



Llywodraeth Cymru
Welsh Government

IMPACT ASSESSMENT

Self-assessment medical assessments -prospective foster carers: children's rights impact assessment

The introduction of a self-declaration health process for prospective foster carers, during COVID-19.

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Introduction

All completed Children's Rights Impact Assessments must be emailed to CRIA@gov.wales.

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Background

The Fostering Panels (Establishment and Functions) (Wales) Regulations 2018, includes 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 COVID-19 crisis officials are aware that the NHS has significantly reduced ability to provide these health assessments for prospective foster parents as priorities have been refocussed towards dealing with the emergency situation.

The fostering sector informed officials that during the COVID-19 crisis that GPs were not available to either provide a patient's records to any other medical practitioner or conduct face to face examinations with prospective foster parents.

A request was therefore made to use a self-declaration health form (on a temporary basis) for prospective foster carers so that fostering services can continue to increase foster carer capacity during the crisis.

The self-declaration process outlines two separate processes that foster service providers can follow for the implementation of medical assessments during the COVID-19 crisis:

- for those services who remain able to access a full adult health report via the applicants GP (utilising methods to undertake a remote virtual medical using the patient's records), the usual CoramBAAF Adult Health Report (AHR) form should be completed
- for those services who are not able to access any form of medical assessment from a GP, the self-assessment form should be utilised, and where a medical advisor is available to provide comment upon this form, it should be obtained

Self-assessment process

The proposed declaration is made up of three parts. The first part is completed by the fostering service provider, the second part is completed by the prospective foster carer (“the applicant”) and the third part is completed by the fostering agency medical advisor. However, the third part is only the medical advisor’s summary of what has been disclosed by the applicant. The medical advisor may not have reviewed any GP or hospital notes.

The self-assessment form however does provide the applicant’s consent should the medical advisor need to consult with the GP (pending availability) (The third part is only completed if the agency medical advisor is available. If the adviser is not available, it is therefore presumed that the third part of the form may never be completed, as part of the assessment process).

If, by the conclusion of the assessment the COVID-19 restrictions have been lifted, a medical assessment and report will be sought, as directed by Regulation 7(2), Schedule 1, Part 1, paragraph 2.

Legislative background

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

The Fostering Panels (Establishment and Functions) (Wales) Regulations 2018, regulation 7(2) and Schedule 1, Part 1, paragraph 2 requires that a fostering services provider should, as part of the assessment process, ‘obtain details of health (supported by a medical report)’. Following receipt of the medical report and any other information required under the Fostering Regulations, the prospective foster carer’s application is subsequently considered by a fostering panel.

If, by the conclusion of the assessment the Covid-19 restrictions have been

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lifted, a medical assessment and report will be sought, as directed by Regulation 7(2), Schedule 1, Part 1, paragraph 2.

Following receipt of the medical report and any other information required under the Fostering Regulations, the prospective foster carer's application is subsequently considered by a fostering panel.

Under these Regulations, the fostering panel must consider and take into account all of the information passed to it including the medical assessment information, and is required to make a recommendation as to whether or not the prospective foster parent is suitable.

A fostering panel may, in accordance with the regulation, request the fostering service provider to obtain any other relevant information which the fostering panel considers necessary, or to provide such other assistance as the fostering panel may request. This can include such medical advice it considers necessary in relation to the case.

If a fostering panel recommends approval, it is required to recommend the terms of approval. Before making the decision as to whether to approve a person as a foster carers, the fostering service provider is subsequently required to take into account the recommendation of the fostering panel and its terms of approval.

Social Services Well-being (Wales) Act 2014

The 2014 Act provides the legal framework for improving the wellbeing of people who need care and support, and carers who need support. Part 6 of the Act sets out social services functions in relation to looked after and accommodated children, including those who are placed in foster care.

Regulation and Inspection of Social Care (Wales) Act 2016

Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the statutory framework for the regulation and inspection of social care services and the regulation of the social care workforce in Wales. It enables

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Welsh Ministers to prescribe through regulations, the requirements to be placed on service providers and responsible individuals (RIs) of 'regulated services' which by virtue of section 2 (1) (e) and paragraph 5, includes 'fostering service' not run by local authorities.

Impact of delayed decision making and placement

Fostering provides a supportive family-based placement for children and young people who are unable to live with their parents and who are looked after by their local authority. Foster placements provide an environment in which a looked after child's care and support needs (set out in their care and support plan, prepared under Part 6 of the Social Services and Well-being (Wales) Act 2014, can be met.

The framework for assessing looked after children's needs and determining their personal outcomes, drawing up a comprehensive care and support plan, and determining which type of placement would be best for them, is set out in Part 6 of the Social Services and Well-being (Wales) Act 2014, the Care Planning, Placement and Case Review (Wales) Regulations 2015 and the Part 6 Code of Practice.

Primary responsibility for care planning and placement sits with the local authority which is looking after the child, and which will involve other partners as appropriate. The local authority acts as the 'corporate parent' for the child, and in respect of placements is known as 'the placing authority'. Where a child is placed in another local authority area, that authority is known as the 'area authority'. The placing authority, however, continues to look after the child and is responsible for meeting the child's care and support needs.

When assessing and approving prospective foster carers (whether recruited by the local authority, or private provider) there is a need for agencies to ensure prospective foster carers are able to provide these vulnerable children the necessary care and support they need which is of the highest standard. This will ensure that the foster parents can be suitably supported to meet a child's care and support needs.

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The children impacted upon by these 'flexible medical arrangements' for foster carers, are some of the most vulnerable children in Wales. These children have usually come into care as a result of abuse or neglect, and will have experienced adverse childhood experiences (ACEs) or some form of early trauma. This may lead to attachment issues, disruptive patterns of behaviour or therapeutic needs, which may escalate if the child does not receive the care and support he or she needs. Stable foster placements provide a safe environment in which these children can develop and thrive, and achieve their personal outcomes. It is therefore imperative that delays in placing a child with caring foster parents are minimised as much as possible during the COVID-19 crisis.

The current pressure also has an adverse impact on the wider placement system and in particular foster care capacity. If children cannot move on to their permanent families, for example through an adoption placement, then they are not freeing up foster care placements for other vulnerable children who are entering the care system. This will result in a negative supply of care placement places available to meet the need of vulnerable children.

There is also the risk of the ongoing need to increase the recruitment of prospective foster carers. If the issue is not resolved then there will be a reduction in foster carers 'available in Wales post COVID-19.

Proposal

The introduction of a self-assessment medical process for prospective foster carers will aid the bottleneck in the system and enable the fostering service to continue. It will make use of a self-declaration health form (only if they are unable to have a medical assessment undertaken by their GP) during COVID-19 outbreak so that fostering services can continue to increase foster carer capacity during the crisis.

The self-declaration process outlines two separate processes that foster service providers can follow for the implementation of medical assessments during the COVID-19 crisis:

- for those services who remain able to access a full adult health report via the

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applicants G.P, the usual CoramBAAF adult health report (AHR) form should be completed

- for those services who are not able to access any form of medical assessment from a GP, the self-assessment form should be utilised, and where a medical advisor is available to provide comment upon this form, it should be obtained.

This self-assessment process will go some way in supporting the fostering sector as it will ensure prospective foster carers can access a medical assessment and be able to move on to decision panel, thus allowing the fostering sector to progress.

The introduction of the self-assessment process will enable prospective foster carers to be approved, this in turn will enable children to be placed in the system as and when required, thus ensuring there is a suitable foster care placement that can meet the needs of the child being placed.

How will the proposal affect the lives of children, positively and negatively?

The proposal will provide a positive effect on children in Wales. Currently the approval of prospective foster carers is on hold due to the inability for them to undertake a medical assessments thus preventing them from progressing through the approval process.

The introduction of the self-assessment medical assessment for prospective foster carers (i.e. where a face to face examination is not possible) will allow the fostering process in Wales to progress, thus enabling children to continue to be placed with foster care parents.

This proposal offers no negative effect for the child. All safeguarding measures are in place which compare to that of the 'usual' face to face examination pre COVID-19.

There is always the risk that a health concern comes to light after the GP report and medical adviser opinion; this risk is also present during the face to face

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consultations in place pre COVID-19. When this happens, further information is sought and investigations/referrals are carried out and the situation is reappraised. An important part of the assessment of foster carers is honesty and it is expected that if there are any changes to circumstances (including health), the foster care applicant will bring this to the attention of the assessing social worker or agency. This is at any point pre or post approval.

There are numerous checks and balances in the system that guard against this and the virtual assessment proposal mirrors these checks. For example:

- if there is any doubt or uncertainty the GP is able to recommend that a full examination is needed
- the GP report is reviewed by the Medical Advisor who will not recommend approval if there is any doubt
- the medical advisor can contact the GP before making a recommendation if needed and/or ask for more information including reports from specialist consultants

The foster care assessment process is robust and has numerous other 'breaks' in it as outlined below:

- the fostering agency on receipt of the medical advisor recommendation can seek further information and has the option to raise questions if there is any concern that a medical examination must happen before the application can proceed to decision panel
- other elements of the assessment can enable information to surface that indicates potential medical issues not identified thus allowing for it to be explored and further medical advice obtained
- at decision panel there is a further potential 'brake' if the panel has doubts/concerns as they can ask for more information i.e. an examination and
- likewise again another potential 'brake' if the panel has doubts/concerns
- how will the proposal affect different groups of children (e.g. children who have experienced adverse childhood experiences (ACEs), children living in poverty, children with a disability, children living in Welsh speaking households and children in Welsh medium education etc?)
- the primary aim of fostering services is to provide stable placements for looked after children, so that their care and support needs can be met and

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their personal well-being outcomes achieved. Most of these children have usually come into care as a result of abuse or neglect, and will have experienced adverse childhood experiences (ACEs) or some form of early trauma. This may lead to attachment issues, disruptive patterns of behaviour or therapeutic needs, which may escalate if the child does not receive the care and support he or she needs

- good foster placements provide a supportive family-based environment in which children are kept safe and receive the love and support they need in order to thrive. The circumstances of these children will differ according to their individual needs and family circumstances. Some are short term placements until it is safe for the child to return to their family. Other placements will be a longer-term permanency option for a child, sometimes lasting into adulthood under a 'When I am ready' arrangement. Some kinship foster care arrangements will be converted into a Special Guardianship arrangement
- fostering services need to be flexible enough to meet these diverse individual needs and circumstances. Over the past few years, the Welsh Government is working with fostering agencies to establish the National Fostering Framework for Wales. The National Fostering Framework has a particular focus on regional working where this will be advantageous to local authorities in fulfilment of their statutory duties as 'corporate parents' for the children and young people they look after
- it also has a specific focus on the recruitment, training and retention of foster carers. There is a general need to recruit more foster carers to try and meet the increase in numbers of children who are coming into care system. As fostering remains by far the largest placement option for looked after children, placements are made on the best interests of the child and which meet their individual needs. Therefore when a child is placed into a foster care family, agencies must take into consideration the child's race, religion and culture when placing a child in a foster care home. There would be the need to respect the need for a Welsh speaking child to be placed with a Welsh speaking family if this was indeed deemed to be in the child's best interest

The proposal will therefore support all the children as it enables the fostering process to recommence during the COVID-19 crisis thus allowing children to be

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placed with foster care families.

What evidence have you used to inform your assessment, including evidence from children or their representatives?

The Association for Adoption and Fostering Cymru (AfA Cymru) submitted a proposal to the Welsh Government concerning the inability for a number of prospective foster carers to undertake face to face medical examinations. The confirmed that this has provided a 'bottleneck' in the ability to progress approval of prospective foster carers within the foster care system.

They stressed that it was important that the task of assessing prospective foster parents continues during the period of the crisis in order to meet the needs of children requiring placements, both during and after the crisis.

They proposed that to address this situation (on a temporary base) the introduction of a self-assessment medical form for prospective foster carers to use – however, the self-assessment was to be used only when they were unable to gain this medical assessment via their GP. This temporary assessment process was also being introduced in England and it was felt that Welsh fostering agencies should not feel at a disadvantage compared to English foster care agencies.

How have you consulted with children and young people? If you haven't, please explain why

Children and young people have not been consulted. This issue is associated with the effects of the COVID-19 crisis and inability for face to face medical assessments for prospective foster carers to take place. AfA Cymru has been working alongside Public Health Wales, CoramBAAF in England to provide an alternative process to enable the fostering process to continue whilst ensuring all the necessary safeguards are in place. Due to the urgency of the situation consultation has taken place with foster care agencies and voluntary fostering services, and Welsh General Practitioners Committee (GPCW) and Royal

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College of GPs in Wales (RCGP).

The change in process will have no effects on the child; once a foster carer has been approved a child will be placed in the usual way. This change does not cause any impact on children and young people as it is about the 'behind the scenes' process allowing the 'normal' service to continue for them. Not introducing the new process will however effect the supply of foster carers in the system, which will in turn prevent these vulnerable children from being placed in a supportive and caring family environment.

What other evidence would inform the assessment?

This process has been approved by DfE and is currently being rolled out in England.

Explain how the proposal is likely to impact on children's rights

This section requires an assessment, using informed judgement, of the likely impact of the proposal on children's UNCRC rights. It is vital you avoid the assumption that the intended outcomes identified above are the same as the predicted impact on children's rights.

You will need to carefully consider how the intended outcomes relate to children's rights and what impact they will have. There may be predicted impacts which are not intended outcomes from the proposal.

You should:

- identify which UNCRC articles are most relevant to the proposal
- explain if, and if so – how the proposal maximises, supports or promotes children's UNCRC rights, making connections between the outcomes identified at question 1 and the rights you have identified
- remember that promoting children's rights includes: increasing children's

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access to their rights, or to services and/or resources that give access to rights, or enabling children to participate and take advantage of their rights. You should explain how the proposal achieves these objectives, if at all. Explain any negative impact on children's rights arising from the proposal, including any reduction in resources available to support policies or programmes

- when considering each of the above ensure you take account of how the proposal will impact on the rights of different groups of children (e.g. children living in poverty, children with disability etc.)
- refer to any information or evidence that has informed your assessment, including from children or their representatives

The care planning and placement arrangements for a looked after child are set out in the Care Planning, Placement and Case Review (Wales) Regulations 2015 and the Part 6 Code of Practice on Looked After and Accommodated Children. The Fostering Services Regulations provide the legislative framework for the way in which local authority, third sector and private sector fostering services providers meet the needs of children placed with their foster carers.

Articles

This Proposal gives due regard to duties under the United Nations Convention on the Rights of the Child (UNCRC) predominantly:

Article 1 – everyone under the age of 18 has all the rights in the convention; and

Article 2 – the Convention applies to every child whatever their ethnicity, gender, religion, abilities, whatever they think or say, no matter what type of family they come from

The flexible amendments to the Regulations apply to all local authorities in Wales and voluntary adoption agencies when exercising their functions in respect of looked after and accommodated children. They determine how the

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local authorities assess and approve prospective adopters and equally how they ensure they meet the matched children's care and support needs, which includes having due consideration about the child's heritage, ethnicity, religion and their preferred language.

Article 3 – all organisations concerned with children should work towards what is best for each child

The flexible arrangements around the two stage assessment and approval process for prospective adopters will enable local authorities to progress the adoption process. This will act in the best interests of the child as it will enable a supply of prospective adopters to be readily available for some of the most vulnerable children in our society to be matched and placed with. This will ensure their fundamental needs are met and that they are offered the same life chances as other children.

Article 4 – governments should make these rights available to children

The flexible arrangements around the two stage assessment and approval process for prospective adopters will enable a supply of adopters to be readily available. This will create a consistent right for every child in Wales to have the opportunity to be placed with an adoptive family which will enable the child to experience the same support and life chances as any other child.

Article 6 - all children have the right of life. Governments should ensure that children survive and develop healthily

The flexible arrangements around the two stage assessment and approval process for prospective adopters will enable a consistent supply of adopters to be available. This will provide the opportunity for a child with a placement order to be placed with an adoptive family which will provide them with all the support and care needed to reach their personal well-being outcomes. The local

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authority will provide all the support needed by the child and adoptive family to ensure the placement is successful and to enable the child to continue to flourish.

Article 8 (protection and preservation of identity)

The child or young person is supported by their adoptive parents to maintain family ties, including personal relations and direct contact with their birth parents and siblings (subject to any restrictions imposed by the courts).

Article 12 (respect for the views of the child)

The child or young person is able to freely express their views at every stage, and is supported in making their views known. The child or young person's views are given due weight when decisions are made.

Article 13 (freedom of expression)

The child or young person receives appropriate information about the adoptive placement, suitable to their age and level of understanding, and support in understanding this information.

Article 19 – governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them

The flexible arrangements around the two stage assessment and approval process for prospective adopters support Article 19 as it enables a child to be placed with an adoptive family. The process is regulated to ensure all children are protected from violence abuse and harm. Local authorities provide all the necessary support to safeguard the child as the placement progresses.

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Article 20 – children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language

When local authorities are considering making arrangements for an adoption placement they must consider the child's race, religion and culture. The Adoption Order must take into account any help the child will need to maintain these links.

Article 21 – when children are adopted the first concern must be what is best for them

The same rules apply whether the children are adopted in the country where they were born or taken to live in another country.

The legal framework for adoption remains the Adoption and Children Act 2002. It requires that a local authority is to provide an adoption service, including an intercountry adoption service within its area and to ensure there is a consistent delivery of high quality adoption services across Wales.

Article 23 – children who have any kind of disability should have special care and support so that they can lead full and independent lives

When exercising social services functions in relation to disabled people who need care and support, local authorities must ensure that their emotional and physical well-being needs are met at all times.

Article 24 (health and health services)

Children in adoptive placements have their health and development needs met.

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Article 28 – every child has the right to an education

Primary education must be free. Secondary education must be available to every child. Discipline in schools must respect children's human dignity. Wealthy countries must help poorer countries achieve this.

Article 29 – education should develop each child's personality and talents to the full

It should encourage children to respect their parents, and their own and other cultures.

Local authorities must ensure that a significant range of services are provided to all children and young people (which includes looked after, accommodated and adopted children).

Article 33 – the Government should provide ways of protecting children from dangerous drugs

Article 34 – governments must protect children from sexual abuse and exploitation

Article 36 – governments must protect children from all other forms of exploitation that might harm them

The overall purpose of the Regulations is to safeguard and promote the well-being of children who have been adopted and to enable them to achieve recovery and healing from past harm. The placement of children for adoption aims to promote personal well-being outcomes, which includes protection for abuse and neglect.

Placement with a stable and supportive adoptive family, is fundamental to the supporting a vulnerable child who requires care and support to aid their development and support their well-being outcomes. The child's voice is central to the assessment, planning and review process and local authorities/agencies must ensure that they are given some choice about the services which support them once an adoption order/placement has been granted, ensuring they are able to influence the quality and direction of the support they receive.

The key positive impacts of this proposal include, children will be matched more quickly with suitable adoptive families than the current delays caused by COVID-19, and therefore reducing the time they spend within the care system.

Changes to the assessment and approval process for prospective adopters will also improve the information and support provided to prospective adopters, children, young people and their families about the care and support of services that will be provided to them. As well as giving them a genuine voice in over, the care, adoption process and support they receive (via reviews) from the service provider.

No conflicts with any UNCRC articles were identified.

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