



Dear stakeholder,

Consultation Letter - The proposed Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020

The COVID 19 crisis has affected the way we work in all sectors and the processes that are followed have been transformed swiftly where necessary, to ensure services can continue to deliver to the citizens of Wales.

Both the adoption and fostering sectors have responded rapidly and innovatively by introducing measures to ensure continuation of vital services to children, young people and families. This includes considering the needs and support of staff, foster carers and children and young people in their care to enable them to feel reassured and safe during this crisis.

Welsh Government officials have been in constant dialogue with both the adoption and fostering sectors to establish any potential problems that could impede the sectors from delivering services and which could prevent children, young people and families from accessing the vital support services they need.

Due to the COVID-19 pandemic, concern was raised by stakeholders on the ability to comply with some of the requirements outlined in two sets of Regulations and which therefore signified the potential of disrupting the flow of service delivery within both the adoption and fostering sectors:

1. Adoption Agencies (Wales) Amendment Regulations 2005 – *Stage 1 and 2 Assessment Process*

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2. The Fostering Panels (Establishment and Functions) (Wales) Regulations 2018 - *Requirement for a full medical report for a prospective foster carers.*

Following discussion with Heads of Children's Services and the Children's Commissioner for Wales, interim flexibilities were granted to the above Regulations to ensure the consistent delivery of services within the adoption and fostering sectors continued during the pandemic

I am now writing to inform you of, and consult with you on proposals for draft subordinate legislation which the Welsh Government intends progressing in order to give these flexibilities a legal basis during the current period.

1. Adoption Agencies (Wales) Regulations 2005

These Regulations set out the process for assessing the suitability of people to adopt a child and the suitability of children to be adopted.

A. Easements of certain procedural requirements in stage 1 and stage 2

The Adoption Agencies (Wales) (Amendment) Regulations 2020 and the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 came into force on 1st April 2020. Due to the COVID-19 pandemic, Welsh Government recognised that stakeholders may not be able to comply with some of the requirements outlined in the new two stage assessment process for prospective adopters that was introduced by the new Regulations.

Within the new process, all of the basic statutory checks to ascertain 'eligibility' to be assessed as an adopter should be undertaken in stage one of the new process and the formal assessment of 'suitability' which is undertaken during stage two can only commence when these are completed and are satisfactory. Understandably routine business such as medical assessments has not been prioritised by the NHS during the current time which could create delays in processing adopter applications.

Administrative flexibilities were granted on the 1st April 2020 to enable stage 1 and stage 2 of the two stage assessment process to run concurrently. This could mean, for example, that health assessments are undertaken during stage 2 of the process.

The requirement remains however that all the necessary checks need to be fully completed before an adopter is approved.

Applicants will not be able to access the Independent Review Mechanism (IRM) where their applications are unsuccessful for reasons relating to DBS or health checks, as would have been the case if these checks were completed in stage 1. Adopters will be able to access the IRM after stage 2, if their application fails for any other reason not relating to DBS or health checks.

The proposed Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 will give this easement legislative effect for a specified period.

B. Easements of timescales for completion of stages 1 and 2 and length of time prospective adopter can pause between stage 1 and 2

The proposed Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 will also provide an easement in some timescales relating to the two stage process as follows:

- Timescales for stage one and stage two of the process from 2 months (stage 1) and 4 months (stage 2) remain in place but agencies will only be required to meet the timescales **where reasonably practicable** during the outbreak.
- The 6 month limit on the length of time a prospective adopter could leave between stage 1 and stage 2 will be removed.

We would welcome your comments on this proposal

2. Fostering Panels (Establishment and Functions) (Wales) Regulations 2018

These Regulations specify the process for approving a person as a local authority foster parent. They include a requirement that a fostering services provider should, as part of the assessment process for prospective foster carers, 'obtain details of health (supported by a medical report)'.

During the pandemic we are aware that the NHS has significantly reduced ability to provide these health assessments for prospective foster parents as priorities have been refocused towards dealing with the emergency situation.

We realised the impact that this would have on progressing placements for vulnerable children both during and after the crisis and that there needed to be some flexibility introduced to enable the assessment of prospective foster parents to continue during this period.

On the 11th May 2020 administrative flexibility was introduced which allowed two separate processes to be adopted in Wales for the medical assessments of prospective foster carers:

- For those individuals who are able to access a face to face medical consultation, the original process should be followed and the prospective foster carer should continue to access an assessment from a GP.
- For those prospective foster carers who are unable to access a face to face consultation with a GP, a medical self-declaration form can be completed.

The terms of approval for those applicants where assessments conclude without a full medical report, may be restricted to 'short term' to reflect the limitations in place at the time of the assessment.

All approvals made by services utilising the self-declaration of health form will be subject to an early annual review process. This will be undertaken as soon as reasonably practical

and within six months, following the current restrictions being lifted. The early annual review should include a full adult health assessment and report, to inform the review and any recommendation in respect of continued approval and status of such approval.

The proposed Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 will bring the self-declaration process for medical assessments within the legislative framework for a specified period.

We would welcome your comments on this proposal

3. Care Planning, Placement and Case Review (Wales) Regulations 2015

The proposed Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 will extend the period from 16 to 24 weeks during which a person related to or otherwise connected with a child may receive temporary approval to act as a local authority foster parent for that child.

We would welcome your comments on this proposal

It is intended that the amendments made to these three sets of Regulations by the proposed Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 will come into force from 1st November 2020 and will be revoked on 31st March 2021. If the Welsh Government considers the situation to be improving, it can revoke these Regulations at an earlier date.

Timing of response

In view of the urgency, I would be grateful if you could respond with any comments or questions on these proposals to the PlantSynDerbynGofal@llyw.cymru mailbox by **12:00am on 24th August 2020** so that we can take these into account before the Regulations are finalised.

Yours faithfully



NATALIE AVERY

Head of Head of Looked after Children and Family Justice