



Llywodraeth Cymru
Welsh Government

Consultation Summary of

The Adoption and Fostering (Wales) (Miscellaneous Amendments) Coronavirus Regulations 2020

October 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

OGL© Crown Copyright WG41364Digital ISBN 978-1-80082-313-6

Overview

This document provides a summary of the responses received by the Welsh Government to the consultation:

MA/JM/2268/20 - Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020

The consultation was published on 27th July 2020 and closed on 24th August 2020.

7 responses were received from a range of stakeholder and interested parties.

Action Required

For information only

Further information

Enquiries about this document should be directed to:

E-mail: PlantSynDerbynGofal@llyw.cymru

Contents

	Page
Section 1	
1. Background	
1.1 Adoption Agencies (Wales) Regulations 2005	4
1.2 Fostering Panels (Establishment and Functions) (Wales) Regulations 2018	5
1.3 Care Planning, Placement and Case Review (Wales) Regulations 2015	6
The Purpose for Change	
Section 2	
1. Feedback on proposals and Welsh Government response	7
1.1 Adoption Agencies (Wales) Regulations 2005	7
1.2 Fostering Panels (Establishment and Functions) (Wales) Regulations 2018	8
1.3 Care Planning, Placement and Case Review (Wales) Regulations 2015	9
Annexes	10
Annex A – List of respondents	

Consultation Response Summary

Section 1:

Background

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 current emergency, 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:

1. Adoption Agencies (Wales) Amendment Regulations 2020 – *Stage 1 and 2 Assessment Process*
2. The Fostering Panels (Establishment and Functions) (Wales) Regulations 2018 -*Requirement for a full medical report for a prospective foster carers.*

Due to the urgency of the situation a four week consultation was undertaken between 27th July and 24th August 2020 to seek views on time limited introduction of the Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 which will take into account necessary changes needed to the Regulations outlined above to allow processes and services to continue during the Covid-19 crisis.

The draft subordinate legislation which was consulted on in order to give these flexibilities a legal basis during the current period included the following:

1.1 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.

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 presented a risk in delaying the processing of 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 remained 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 such reasons relating for example 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, health or local authority checks such as child protection issues.

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

A. 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.

1.2 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 were aware that the NHS had significantly reduced ability to provide these health assessments for prospective foster parents as priorities were refocussed 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 were 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 were unable to access a face to face consultation with a GP, a medical self-declaration form could be completed.

The terms of approval for those applicants where assessments conclude without a full medical report, will 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 would bring the self-declaration process for medical assessments within the legislative framework for a specified period.

1.3 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.

Purpose of changes

The rationale and intent behind these changes are detailed within the Explanatory Memorandum for The Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 and so are not replicated here. The Explanatory Memorandum can be accessed, alongside the draft regulations, on the 'documents laid' page of the Senedd Cymru website. [The Explanatory memorandum](#)

In summary, and in light of the current pressures on adoption and fostering sectors due to the pandemic, these changes aim to prioritise the needs of children, whilst relaxing some administrative and procedural obligations to support delivery of children's services whilst maintaining appropriate safeguards. The subordinate legislation will give the flexibilities that have been approved a legal basis.

Section 2:

1. Feedback on Proposals

1.1 Adoption Agencies (Wales) Regulations 2005

Responses received

The majority of responses confirmed that the easements associated with certain procedural requirements and timescales for the two stage assessment and approval process for prospective adopters were sensible and proportionate. They have already enabled the continuation of services and helped assure that children awaiting placements do not experience unnecessary delays in being placed with families. The general feeling was that it is important that the easement continues during the Covid-19 pandemic and until the situation has considerably improved. The inclusion of the easement in the Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 was favoured.

There was recognition that there needs to continue to be a robust and thorough assessment for adopters and it is imperative that all stages of the assessment are undertaken and fully completed before an individual is approved.

It was suggested that the availability of guidance would be beneficial to make clear how the easements of the certain procedural requirements and timescales relate to each other. Due to the two stages operating concurrently, it was also suggested that the guidance should make clear the importance of accurately recording the information that relates to the individual stages i.e. information which constitutes a stage 1 and stage 2 check should be recorded under these stages.

It was highlighted that as the two stages are running concurrently, it is important to be clear on what checks can result in a qualifying determination and can therefore access the Independent Review Mechanism.

Welsh Government Response

The Welsh Government has carefully considered the points raised. This easement is an important protective factor to mitigate against lengthy delays in the placing of children.

Welsh Government can confirm that no prospective adopter will be approved until the full two stage assessment processes have been completed. The introduction of the easements does not revoke any duties in the robust and through assessments for adopters.

Welsh Government will work with the National Adoption Service to update their Good Practice Guide which will support the introduction of the legislation.

1.2 Fostering Panels (Establishment and Functions) (Wales) Regulations 2018

Responses received

Some respondents agreed with the proposed amendment to grant approval to those prospective foster carers who are unable to access a face to face consultation with a GP, as long as a self-declaration form is completed. There was agreement however that all approvals made by services utilising the self-declaration of health form should continue to be classed as short term to reflect the limitations in place at the time of the assessment. It was also agreed that the individual(s) must be subject to an early annual review process including a full adult health assessment and report, to

inform the review and any recommendation going forward. It was also felt that the self-declaration process should only be used when absolutely necessary and when face to face or virtual consultations with a GP cannot be accessed.

The consultation highlighted the expectation that the demand for foster placements to be particularly high as lock down restrictions are lifted. There was a general feeling that the Welsh Government should ensure that GPs give priority to the issuing of foster carer medical assessments going forward.

It was also expressed that the delays within the system to obtain foster carer medicals are not a direct result of the pandemic. In recent years, fostering services have increasingly expressed concern about the difficulties with the system of obtaining health information about prospective foster carers in a timely manner. One respondent raised the question of whether the Welsh Government should address the ongoing issues causing delays to the foster carer approval process by promoting an understanding amongst health colleagues of the importance of foster carer medicals and their crucial role in the recruitment and retention of foster carers.

There was a strong consensus that the use of the self-declaration health process is currently not needed. Feedback received confirmed that GPs are beginning to undertake either face to face or virtual medical assessments for prospective foster carers as lockdown restrictions are lifted.

Concerns were raised by some respondents that the information captured in the form is limited. It was also felt that there was a risk that the self-declaration process would start being used as common practice rather than as a last resort in cases where a face to face or virtual medical assessment could not be accessed.

One respondent felt that there has not been adequate evidence provided to highlight the disruption to children's placements or foster carer recruitment, as a result of being unable to obtain medical assessments. It was felt that this could be solved by recognition of this as a priority for GP and Medical Practices, as opposed to regulatory change.

Welsh Government response

Welsh Government has considered the views provided. Whilst the self-declaration process was brought in as a contingency measure to ensure foster carers could continue to be assessed during the height of the pandemic, it is evident that as lockdown restrictions change, the pressure is easing on GPs and health assessments are commencing, either via face to face or remote technology.

Welsh Government will therefore terminate the use of the self-declaration health form on 30th September. This means that the self-declaration medical assessment process **will not** be brought within the scope of the Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020.

From 1st October the original process of accessing a full Adult Health Report via an applicant's GP will be reintroduced in Wales. This may be via a face to face consultation or through remote technology.

Welsh Government will however continue to monitor the situation to ensure prospective foster carers are continuing to access medical assessments as we move further through the pandemic.

Welsh Government will ensure a message is directed to our primary care sector which highlights the crucial need for medical health assessments to be undertaken for prospective foster carers. It is key

that the foster carer assessment process progresses seamlessly to assure that there are adequate and appropriate placements available for our looked after children population in Wales.

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

Responses received

All respondents agreed that the proposed change to 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 carer for that child will assist with the planning and support to placements and improve the options of care.

It was however recognised that where possible, existing time scales should be adhered to and robust monitoring and review processes adopted to ensure that the appropriate level of support and contact with the child and household is put in place.

It was highlighted that the introduction of associated guidance would be helpful to outline the process by which practitioners could access the extension period i.e. would it be applied automatically to a temporary placement or would practitioners need to seek approval.

One respondent outlined the importance of kinship arrangements for children taking place with continued scrutiny from Family Courts. They also highlighted that Courts need to remain able to order assessments within a given (shorter) timeframe and with reference to the needs and timetable for the individual child, should they wish to do so.

It was also highlighted that local authorities continue to provide regular and on-going support to the family/household to help promote stability in placements for children and those they are temporarily living with, and that sufficient resources are provided to support this. The need to continue to undertake long-term placement planning for the child in question, in line with the current guidance for children's social services, provided by Welsh Government was also raised.

Recognition was made to the need for the child's best interest and rights to be considered and at the forefront of planning decisions. It was felt that the need to promote their rights to advocacy where any extensions to temporary placements are considered needs to be in place.

Welsh Government Response

Welsh Government recognises the overwhelming support for this change. Changing the extension period from 16 to 24 weeks to which a person related to or otherwise connected with a child may receive temporary approval as a temporary foster carers is a positive opportunity for the child to stay within their family or supportive networks, and therefore aligns with the Welsh Government's ambitions of the Improving Outcomes for Children Work stream, to keep families together.

Children will not be adversely impacted due to the temporary nature of their placements. Decisions made will be in the best interest of the child and their views taken into consideration. Supporting legislation outlines that an authority must provide such services to support the connected person as appear necessary to safeguard and promote the child's well-being including health and educational provision. The placement will continue to be monitored and supervised as outlined in the legislation.

Welsh Government will provide guidance to support the introduction of this change.

Annex A – List of respondents

No	Confidential Y / N	Organisation/On behalf of
1.	✓	Vale of Glamorgan County Borough Council
2.	✓	National Adoption Service for Wales
3.	✓	The Fostering Network
4.	✓	Children's Commissioners for Wales
5.	✓	Public Health Wales
6.	✓	Ceredigion County Borough Council
7.	✓	Cardiff City County Council