



Public Sector Equality Duty: Provisional Equalities Impact Assessment regarding proposed extensions to some children's social care regulations during the coronavirus (COVID-19) pandemic

Introduction

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

Proposed amendments to regulations relating to children's social care

2. In April 2020 the government made changes to ten sets of regulations to ensure children's social care providers and local authorities have sufficient flexibility to respond to coronavirus (COVID-19) while still maintaining safe and effective care. The amending regulations are called the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 ("the 2020 Regulations").
3. These amendments have been kept under review since their introduction on 24 April 2020 and are due to expire on 25 September 2020.
4. There are a small number of regulations (listed below) that we are proposing to extend beyond 25 September until 31 March 2021 that we believe are essential to being able to maintain delivery of children's social care during the recovery stage of the pandemic. These regulations specifically address the following points:

Medical reports

Our National Health Service still faces significant challenges as we enter a period of recovery. We are proposing to amend the time frame in which medical information needs to be provided. Some of the amendments allow more time for General Practitioners and other health professionals to provide information to support the process of approving much needed potential adopters and foster carers. This will not remove the requirement for medical information to be provided but provides additional time during the process for these. The medical report must be provided before approval.

Virtual visits

We must be able to keep essential services operating during any local lockdowns to contain the spread of the virus, and in cases where households are being required to self-isolate due to a case, or suspected case, of coronavirus (COVID-19), or contact with someone who has tested positive for coronavirus (COVID-19), in line with medical advice from the NHS test and trace service. Therefore, we propose to continue to enable contact in these situations to happen virtually, and only where a face to face visit is not practicable.

Ofsted inspections

As announced on 6 July Ofsted are planning to carry out a phased return to routine inspections. This will include risk-based assurance visits to children's social care settings, based on the previous inspection judgement, the amount of time since a setting was last inspected and other information Ofsted hold about the setting. These assurance visits will occur between September 2020 and March 2021. At this point full graded inspections will

recommence. We therefore propose to continue the suspension of the frequency regulation that sets out the minimum number of Ofsted inspections required in various settings until 31 March 2021. This will better allow Ofsted to provide the most assurance, to the sector and the wider public, about the safety and care of children by enabling them to carry out visits to as many settings as possible based on the criteria set out above. Failure to extend the revocation of Regulation 27 would reinstate the prescribed inspection intervals, despite Ofsted having lost several months of the inspection year. For example, this would mean some children's homes would need to be inspected twice in the remaining six months of the inspection year, rather than allowing Ofsted to direct their resources towards providing assurance about those settings that they are currently concerned about or that have not been inspected for some time. This could also prevent Ofsted from being able to return more frequently to homes where serious or widespread concerns have been identified.

Please note, that it is the continued suspension of these prescribed intervals and not the specifics of Ofsted's assurance visits which is the focus of this consultation question.

An overview of the proposed amending regulations to be extended are set out in the consultation document published alongside this assessment.

Evidence and analysis

5. We assessed the equalities impact of the 2020 Regulations when we introduced them. We are now consulting all interested individuals and organisations to comment on the regulations we are proposing to extend and those that will lapse on the 25 September.
6. The changes introduced by the 2020 Regulations affect all local authorities, children's homes, secure children's homes, fostering services, adoption services and Ofsted during the coronavirus (COVID-19) pandemic. The changes have been limited to prevent widespread disruption to practice and to protect safeguarding and are anticipated to be in force, with a possibility of extension, to 25 September.
7. Core child protection and safeguarding requirements remain unchanged, as does the clear principle that the best interests of the child should always be the primary consideration in the delivery of children's social care services. The extensions to the 2020 Regulations being proposed are largely procedural in nature, and we have not identified any negative impacts that will affect those with certain protected characteristics more than others. Furthermore, the 2020 Regulations have been in force for almost 3 months now and no equality issues have been raised. We have considered the Public Sector Equality Duty ("PSED") in relation to each individual regulation which is proposed to be extended. Where other extensions have not been specifically mentioned below, this is because we consider them neutral and therefore will not have a negative impact on equality. A summary of the key

issues that arise from these proposals in relation to the PSED are set out below.

Ethnicity

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

Age

11. The proposed extensions are more likely to impact on children than any other age group. The proposed extensions to allow virtual visits will have a positive impact by promoting virtual contact where face to face contact with a social worker is not possible due to lockdown or self-isolation.
12. In a review of 'disparities in the risk and outcomes of COVID-19' published by [Public Health England](#) on 7 June, the risk of contracting, or dying from, coronavirus (COVID-19) was found to be higher in older people. Our proposed extensions should benefit workers in this group as they allow for virtual contact by social workers who may need to self-isolate, instead of requiring face to face contact.

Disability

13. While the government does not publish data on disabilities for looked-after children, government is of the view that this protected characteristic should not be adversely affected by the proposed changes.
14. Looked-after children are a subset the wider children in need population. In 2019, 55.9% of looked-after children had a special educational need, compared to 46.0% of children in need and 14.9% of all children³.

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

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

³ [Outcomes for children looked after by LAs: 31 March 2019](#)

15. In a review of ‘disparities in the risk and outcomes of COVID-19’ published by [Public Health England](#) on 7 June, the risk of contracting, or dying from, coronavirus (COVID-19) was found to be higher in people with pre-existing health conditions. Our proposed extensions should benefit both children and workers in this group as they promote virtual contact where face to face contact with a social worker is not possible due to local lockdown and self-isolation.
16. We do not expect the proposals on medical reports to have a disproportionate impact on disabled foster carers or adopters. The proposed extension relates to all prospective foster carers and adopters and we understand that any delays due to the provision of information by the NHS would be due to local NHS capacity rather than the health circumstances of the prospective adopter or foster carer.

Sex

17. Government is of the view that this protected characteristic should not be adversely affected by the proposed changes. Of the 78,150 looked-after children at 31 March 2019, 56% were male, 44% were female.⁴
18. In a review of ‘disparities in the risk and outcomes of COVID-19’ published by [Public Health England](#) on 7 June, the risk of contracting, or dying from, coronavirus (COVID-19) was found to be higher in men. Our proposed extensions should benefit both children and workers in this group as they promote virtual contact where face to face contact with a social worker is not possible in cases of local lockdowns and self-isolation only.

Other characteristics

19. Government is of the view that other characteristics should not be adversely impacted by these amendments.
20. In light of the above, we do not consider that any negative impacts on equality are disproportionate and we have considered the need to advance equality and foster good relations.

Mitigations and next steps

21. Government will continue to review the regulations and any PSED implications. If any additional regulatory changes are considered, we will carry out further PSED assessments as necessary.

⁴ [Children looked after in England including adoption: 2018 to 2019, Statistical First Release.](#)

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