

# Changes to local authority powers and duties

Adoption, fostering and care planning and health protection resulting from Coronavirus Regulations 2020

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## Introduction

This is a guide to the provisions of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 and the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 including amendments, and to new, modified or suspended local government powers and duties applicable to local authorities in England only up to 2<sup>nd</sup> June 2020. It is a guide and not legal advice and so if you are unsure or have any concerns about the meaning of or applicability of the Act or any of the provisions made under the Act you should seek your own detailed legal advice.

Information in this document can also be downloaded as a [Comma Separated Variables \(CSV\) spreadsheet](#).

## New duties

**Function(s): Administration and Government – commercial activities, Environmental protection – Funerals and cremations, Health and social care – Community centres and facilities, Leisure and culture – libraries, Leisure and culture – Museums and galleries, Leisure and culture – Tourism, Leisure and culture – sports and sporting venues**

### Local authority library services and businesses - temporary suspension

A local authority where it is responsible for carrying on a business, not listed in Part 3 of Schedule 2 of the Regulations, of offering goods for sale or for hire in a shop, or providing library services must, during the emergency period:

- (a) cease to carry on that business or provide that service except by making deliveries or otherwise providing services in response to orders received through a website, or otherwise by on-line communication, by telephone, including orders by text message, or by post
- (b) close any premises which are not required to carry out its business or provide its services as permitted by sub-paragraph (a)
- (c) cease to admit any person to its premises who is not required to carry on its business or provide its service as permitted by sub-paragraph (a).

Legislation: [Regulation 5 of the Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#)

Notes:

Applies in: England

Applies to: All local authorities in England

**Function(s): Health and social care – Community centres and facilities**

### Community centres - temporary restrictions

A person who is responsible for a community centre must ensure that, during the emergency period, the community centre is closed except:

- (a) where it is used to provide essential voluntary activities or urgent public support services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions or support in an emergency) or
- (b) for early years childcare provided by a person registered on the Early Years Register under Part 3 of the Childcare Act 2006

Legislation: [Regulation 5 of the Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#)

Notes:

Applies in: England

Applies to: All local authorities in England

### **Function(s): Environmental protection – Funerals and cremations**

#### **Crematoria - temporary restrictions on use**

A person who is responsible for a crematorium must ensure that, during the emergency period, the crematorium is closed to members of the public, except for funerals or burials. The above does not apply to the grounds surrounding a crematorium, including any burial ground or garden of remembrance.

Legislation: [Regulation 5 of the Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#)

Notes:

Applies in: England

Applies to: All local authorities in England

## **New powers**

**Function(s): Administration and Government – commercial activities, Environmental protection – Funerals and cremations, Health and social care – Community centres and facilities, Leisure and culture – libraries, Leisure and culture – Museums and galleries, Leisure and culture – Tourism, Leisure and culture – sports and sporting venues,**

#### **Health protection - enforcement of regulations**

A local authority may designate a relevant person to take such action as is necessary to enforce any requirement imposed by regulation 4 or 5 of these Regulations.

Regulation 4 being the requirement to close premises and businesses during the emergency and Regulation 5 being further restrictions and closures during the emergency period.

A relevant person may give a prohibition notice to a person if the relevant person reasonably believes that:

- (a) the person is contravening a requirement in regulation 4 or 5, and
- (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the requirement.

Legislation: [Regulation 8 of the Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#)

Notes:

Applies in: England

Applies to: All local authorities in England

#### **Health protection - fixed penalty notices**

A local authority may designate an authorised person to issue fixed penalty notices in relation to an alleged offence arising from a breach the requirements imposed by regulation 4 or 5 of these Regulations.

An authorised person may issue a fixed penalty notice to anyone that the authorised person reasonably believes has committed an offence under Regulation 4 or 5 of these Regulations and is aged 18 or over.

Legislation: [Regulation 10 of the Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#)

Notes:

Applies in: England

Applies to: All local authorities in England

## Revised duties

**Function(s): Health and social care – Children and family care – Fostering and adoption**

### Adoption agencies - number of panel attendees for conducting business

Where a local authority is an Adoption Agency, it must, with regard to meetings of adoption panels ensure no business is conducted by an adoption panel unless at least the following meet as the panel —

- (a) either the person appointed to chair the panel or one of the vice chairs,
- (b) one person falling within regulation 3(1)(a),
- (c) one other independent person

An adoption panel must also make a written record of its proceedings, its recommendations and the reasons for its recommendations.

Legislation: [Regulation 6 of the Adoption Agencies Regulations 2005](#)

Notes: Requirement (c) changed from:

*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*

by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Adoption - prospective adopter's case record

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:

- (a) the prospective adopter stage one plan;
- (b) the information and reports obtained by the agency by virtue of this Part;
- (c) the prospective adopter assessment plan;
- (d) the prospective adopter’s report and the prospective adopter’s observations on that report;
- (e) Where applicable the written record of the proceedings of the adoption panel under regulation 30A (and where applicable regulation 30B(8)), its recommendation, the reasons for the recommendation and any advice given by the panel to the agency;
- (f) the record of the agency’s decision under regulation 30B(1), (6) or as the case may be (9);
- (g) where the prospective adopter applied to the Secretary of State for a review by an independent review panel the recommendation of that review panel;
- (h) where applicable, the prospective adopter’s review report and the prospective adopter’s observations on that report;
- (i) the prospective adopter matching plan; and
- (j) any other documents or information obtained by the agency which it considers should be included in that case record.

Legislation: [Regulation 23 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to insert the words 'Where applicable' at the beginning of 23e from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Adoption - other pre-assessment information

The adoption agency must:

- (a) obtain the information about the prospective adopter which is specified in Part 1 of Schedule 4
- (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 unnecessary
- (c) obtain a written report of each of the interviews with the persons nominated by the prospective adopter to provide personal references for the prospective adopter
- (d) where the adoption agency considers it necessary, obtain a personal reference from the prospective adopter's former spouse, civil partner or partner
- (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.

Legislation: [Regulation 26 of the Adoption Agencies Regulations 2005](#)

Notes: Amended as a result of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to allow a decision to be made even if information requested has not yet been obtained from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Adoption - pre-assessment decision

The adoption agency must, taking into account the information obtained under regulations 25 and 26, decide whether the prospective adopter may be suitable to adopt a child or that the prospective adopter is not suitable to adopt a child.

Subject to paragraph (3), the agency must make its decision 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.

Legislation: [Regulation 27 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to allow a decision to be made where information required under regulations 25 and 26 has yet to be received and allows a relaxation of the time period for making a decision where the specified two months is not reasonably practicable.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Adoption - decision on placing for adoption

Where the local authority is an adoption agency it must:

- In any case referred to the panel under regulation 17(2C) take into account the recommendation of the adoption panel in coming to a decision about whether the child should be placed for adoption.
- Take into account the information and reports referred to in regulation 17(2D), and any other relevant information, in coming to a decision about whether the child ought to be placed for adoption.



No member of the adoption panel [or person on the central list] shall take part in any decision made by the adoption agency.

Legislation: [Regulation 19 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 from 'Any case falling within regulation 17(2C)' from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - prospective adopter's assessment**

Regulations 28 to 30G apply where the prospective adopter notifies the adoption agency that they wish to continue with the assessment process following notification that they may be suitable to adopt under regulation 27(4).

Legislation: [Regulation 28 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the six-month time limit for the prospective adopter to respond, from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - Prospective adopter's report**

The adoption agency must obtain the information about the prospective adopter which is specified in Part 3 of Schedule 4 of the Regulations and must prepare a written report ("the prospective adopter's report") which contains information about the prospective adopter as specified in Regulations.

Once prepared the adoption agency must deal with the report as specified in Regulations.

Legislation: [Regulation 28 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to add 'where applicable' in front of paragraph 5a - notify the prospective adopter that the prospective adopter's application is to be referred to the adoption panel; and also in paragraph (6) after "agency must" insert "decide whether or not to refer the case to an adoption panel or proceed to make a decision under regulation 30B without such a referral and, if the case is being referred to an adoption panel, the adoption agency must send".

Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - adoption agency decision and notification**

The adoption agency must review the approval of each prospective adopter in accordance with this regulation.

Legislation: [Regulation 30B of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax requirements and time limits regarding the prospective adoption agency decisions and notifications from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - review and termination of approval**



The adoption agency must make a decision and following the decision must proceed to notify the prospective adopter of the decision as specified in Regulations. Where the adoption agency considers that the prospective adopter is not suitable to adopt a child they must advise the reasons and proceed as specified in Regulations.

Legislation: [Regulation 30D of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax requirements and time limits regarding the review and termination of approval. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - duties of adoption agency in 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 all information and documents as specified in these regulations.

Legislation: [Regulation 30E of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to insert 'where applicable' in front of requirements 30E(b) and (C). Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - proposed placement**

Where the local authority is acting as an adoption agency and is considering placing a child for adoption with a particular prospective adopter the authority should comply with regulations regarding:

- notification to, meeting with, ascertaining the views of and providing a counselling service and any further information to the prospective adopter
- carry out an assessment of need of the child and the adoptive family
- consider arrangements for contact with any person
- provide a written adoption placement report
- decide whether or not the decision is to be referred to an adoption panel or to make a decision under regulation 33 and must notify the proposed adopter whether the proposed placement is to be referred to the adoption panel.

Legislation: [Regulation 31 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax requirements and timescales relating to decision making. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - adoption agency decision on placement**

The adoption agency must take into account any recommendation of the adoption panel in coming to a decision about whether the child should be placed for adoption with the particular prospective adopter. The agency must comply with regulations regarding written notification of the decision, explaining the decision to the child and the child's case record.

Legislation: [Regulation 33 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to change the first paragraph from 'The adoption agency must take into account the recommendation of the adoption panel'. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - reviews**

Where the local authority is acting as an adoption agency it must comply with regulations regarding the carrying out of a review of both cases where a child authorised to be placed for adoption but not for the time being placed or a child who has been placed for adoption and the timing of such reviews.

Legislation: [Regulation 36 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement to carry out a review except where a review is necessary to safeguard and promote the welfare of the child. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Adoption - child's permanence report**

When acting as an adoption agency the authority must prepare a written report ("the child's permanence report") which shall include information as specified in regulations.

The adoption agency must send the child's permanence report, the child's health report and any other report referred to in regulation 15 and the information relating to the health of each of the child's natural parents to the adoption panel.

The adoption agency must obtain, so far as is reasonably practicable, any other relevant information which may be requested by the adoption panel and send that information to the panel.

Legislation: [Regulation 17 of the Adoption Agencies Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 as follows:

In a case not falling within paragraph (2), the adoption agency must decide whether to—

- (a) require the case to be referred to an adoption panel, or
- (b) proceed to make a decision under regulation 19 without such a referral and where the case is to be referred to the adoption panel the adoption agency must send the information and reports referred to in paragraph (2D) to the adoption panel. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - statement of purpose and children's guide**

The fostering service provider must:

- (a) keep under review and, where appropriate, revise the statement of purpose and children's guide,
- (b) notify the Chief Inspector of any such revision as soon as is reasonably practicable, and
- (c) if the children's guide is revised, supply a copy to each foster parent approved by the fostering service provider, and to each child placed by them (subject to the child's age and understanding).

Legislation: [Regulation 4 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to change the requirement to notify the Chief Inspector without delay. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - appointment of fostering agency manager**

The registered provider must appoint an individual to manage the fostering agency. Where the registered provider is an organisation, it must not appoint the person who is the responsible individual as the manager, Where the registered provider is a partnership, it must not appoint any of the partners as the manager.

The registered provider must notify the Chief Inspector as soon as is reasonably practicable of the name of any person appointed in accordance with this regulation, and the date on which the appointment is to take effect.

Legislation: [Regulation 6 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax the requirement for the notification to the Chief Inspector to be within 28 days.

Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - notification of offences**

Where the registered person or the responsible individual is convicted of any criminal offence, whether in England and Wales or elsewhere, that person must as soon as is reasonably practicable give notice in writing to the Chief Inspector of the date and place of the conviction, the offence of which they were convicted, and the penalty imposed on them in respect of the offence.

Legislation: [Regulation 9 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax the time allowed. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - service manager**

Each local authority must appoint one of its officers to manage the local authority fostering service and must notify the Chief Inspector as soon as is reasonably practicable of the name of the person appointed, and the date on which the appointment is to take effect.

The local authority must notify the Chief Inspector as soon as is reasonably practicable if the person appointed ceases to manage the local authority fostering service.

Legislation: [Regulation 10 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax the time allowed. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - constitution and membership of fostering panel**

The fostering service provider must maintain a list of persons who are considered by them to be suitable to be members of a fostering panel (the central list), including one or more social workers who have at least three years' relevant post-qualifying experience.

Where the fostering service provider are of the opinion that a person included in the central list is unsuitable or unable to remain on the list, the fostering service provider may remove that person's name from the list by giving them one month's notice in writing.

Subject to paragraph (5) of these Regulations, the fostering service provider must constitute one or more fostering panels, as necessary, to perform the functions of a fostering panel under these Regulations, and, where a panel is constituted, the fostering service provider must appoint panel members including:

- (i) a person to chair the panel who, in the case of any appointment made after 1st October 2011, must be independent of the fostering service provider, and
- (ii) one or two persons who may act as chair if the person appointed to chair the panel is absent or that office is vacant (the vice chairs) from the persons on the central list.

The fostering service provider must ensure that the individual members have between them the experience and expertise necessary, to effectively discharge the functions of the panel.

Legislation: [Regulation 23 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to change the requirement to constitute a panel from a duty to a power and to remove the requirement to ensure number on the panel. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - meetings of fostering panel**

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

(2) A fostering panel must make a written record of its proceedings and the reasons for its recommendations.

Legislation: [Regulation 24 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement for one other independent person. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - functions of fostering panel**

(1) The functions of the fostering panel in respect of cases referred to it by the fostering service provider are:

- (a) to consider each application for approval and to recommend whether or not a person is suitable to be a foster parent,
- (b) where it recommends approval of an application, to recommend any terms on which the approval is to be given,
- (c) to recommend whether or not a person remains suitable to be a foster parent, and whether or not the terms of their approval (if any) remain appropriate
  - (i) on the first review carried out in accordance with regulation 28(2), and
  - (ii) on the occasion of any other review, if requested to do so by the fostering service provider in accordance with regulation 28(5), and

(d)to consider any case referred to it under regulation 27(9) or 28(10).

(2) In considering what recommendation to make under paragraph (1), the fostering panel:  
(a)must consider and take into account all of the information passed to it in accordance with regulation 26, 27 or 28 (as the case may be),  
(b)may request the fostering service provider to obtain any other relevant information or to provide such other assistance as the fostering panel considers necessary, and  
(c)may obtain such legal advice or medical advice as it considers necessary.

(3) The fostering service provider must obtain such information as the fostering panel considers necessary and send that information to the panel and provide such other assistance as the fostering panel may request, so far as is reasonably practicable.

(4) The fostering panel may also:

(a)advise, where appropriate, on the procedures under which reviews in accordance with regulation 28 are carried out by the fostering service provider, and periodically monitor their effectiveness,  
(b)oversee the conduct of assessments carried out by the fostering service provider, and  
(c)give advice, and make recommendations, on such other matters or cases as the fostering service provider may refer to it.

(5) In this regulation “recommend” means recommend to the fostering service provider.

Legislation: [Regulation 25 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Section 4 of this regulation is changed from a duty to a power by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - care records relating to foster parents and others**

A fostering service provider must maintain a case record for each foster parent approved by them which must include copies of the documents specified below and the information specified in this Regulation.

The documents referred to are:

(a)the report prepared under regulation 26(3)(b) and any other reports submitted to the fostering panel, if any,  
(b)any recommendations made by the fostering panel,  
(c)the notice of approval given under regulation 27(5)(a),  
(d)the foster care agreement,  
(e)any report of a review of approval prepared under regulation 28(4), and  
(f)any notice given under regulation 28(12).

Legislation: [Regulation 30 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement for one other independent person. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - short breaks**

In the circumstances set out below, these Regulations apply in relation to a child with the modifications set out in these Regulations.



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 for more than 17 days,

(ii) at the end of each such placement the child returns to the care of the child's parent or a person who is not his parent but who has parental responsibility for the child,

(iii) the short breaks do not exceed 75 days in total in any period of 12 months.

Legislation: [Regulation 42 of the Fostering Services \(England\) Regulations 2011](#)

Notes: This regulation is omitted by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Fostering - information about foster parent and prospective family

The following information is required as to prospective foster parent (X) and other members of their household and family:

#### PART 1

1. Full name, address and date of birth.

2. Details of health

3. Particulars of any other adult members of the household.

4. Particulars of the children in the family, whether or not members of the household, and any other children in the household.

5. Particulars of their accommodation.

6. The outcome of any request or application made by them or any other member of their household to foster or adopt children, or for registration as an early years provider or later years provider under Part 3 of the Childcare Act 2006(1), including particulars of any previous approval or refusal of approval relating to them or to any other member of the household.

7. If X has, in the preceding twelve months, been a foster parent approved by another fostering service provider, the name and address of that fostering service provider.

8. Names and addresses of two persons who will provide personal references for X.

9. In relation to X and any other member of X's household who is aged 18 or over, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act).

10. Details of current, and any previous, marriage, civil partnership or similar relationship.

#### PART 2

11. Details of personality.

12. Religious persuasion, and capacity to care for a child from any particular religious persuasion.

13. Racial origin, cultural and linguistic background and capacity to care for a child from any particular racial origin or cultural or linguistic background.

14. Past and present employment or occupation, standard of living, leisure activities and interests.

15. Previous experience (if any) of caring for their own and other children.

16. Skills, competence and potential relevant to their capacity to care effectively for a child placed with them.

Legislation: [Schedule 3 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement for a medical report in item 2. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - events and notifications**

The notifications as detailed in Schedule 7 must be submitted to one or more of the:

Chief inspector

Responsible authority

Secretary of State

Area authority

Police

Primary Care Trust

as detailed in the table in Schedule 7.

Legislation: [Schedule 7 of the Fostering Services \(England\) Regulations 2011](#)

Notes: The table in Schedule 7 is amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to omit the requirement to submit to the chief inspector details 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. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - reviews and terminations of approval**

The fostering service provider must review the approval of each foster parent in accordance with this regulation.

A review must, where reasonably practicable, take place not more than a year after approval, and thereafter whenever the fostering service provider consider it necessary.

Legislation: [Regulation 28 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to add the words 'where reasonably practicable'. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - assessment of prospective foster parent**

Where a person (X) applies to become a foster parent and the fostering service provider decide to assess X's suitability to become a foster parent, any such assessment must be carried out in accordance with this regulation.

Legislation: [Regulation 26 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to:

- Change the requirement to notify the prospective foster parent that they are not considered suitable to be 'as soon as is reasonably practicable' rather than within 10 days
- Allow the fostering service provider to decide whether to refer the case to a fostering panel or to make a decision without a referral
- make a decision without obtaining all the information required
- change the requirement to send the report and any other information to the fostering panel to 'as soon as is reasonably practicable' rather than within 10 days. Amendments apply from 24/04/2020 to 25/09/2020



Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Fostering - approval of foster parents**

A fostering service provider must not approve a person who has been approved as a foster parent by another fostering service provider where that approval has not been terminated.

A fostering service provider must not approve X as a foster parent unless they have completed their assessment of X's suitability, and the fostering panel, where the case has been referred to the fostering panel, has considered the application.

A fostering service provider must, in deciding whether to approve X as a foster parent and as to the terms of any approval, take into account the recommendation of, where the case was referred to the fostering panel, the fostering panel.

If a fostering service provider decide to approve X as a foster parent they must give X notice in writing specifying any terms on which the approval is given, and enter into a written agreement with X covering the matters specified in Schedule 5 (the foster care agreement).

If a fostering service provider consider that X is not suitable to be a foster parent they must, subject to paragraph (7) give X written notice that they propose not to approve X as suitable to be a foster parent (a qualifying determination), together with their reasons and, where the case has been referred to the fostering panel, a copy of the fostering panel's recommendation, and advise X that, within 28 days of the date of the qualifying determination, X may:

- (i) submit any written representations that X wishes to make to the fostering service provider, or
- (ii) apply to the Secretary of State for a review by an independent review panel of the qualifying determination.

If within the period referred to above the fostering provider receive any written representations, they may refer the case to the fostering panel for further consideration and, where a case is referred, the fostering service provider must make their decision taking into account any further recommendation made by the fostering panel.

If, within the period referred to above, X applies to the Secretary of State for a review by an independent review panel of the qualifying determination, the fostering service provider must make their decision taking into account any recommendation of the fostering panel and the recommendation of the independent review panel.

Legislation: [Regulation 27 of the Fostering Services \(England\) Regulations 2011](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to add the words 'where the case was referred to the fostering panel' in front of references to the fostering panel decision. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Private fostering - actions on notification of proposal to foster**

Where a local authority have received notification of a proposal to foster a child privately they must arrange for an officer of the authority within seven working days or as soon as is reasonably practicable, to visit the proposed foster home, proposed foster carer and family, the child and every parent or person with parental responsibility for the child.

Having completed the visits, the officer should prepare a written report to the authority.

Legislation: [Regulation 4 of the Children \(Private Arrangements for Fostering\) Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to add 'if any' after the reference to the fostering panel. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Private fostering - actions on notification of child privately fostered**

Where a local authority have received a notification about a child being fostered privately they must arrange for an officer of the authority within seven working days or as soon as is reasonably practicable visit the premises where the child is being cared for, visit and speak to the private foster carer and family, visit and speak to the child and ensure that all matters relating to the welfare of the child have been considered.

Having made the visits, the officer should make a written report to the authority.

Legislation: [Regulation 7 of the Children \(Private Arrangements for Fostering\) Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax the requirement for visits to be made within seven days. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Private fostering - subsequent visits to children**

Each local authority must arrange for an officer of the authority to visit every child who is being fostered privately in their area:

(a) in the first year of the private fostering arrangement, where reasonably practicable, at intervals of not more than six weeks

(b) in any second or subsequent year, where reasonably practicable, at intervals of not more than 12 weeks.

The authority must also arrange for every child who is fostered privately in their area to be visited by an officer when reasonably requested to do so by the child, the private foster carer, a parent of the child or any other person with parental responsibility for the child.

Visits and matters considered during visits must be in accordance with regulations and the officer should make a written report of the visit.

Legislation: [Regulation 7 of the Children \(Private Arrangements for Fostering\) Regulations 2005](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax the time limit for making visits where not practicable. Amendments apply from 24/04/2020 to 25/09/2020

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

## **Function(s): Health and social care – Children and family care – Looked after children**

### **Care placement - application of regulations with modifications for short breaks**

In certain circumstances these regulations apply with modifications.

The circumstances are that:

- (a) C is not in the care of the responsible authority,
- (b) the responsible authority have arranged to place C in a series of short-term placements with the same person or in the same accommodation (short breaks), and
- (c) the arrangement is such that?

- (i) at the end of each placement, C returns to the care of C's parent or a person who is not C's parent but who has parental responsibility for C, and
- (ii) the short breaks do not exceed 75 days in total in any period of 12 months.

The modifications are that:

(a) regulations 5 and 9 do not apply, but instead the care plan must set out the arrangements made to meet C's needs with particular regard to?

- (i) C's health and emotional and behavioural development, in particular in relation to any disability C may have,
- (ii) promoting contact between C and C's parents and any other person who is not C's parent but who has parental responsibility for C, during any period when C is placed,
- (iii) C's leisure interests, and
- (iv) promoting C's educational achievement,

and must include the name and address of C's registered medical practitioner, and the information set out in paragraph 3 of Schedule 2, where appropriate,

- (b) regulations 7, 13 and 49(2)(b) do not apply,
- (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 has parental responsibility for C),
- (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,
- (e) any visit required by this regulation may be conducted by telephone, video-link or other electronic means.

Legislation: [Regulation 40 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to:

- remove the requirement for a placement to not exceed 17 days
- to remove the requirement for visits to be when C is placed and the frequency of visits
- to remove the time limits on reviews
- to allow visits to be conducted by telephone, video-link or other electronic means.

Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - assessment of needs**

The responsible authority must complete the assessment of C's needs in accordance with paragraph 19B(4) of Schedule 2 to the 1989 Act not more than three months after the date on which C reaches the age of 16 or becomes an eligible child after that age.

In carrying out their assessment of C's likely needs when C ceases to be looked after, the responsible authority must take account of the following considerations:

- (a) C's state of health (including physical, emotional and mental health) and development,
- (b) C's continuing need for education, training or employment,
- (c) the support that will be available to C from C's parents
- (d) C's actual and anticipated financial resources and capacity to manage personal finances independently,
- (e) the extent to which C possesses the practical and other skills necessary for independent living,
- (f) C's need for continuing care, support and accommodation,
- (g) the wishes and feelings of C, any parent of C's and any person who is not C's parent but who has parental responsibility for C, the appropriate person,
- (h) the views of any person or educational institution that provides C with education or training and, if C has a statement of special educational needs, the local authority who maintain the statement (if different)(1), the IRO, any person providing health (whether physical, emotional or mental health) or dental care or treatment to C, the personal adviser appointed for C, and any other person whose views the responsible authority, or C consider may be relevant.

Legislation: [Regulation 42 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove reference to 'other connected persons' in (c). Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - timing of reviews**

The responsible authority must first review C's case within 20 working days of the date on which C becomes looked after.

The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out where reasonably practicable thereafter.

Legislation: [Regulation 33 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement for six monthly reviews. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - frequency of visits**

As part of their arrangements for supervising C's welfare, the responsible authority must ensure that their representative (R) visits C in accordance with this regulation, wherever C is living. Any visit required by this regulation may be conducted by telephone, video-link or other electronic means.

Where R is unable to visit C within the timescales set out in this regulation the responsible authority must ensure that R visits C as soon as is reasonably practicable thereafter.

Legislation: [Regulation 28 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to allow visits to be by electronic means and to relax the timescales. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Care placement - expiry of temporary approval

Subject to paragraph (4), the responsible authority may extend the temporary approval of a person if

(a) it is likely to expire before the full assessment process is completed, or  
(b) the person, having undergone the full assessment process, is not approved and seeks a review of the decision in accordance with Regulations made under paragraph 12F(1)(b) of Schedule 2 to the 1989 Act (1).

(2) In a case falling within paragraph (1)(a), the responsible authority may extend the temporary approval once for a further period of up to eight weeks.

(3) In a case falling within paragraph (1)(b), the responsible authority may extend the temporary approval until the outcome of the review is known.

(4) Before deciding whether to extend the temporary approval in the circumstances set out in paragraph (1), the responsible authority must first:

(a) consider whether placement with the person is still the most appropriate placement available,

(b) seek the views of the fostering panel established by the fostering service provider in accordance with the 2002 Regulations, and

(c) inform the IRO.

(5) A decision to extend temporary approval must be approved by a nominated officer.

(6) If the period of temporary approval and of any extension to that period expires and the person has not been approved as a local authority foster parent in accordance with the 2002 Regulations, the responsible authority must terminate the placement after first making other arrangements for C's accommodation.

Legislation: [Regulation 25 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the word 'connected' in each place it occurs. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Care placement - temporary approval

Where the responsible authority is satisfied that the most appropriate placement for C is with a person who has not yet been approved as a local authority foster parent they may approve that person as a local authority foster parent for a temporary period not exceeding 24 weeks ("temporary approval") provided that they first comply with the requirements of paragraph (2) below.

(2) Before making a placement under paragraph (1), the responsible authority must:

(a) assess the suitability of the person to care for C, including the suitability of the proposed accommodation, and all other persons aged 18 and over who are members of the household



in which it is proposed that C will live, taking into account all the matters set out in Schedule 4,

(b) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the proposed arrangements will safeguard and promote C's welfare and meet C's needs set out in the care plan, and

(c) make immediate arrangements for the suitability of the person to be a local authority foster parent to be assessed in accordance with the 2002 Regulations (the full assessment process? before the temporary approval expires.

Legislation: [Regulation 24 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to replace the wording of the first paragraph, to omit the word 'connected' in each place it occurs and to omit paragraph 3. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - emergency placement**

Where it is necessary to place C in an emergency, the responsible authority may place C with any local authority foster parent who has been approved in accordance with the 2002 Regulations, even if the terms of that approval are not consistent with the placement, provided that the placement is for no longer than twenty-four weeks.

When the period of twenty-four weeks referred to in paragraph (1) 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.

Legislation: [Regulation 23 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to change the time period from six working days. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - conditions to be complied with**

This regulation applies where the responsible authority proposes to place C with F in a long term foster placement.

(2) The responsible authority may only place C with F if:

(b) the requirements of regulation 9(1)(b)(i) have been complied with,

(c) the placement will safeguard and promote C's welfare,

(d) the IRO has been consulted,

(e) C's relatives have been consulted, where appropriate, and

(f) F intends to act as C's foster parent until C ceases to be looked after.

Legislation: [Regulation 22 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement for the responsible authority to have prepared a placement plan (condition a). Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Care placement - placement following consideration

1) This regulation applies where the responsible authority decides to place C in accordance with section 22C of the 1989 Act with a local authority foster parent who is also an approved prospective adopter following consideration in accordance with section 22C(9B)(c) of the 1989 Act.

(3) Before making a placement under paragraph (1), 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.

Legislation: [Regulation 22A of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement for the placement not to happen until approved by a nominated officer and the preparation of a care plan. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Care placement - placement before assessment complete

Where the nominated officer considers it to be necessary and consistent with C's welfare, the responsible authority may place C with P before their assessment under regulation 17 (the assessment) is completed provided that they:

- (a) arrange for P to be interviewed in order to obtain as much of the information specified in Schedule 3 about P and the other persons living in P's household who are aged 18 and over as can be readily ascertained at that interview,
- (b) ensure that the assessment and the review of C's case are completed in accordance with regulation 17 as soon as is reasonably practicable after C being placed with P, and
- (c) ensure that a decision in accordance with regulation 18 is made and approved within ten working days after the assessment is completed, and if the decision is to confirm the placement, review the placement plan and, if appropriate amend it, and if the decision is not to confirm the placement, terminate the placement.

Legislation: [Regulation 19 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement for the assessment and review to be completed within ten working day. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Care placement - decision to place a child

The decision to place C with P must not be put into effect until it has been approved by a nominated officer.

Before approving a decision, the nominated officer must be satisfied that:

- (a) the requirements of regulation 9(1)(b)(i) have been complied with,
- (b) the requirements of regulation 17 have been complied with,
- (c) the placement will safeguard and promote C's welfare, and
- (d) the IRO has been consulted.



Legislation: [Regulation 18 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the requirement to complete a placement plan before making the decision. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - placement decision**

Subject to paragraphs (3) and (4), a decision to place C 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.

The nominated officer must be satisfied that all conditions have been met.

Paragraphs (1) and (2) above do not apply to a decision to place C outside the area of the responsible authority with

(a) F who is a person with whom a placement is made under regulation 24, or

(b) F who is approved as a local authority foster parent by the responsible authority.

Legislation: [Regulation 11 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the reference to a connected person. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - placement plan**

Subject to paragraphs (2) and (4), before making arrangements in accordance with section 22C for C's placement, the responsible authority must:

(a) prepare a plan for the placement (the placement plan) which sets out how the placement will contribute to meeting C's needs, and includes all the matters specified in Schedule 2 as are applicable, having regard to the type of the placement, and

(b) ensure that C's wishes and feelings have been ascertained and given due consideration, and the IRO has been informed.

If it is not reasonably practicable to prepare the placement plan before making the placement, the placement plan must be prepared as soon as is reasonably practicable after the start of the placement.

Legislation: [Regulation 9 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove the five working day time limit for preparation of the placement plan.

Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - preparation and content of the care plan**

The care plan must include a record of the following information:

(a) the long term plan for C's upbringing (the plan for permanence),

(b) the arrangements made by the responsible authority to meet C's needs in relation to:

- (i) health, including the information set out in paragraph 1 of Schedule 1 (the health plan),
- (ii) education and training, including, so far as reasonably practicable, the information set out in paragraph 2 of Schedule 1 (the personal education plan),
- (iii) emotional and behavioural development,
- (iv) identity, with particular regard to C's religious persuasion, racial origin and cultural and linguistic background,
- (v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 1,
- (vi) social presentation, and
- (vii) self-care skills,
- (c) except in a case where C is in the care of the responsible authority but is not provided with accommodation by them by any of the means specified in section 22C, the placement plan once prepared,
- (d) the name of the IRO, and
- (e) details of the wishes and feelings of the persons listed in section 22(4)(1) about the arrangements referred to in sub-paragraph (b) and the placement plan, once this has been prepared, that have been ascertained and considered in accordance with section 22(4) and (5) and the wishes and feelings of those persons in relation to any change, or proposed change, to the care plan.

Legislation: [Regulation 5 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to allow for the placement plan to be completed at a later date. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - children on remand**

Where C is a looked after child only by reason of being remanded to local authority accommodation:

- (a) in regulation 4(2), the care plan must be prepared as soon as is reasonably practicable from C being so remanded, and
- (b) regulation 5(a) does not apply.

Legislation: [Regulation 47C of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 remove the five working day time limit. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### **Care placement - matters considered when assessing suitability of potential carer**

- (1) In respect of the person:
  - (a) the nature and quality of any existing relationship with C,
  - (b) their capacity to care for children and in particular in relation to C to:
    - (i) provide for C's physical needs and appropriate medical and dental care,
    - (ii) protect C adequately from harm or danger including from any person who presents a risk of harm to C,
    - (iii) ensure that the accommodation and home environment is suitable with regard to the age and developmental stage of C,
    - (iv) promote C's learning and development, and

- (v) provide a stable family environment which will promote secure attachments for C, including promoting positive contact with P and other connected persons, unless to do this is not consistent with the duty to safeguard and promote C's welfare,
- (c) their state of health including their physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems,
- (d) their family relationships and the composition of their household, including particulars of:
  - (i) the identity of all other members of the household, including their age and the nature of their relationship with the person and with each other, including any sexual relationship,
  - (ii) any relationship with any person who is a parent of C,
  - (iii) any relationship between C and other members of the household
  - (iv) other adults not being members of the household who are likely to have regular contact with C, and
  - (v) any current or previous domestic violence between members of the household, including the person,
- (e) their family history, including:
  - (i) particulars of their childhood and upbringing including the strengths and difficulties of their parents or other persons who cared for them,
  - (ii) their relationships with their parents and siblings, and their relationships with each other,
  - (iii) their educational achievement and any specific learning difficulty or disability,
  - (iv) a chronology of significant life events, and
  - (v) particulars of relatives and any relationships with C and the person,
- (f) particulars of any criminal offences of which they have been convicted or in respect of which they have been cautioned,
- (g) their past and present employment and other sources of income, and
- (h) the nature of the neighbourhood in which their home is situated and resources available in the community to support C and the person.

Legislation: [Schedule 4 of the Care Planning, Placement and Case Review \(England\) Regulations 2010](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove references to a connected person. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to remove references to a connected person.

### **Children Act 1989 Representations - review panel**

Where the local authority have received a request in accordance with regulation 18 they must appoint a panel to consider the representations. The panel shall consist of three independent persons, one of whom will chair the panel. The independent person appointed in accordance with regulation 17(2) may not be a member of the panel.

The panel shall meet within 30 working days of the local authority receiving a request in accordance with regulation 18, or as soon as is reasonably practicable.

Legislation: [Regulation 19 of the Children Act 1989 Representations Procedure \(England\) Regulations 2006](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to add flexibility to the timing of the panel meeting. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Children Act 1989 Representations - recommendations

After the review panel meeting the panel shall decide on their recommendations and compile a written report which must set out a brief summary of the representations and the panel's recommendations for the resolution of the issues raised in the representations.

Within 5 working days of the meeting or as soon as is reasonably practicable the panel must send its report to the local authority, the complainant and, where one has been appointed, his advocate, the independent person appointed and any other person whom the panel consider has sufficient interest in the case to warrant their receiving such a notice.

Within 15 working days of receiving the panel's recommendations or as soon as is reasonably practicable, the local authority must, together with the independent person appointed under regulation 17(2), consider the recommendations and determine how the authority will respond to them and what they propose to do in the light of them, and must send to the complainant its response and proposals, along with information about making a complaint to a Local Commissioner.

Legislation: [Regulation 20 of the Children Act 1989 Representations Procedure \(England\) Regulations 2006](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to allow some flexibility in the time permitted for issuing the report on the review panel and for the local authority to consider the recommendations. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Children's home - compliance with standards

A local authority in respect of a qualifying children's home, must comply with the following standards:

- Quality standards for children's homes
- Engaging with the wider system to ensure children's needs are met
- The quality and purpose of care standard
- The children's views, wishes and feelings standard
- The education standard
- The enjoyment and achievement standard
- The health and well-being standard
- The positive relationships standard
- The protection of children standard
- The leadership and management standard
- The care planning standard

and must have regard to the statements of standards published under section 23 of the Care Standards Act 2000

Legislation: [Regulations 4 to 15 of the Children's Homes \(England\) Regulations 2015](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 as follows:

- Regulation 6 relating to the quality and purpose of care standard is amended to insert the words 'as far as is reasonably practicable' into 6(3)(c)
- Regulation 8 relating to the education standard is amended to insert the words 'use reasonable endeavours to' into 8(2).

Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Children's homes - regard to statements of standards

A local authority in respect of a qualifying children's home, must comply with the following matters which relate to standards for a children's home:

- Statement of purpose
- Placement plan for looked after child
- Placement plan for a child who is not looked after
- Behaviour management and discipline
- Restraint and deprivation of liberty
- Privacy and access
- Contact and access to communications
- Medicines
- Monitoring and surveillance
- Fire precautions

Legislation: [Regulations 16 to 25 of the Children's Homes \(England\) Regulations 2015](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020: In regulation 22 relating to contact and access to communications the words "or where this is not possible to speak privately over the telephone, a video-link or other electronic communication method" are inserted into 22(1). Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

### Children's homes - visits and reports

The registered person must use reasonable endeavours to ensure that an independent person visits the children's home at least once each month.

Legislation: [Regulation 44 of the Children's Homes \(England\) Regulations 2015](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax the requirement for the visit to be mandatory once a month. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

**Function(s): Education and learning – Schools, Health and social care – Children and family care – Fostering and adoption, Health and social care – Children and family care – Looked after children**

### Children's services inspections - written statement

A local authority in England which has received a copy of a report under section 137 of the Act must, within 70 working days of receiving that report or as soon as is reasonably practicable, publish a written statement of action which they propose to take in the light of the report (a "written statement") by:

- (a) sending a copy of the written statement to the Chief Inspector and the Secretary of State
- (b) sending a copy of the written statement to the persons or bodies to whom a copy of the report of the inspection was sent by virtue of regulation 2(a)
- (c) making a copy of the written statement available for inspection free of charge at the offices of the authority
- (d) supplying a copy of the written statement to a member of the public on demand on payment of a reasonable fee.

Legislation: [Regulation 3 of The Education and Inspections Act 2006 \(Inspection of Local Authorities\) Regulations 2007](#)

Notes: Amended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 to relax the 70 day deadline for the written statement. Amendments apply from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London

## Duties which have become powers

**Function(s): Health and social care – Children and family care – Fostering and adoption**

### Adoption - constitution of adoption panels

Where a local authority is an Adoption Agency, it may constitute one or more adoption panels, as necessary, to perform the functions of an adoption panel under these Regulations and must appoint the panel members from the persons in the central list including a person to chair the panel, being an independent person, who has the skills and experience necessary for chairing an adoption panel, and one or two persons who may act as chair if the person appointed to chair the panel is absent or that office is vacant (“the vice chairs”).

The adoption agency must ensure that individual members have between them the experience and expertise necessary to effectively discharge the functions of the panel.

Legislation: [Regulation 4 of the Adoption Agencies Regulations 2005](#)

Notes: As a result of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 the requirement to constitute an adoption panel has been changed from a duty to a power and the words 'an adoption panel has sufficient members, and' are omitted from mandated requirements from 24/04/2020 until 25/09/2020.

Applies in: England

Applies to: County council, London borough, Metropolitan council, Unitary authority and the Common Council of the City of London