsted are able to focus on the organisations and services that are a priority whilst ensuring safety. However, where respondents disagreed with proposals, they felt extending the flexibilities would compromise the safeguarding of children and young people. All respondents agreed that a child should not be placed in any foster or adoptive home without confirmation of the fitness to foster or adopt of the prospective parent/carer which would include a medical report. Further, a number of respondents had concerns that the current departmental guidance, specifically on the use of virtual visits, is not sufficiently robust and does not include enough detail.

Proposal to amend adoption regulations to allow medical reports to be completed by other qualified medical professionals

While a majority agreed with the proposal for alternative qualified healthcare professionals to provide the medical information required, a number of these responses had concerns in relation to safeguarding, the difficulty of defining which healthcare professionals may be appropriate, and the ability of those professionals to perform medicals to the appropriate standard. Much of this concern came from medical advisers, designated doctors/nurses and safeguarding leads, who have significant expertise in this area.

Proposal to amend adoption regulations to remove the requirement for a full medical examination

Out of the total number of respondents that replied, a small number disagreed with this proposal, highlighting concerns that without the full examination, possible physical health issues might be missed that would compromise the long-term ability of the adopter to care for a child. This is a particular concern given the trauma that children placed for adoption have often already experienced and the impact that further loss might have. The consultation response has therefore highlighted the continued need for a full medical examination for safeguarding purposes.

Whilst the number of respondents who disagreed with the two proposals in the consultation to amend adoption regulations was small, some raised concerns in relation to safeguarding. This is an area on which the Government places paramount importance and we therefore want to give this further reflection. The Government has therefore decided to continue only with plans to extend the existing flexibilities on medical reports (for fostering and adoption), virtual visits and Ofsted inspection cycles, as set out in this document and will not proceed with the two other proposals to amend adoption regulations.

The Government is clear that these flexibilities will only remain in place for as long as they are needed and there currently are no plans to extend them beyond 30 September 2021. Their use will continue to be monitored and they will be reviewed in line with the Government roadmap to recovery.

Question analysis

Proposal 1 – Medical Reports

We want to ensure that children that cannot live with their birth families are placed with foster carers or adopters that are best placed to meet their needs and that there is sufficient choice to be able to make those matches. Our National Health Service (NHS) continues to face unprecedented challenges during the ongoing pressure from the pandemic. This is unlikely to ease for some time, even when the country enters a period of recovery. The proposed flexibilities recognise these challenges and aim to support adoption agencies and fostering services to continue to recruit, assess and approve foster carers and prospective adopters to meet the needs of children waiting.

We proposed to extend the existing flexibilities which amend the timeframe in which medical information needs to be provided during the fostering and adoption assessment processes. This does not remove the requirement for medical information to be provided but provides additional time during the process for this.

A. Do you think that we should extend the existing temporary flexibilities allowing medical reports or assessments to be completed at any stage of the assessment process for a further six months, to 30 September 2021?

There were 208 responses to this part of the question (212 in total including 4 not answered).

Option	Total number of respondents	Percent of respondents
Agree	202	95.3%
Disagree	6	2.8%
Not Answered	4	1.9%

We had 201 responses that supported the proposal. Respondents who agreed, including medical professionals such as doctors and nurses, felt that extending this flexibility would help speed up some processes and reduce the waiting time for a child to be adopted. For example, respondents felt the proposal was “entirely appropriate in the circumstances” reflecting continuing “significant challenges in prospective adopters being able to access GP surgeries to complete medicals” and it would be in the “child’s best interest to be placed with a suitable adoptive parent or foster carer as soon as possible”.

They further said that the flexibility has been used by many, allowing providers to continue through the process without being delayed by waiting on medical reports, at a time when NHS services have been under significant strain as a result of COVID-19. Others confirmed that the flexibility has ensured children’s and young people’s progress towards placement in a secure and loving family home is not impeded, and potential foster carers and adoptive parents are not lost to an already pressurised care system.

Furthermore, respondents stated that many GP surgeries are confirming that they cannot prioritise foster carer medicals due to the pandemic and, at present, due to the vaccine rollout. This has caused delays with presenting potential foster carers to the Panel when all other steps have been completed. This has also increased their costs. Many agreed

that the flexibility is necessary to enable the continued recruitment and approval of carers.

Respondents who disagreed with this proposal felt that LAs are managing to comply with the original regulation (i.e. without relying on the use of any flexibility). Respondents raised that vulnerabilities could be missed that potential foster carers have or do not know they have at the point of the stage 2 assessment and some questioned what safeguards will be available to agencies and the family later down the line. There was a misunderstanding from some that decisions would be made without medical information but, as we made clear in the consultation, medical information must still be provided before any decisions are made.

B. Do you think we should amend relevant parts of the adoption regulations to remove the reference to a full examination and to allow the medical report to be completed by alternative, appropriately qualified and registered, healthcare professionals, such as nurses, in addition to doctors until 30 September 2021?

There were 201 responses to this part of the question (212 in total including 11 not answered).

Option	Total number of respondents	Percent of respondents
Agree	164	77.4%
Disagree	37	17.5%
Not Answered	11	5.2%

Medical reports to be completed by alternative healthcare professionals

164 responded in support of this proposal. Feedback from local authorities and fostering and adoption services indicated that the significant pressure that remains on the NHS is continuing to cause delays in obtaining medical reports, therefore they are keen to see the flexibilities that minimise delay for children without risking negative outcomes remain. Whilst many respondents indicated that they had no concerns around alternative suitably qualified healthcare professionals providing a medical report where services deem appropriate, and that this flexibility for the NHS would be helpful, it was on the proviso that an appropriately qualified health professional could be identified. They also felt that a recent medical examination should remain an important part of the process.

A significant number of voluntary and adoption agencies agreed this amendment would provide an opportunity to gather evidence on whether allowing medical reports to be completed by an alternative, appropriately qualified and registered healthcare professionals has any impact on the quality of assessments and placements. Agencies would like to see department working with medical advisors and adoption agencies to understand the impact of this change, to allow for evidence-based consideration of whether to extend this amendment in the long term.

Where a small number of respondents disagreed with the proposed amendment, key concerns were in relation to safeguarding, and the ability of nurses or other health professionals to perform medicals to the appropriate standard. There was a concern that nurses and other health professionals would lack the appropriate experience and expertise in relation to the needs of looked after children. There was also little consensus in responses over who would, other than doctors, be appropriately qualified to perform

this role. Much of this concern came from medical advisers, designated doctors/nurses and safeguarding leads, who have significant and unique expertise in this area. Their view was that this amendment would be a safeguarding risk.

Other respondents added that expecting other measures to be taken by nurses, in pharmacies or at home would add complication to the process and the need for progress chasing. There was also the issue of how to verify the measures if they were not completed by the GP or suitably qualified nurse practitioner in the GP surgery.

Furthermore, some respondents felt that allowing the medical report to be completed by an alternative healthcare professional would not solve any issues around speed of completion. Nurses are also very busy – and may be busier than GPs.

To remove a full medical examination

27 out of the 201 respondents who answered the question disagreed with the proposal to remove the need for a full examination, for safeguarding reasons. Concern was raised that without the full examination, possible physical health issues might be missed that would compromise the long-term ability of the adopter to care for a child. Respondents further raised that, removing this requirement, even for a fixed period, would be a dangerous precedent when talking about life-changing plans for both children and adopters. These decisions should continue to be informed by full medical examinations.

Respondents that disagreed with this proposal felt that whilst they recognised and appreciated the intent of the amendment to remove the requirement for a full medical examination, they also wished to highlight that in-person conversations can be a valuable way of picking up information that is not recorded in systems. If introduced, respondents emphasised the importance of this flexibility only being used where absolutely necessary, for example to avoid excessive delay for a child and where no other concerns are present.

Government response

The Government will extend the regulations that allow the timeframe in which medical information needs to be provided during the fostering and adoption assessment processes up to 30 September 2021. The Government recognises that the medical report forms an important part of the decision-making process. Whilst this temporary flexibility allows the report to be received at a later stage it will still need to have been received and considered before final decisions are made.

While a majority agreed with the proposal to allow alternative medical professionals to complete a medical report, a number of concerns were raised in relation to safeguarding, and the ability of nurses and other health professionals to perform medicals to the appropriate standard. There was little consensus from respondents over which professionals might alternatively have the appropriate experience and expertise to fulfil this role. Much of this concern came from medical advisers, designated doctors/nurses and safeguarding leads, who have significant expertise in adopter medicals and their use in the approvals process.

Due to the safeguarding implications and the permanent nature of adoption, any decision on this issue must be given serious consideration. We are looking at alternative approaches to expedite and support the completion of medicals for prospective adopters.

Given the tight timescales to lay the regulations and the significance of this decision, we are not proceeding with this amendment at this time.

The consultation response highlighted the need for a full examination for the purpose of safeguarding. Concern was raised that, without the full examination, possible physical health issues might be missed that would compromise the long-term ability of the adopter to care for a child. This is a particular concern given the trauma that children placed for adoption have often already experienced and the impact that further loss might have. We will not therefore proceed with this proposed amendment at this time. This knowledge will, however, help inform future policy considerations around adopter medicals.

Proposal 2 – Virtual Visits

Under the current flexibilities, virtual visits, that is a visit that may be conducted by telephone, video-link or other electronic means, should only take place in exceptional circumstances; where an in-person visit would either be contrary to public health advice in relation to COVID-19 or where it is not reasonably practicable for the visit to take place face-to-face for a reason relating to the incidence or transmission of COVID-19.

The temporary regulations require any virtual visits to be held in accordance with any recommendations from the nominated officer, and do not change the existing general duties on local authorities, under section 22(3) of the Children Act 1989, in relation to safeguarding and promoting the welfare of children in need in their area.

In the consultation, we proposed to continue to these arrangements for a further six months, to enable contact in these situations to happen virtually, and only where a face-to-face visit is not practicable.

Do you think that we should extend the existing temporary flexibilities to allow virtual contact/visits where a face-to-face visit is not possible, for example due to the circumstances described above, for a further six months, until 30 September 2021?

There were 210 responses to this part of the question (212 in total including 2 not answered).

Option	Total number of respondents	Percent of respondents
Agree	193	91%
Disagree	17	8%
Not Answered	2	1%

192 respondents supported this proposal, provided the use of this flexibility to be continually monitored. Many responses suggested a 'hybrid' model in the future where virtual visits and face to face were allowed as they felt some young people responded much more positively to virtual contact and were better engaged with services as a result. The Department sought the views of children and young people in relation to this proposal. There was a mixture of responses, ranging from preferring virtual visits, to viewing them positively but acknowledging barriers and limitations to this type of contact. Whilst the majority of the children and young people we asked agreed that the flexibility should be extended, they would like to see all their family face-to-face as soon as the virus has gone.

Respondents accepted that a virtual visit is a reasonable option where the alternative is no visit at all but were concerned that the current guidance is not sufficiently robust. They held concerns that, as it stands, a virtual visit can count as a complete substitute for a statutory visit and the timetable for the next visit does not change. Concerns were also raised around the inadequacy of telephone calls, with a [strong] view that if at all possible, a virtual visit should be facilitated in a video format and that this should be spelt out in the guidance.

Further, respondents stated that there is no truly effective substitute for in-person visits. Virtual visits can be hampered by available technology, and there can be no guarantee that children and young people are alone and in private when seen.

Government response

The Government will extend the regulations to 30 September 2021. The Government recognises that visits by social workers to looked after children provide important opportunities to consider the safety and wellbeing of children and young people and that virtual visits may not always provide the best conditions. We are clear in this consultation and in our guidance that visits should happen, whenever possible, face-to-face. The regulations and guidance will state explicitly that virtual visits should only happen when face to face visits would be contrary to public health advice, or where face-to-face visits would otherwise not be reasonably practicable as a result of coronavirus.

The usage of virtual visits will be continued to be monitored through the Regional Educational and Care Teams (REACT), delivery partners and ongoing engagement with the sector.

The Government also recognises the importance of ensuring that social workers are well equipped to use virtual visits effectively and intends to work with sector organisations to disseminate guidance.

Proposal 3: Ofsted inspections of children's social care providers

Both we and Ofsted are keen that they resume routine inspections of children's social care providers as soon as it is safe to do so. However, the challenges from the COVID-19 pandemic remain significant and there are likely to be circumstances in which some services will continue to face specific and exceptional challenges into the Spring/Summer. At present (March 2021), Ofsted inspections are suspended due to COVID-19, although it is continuing to register social care providers and managers, and to monitor children's homes where there are safeguarding concerns.

We proposed the suspension of the requirement for a minimum frequency of Ofsted inspections for all children's social care providers be extended for six months, until 30 September 2021. Extending the flexibility will enable Ofsted to use its resources under existing inspection powers to carry out inspections to as many providers as possible, prioritised on a risk-assessed basis.

Ofsted is aiming to restart graded inspections from April 2021 although they will balance this with the nature and extent of any COVID-19 restrictions that might be in place moving into the 2021-22 inspection year.

Do you think that we should extend the regulation relating to Ofsted, suspending the regulation that details the minimum frequency of Ofsted inspections for all children’s social care providers for a further six months, until 30 September 2021?

There were 210 responses to this part of the question (212 in total including 2 not answered).

Option	Total number of respondents	Percent of respondents
Agree	176	83%
Disagree	34	16%
Not Answered	2	1%

175 of respondents supported the proposal and agreed the suspension had been helpful, and specifically that risk-based assurance visits had been helpful with commissioning decisions. They further agreed that a risk-based model needs to be used, supporting the approach by Ofsted to visit those settings that give concern, and to monitor others and use robust Reg 44 IV reports and referrals from safeguarding boards to determine risk.

Respondents that disagreed felt the gap between inspections would be too long and inspections highlighted safeguarding issues. Specifically, respondents wanted to know why there was a need to stop Ofsted inspections if due safety precautions were taken. With the additional relaxations in place in the coming weeks and months, extending this regulation change until September 2021 was felt by some to be excessive.

Government response

The Government will extend the regulation to 30 September 2021. The Government agrees that inspection is a vital tool in ensuring that children are effectively safeguarded. Extending this flexibility **does not** prevent Ofsted from inspecting services or change their inspection powers, it only affects the minimum frequency with which they must inspect. The Government and Ofsted are committed to ensuring that routine inspection work commences for the 2021-22 inspection year from April, subject to COVID-19 Government guidance and the safety of children, young people, providers and all concerned.

Ofsted has previously stated that it is planning to resume routine graded inspections from April and will make a full announcement on its plans shortly.

The flexibility reflects the uncertainty around planning for inspections over the next six months as a result of COVID-19. Although Ofsted is planning to resume routine inspections, the frequency with which they can inspect could still be affected in future months.

During the COVID-19 pandemic, Ofsted has continued to register social care providers and managers and to monitor children’s homes where there are safeguarding concerns. A snapshot of how Ofsted has operated to support CSC provision during the various phases of national restrictions shows 910 Ofsted assurance visits were carried out across CSC provision from 1 September 2020 to 7 February 2021, of which 820 were to children’s homes. The following link provides a publication with more information on

the figures: <https://www.gov.uk/government/publications/data-on-covid-19-visits-social-care-providers>.

Monitoring of amendments

Since the introduction of the Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020 we have kept the flexibilities under constant review. A duty remains on the Secretary of State for the regulations to be reviewed. This will be undertaken by the relevant policy officials through a number of channels including through monitoring information collected from the Regional Educational and Care Teams (REACT) and delivery partners.

Annex A: List of organisations that responded to the consultation

Aspire Adoption Services
Sheffield City Council
Adopt London South
Leicester City Council
Scantabout Primary School
TACT
Hart & Rushmoor FSS
OASY
Children's social care
Brighton and Hove
Hampshire children's services
Leeds Community Healthcare NHS Trust
Children's Services
Regional Adoption Agency
Independent Fostering Agency
Adoption Tees Valley
Hampshire Children's Services
Independent Fostering Agency
SENAD Group
The Fostering Team
Cherryl Pharoah consultancy limited
Isle of Wight Children's Services
Artemis Support Ltd
Family Futures VAA and IFA
Hampshire Children Services
Family Society – Adoption Focus
Leicestershire partnership trust
Bury Council
A.f.C
Red Kite Fostering
One Adoption South Yorkshire
Faith in Families
Adoption Agency
Regional Adoption Agency – Adoption East Midlands
Hampshire County Council
Cornwall Council
Coventry City Council
Barnardo's Fostering
Adoption Counts
St Francis Children's Society
Achieving for Children, delivering services on behalf of The Royal Borough of Windsor and Maidenhead
A Voluntary Adoption Agency
Birmingham Children's Trust
North Lincolnshire Council
Darlington Borough Council
Lancashire County Council Fostering Service
Bradford Fostering Panel.

BCP council
Adoption in Merseyside.
North Somerset Council, Fostering Service
Children's Social Services
Adoption South East
Derby City Council
Norfolk county council
Barnardo's
Norfolk County Council
One Adoption West Yorkshire
Warwickshire County Council
Countess of Chester Hospital, CWAC LA, adoption matters
Hampshire County Council
Essex County Council
Fostering service, Lancashire county council
Caritas Care
Local Authority Adoption Team
One Adoption West Yorkshire
Local Government Association
NYAS (National Youth Advocacy Service)
Family Justice Young People's Board
The Fostering Network
Regional adoption agency
Adopt Thames Valley Regional Adoption Agency
Consortium of Voluntary Adoption Agencies
Coram Ambitious for Adoption RAA
Children's Social Care
Nationwide Association of Fostering Providers
Children's Commissioner for England
Foster Talk Ltd
Derbyshire County Council
Children's Social Care
Family Justice Council
Independent children's services providers
North East Lincolnshire Council
Home for Good
Children's Services
ARC Adoption North East
Barnardo's
Hampshire County Council
CoramBAAF
Nagalro
Action for Children

Please note, other organisations responded to the consultation but have chosen to remain anonymous.



Department
for Education

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