

## **Children's Social Care**

### **Consultation on proposals to extend modifications to children's social care regulations**

**Period of consultation: from 8 April to 22  
April 2021**

## Contents

Introduction .....	3
Who this is for .....	4
Enquiries .....	4
About this consultation.....	4
Additional copies.....	4
The response.....	5
Background .....	6
Consultation.....	7
The rationale for extending the modification regulations for a further period .....	7
Assurance mechanisms.....	8
The proposals in detail.....	9
a. Visits by social workers .....	10
What we are proposing.....	10
What will this mean? .....	10
Why is this necessary? .....	11
b. Visits by registered providers .....	12
What we are proposing.....	12
What will this mean? .....	12
Why is this necessary? .....	12
c. Foster Care reviews.....	13
What we are proposing.....	13
What will this mean? .....	13
Why is this necessary? .....	13
d. Emergency Foster Care Placements.....	14
What we are proposing.....	14
What will this mean? .....	14
Why is this necessary? .....	15
e. Immediate Foster Care Placements.....	16
What we are proposing.....	16
What will this mean? .....	16
Why is this necessary? .....	16

## Introduction

On 7 May 2020, the Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020 came into operation to provide Health & Social Care Trusts [HSCTs] and other children's social care providers with temporary modifications to support them during the coronavirus (COVID-19) pandemic up until November 2020. The aim of modifying the statutory framework for a limited time was to enable HSCTs to support and protect children and their families effectively during a prolonged period of immense challenges within children's social care services.

In October 2020, following a discussion with key stakeholders, the Department extended the modifications for a further six months period up to 7 May 2021.

The use of the modifications has been monitored and reported on a monthly basis to the Health Minister and the Assembly's Health Committee. There is a difference in how the modifications have been used during the 1<sup>st</sup> and 2<sup>nd</sup> wave of the COVID-19 pandemic. As a result, the Department gave a commitment to, considering whether each modification is required rather than extending the Regulations in full in the event that a further extension is deemed necessary.

Given the continued impact of the COVID-19 pandemic, the Department is now consulting on a proposal to extend the Regulations with a smaller number of modifications for a further six months up to 7 November 2021. We are inviting interested individuals and organisations to comment on the proposal.

## ***Who this is for***

- Children and young people with experience of care
- Children's advocates
- HSCTs and their children's social care workforce
- Other children's social care providers, including children's homes and fostering and adoption agencies
- Children's Commissioner
- Any other interested organisations or individuals

## ***Enquiries***

If your enquiry is related to the policy content of the consultation you can contact the team by email on:

[Lookedafterchildren@health-ni.gov.uk](mailto:Lookedafterchildren@health-ni.gov.uk)

## ***About this consultation***

This consultation document sets out:

- The regulations we propose to apply modifications to up to November 2021.
- The reasons for extending and modifying the regulations and the safeguards we will put in place to ensure that they are used moderately, proportionately and only if necessary to deal with the challenge of the ongoing pandemic.

We would like to hear your views on our proposals.

## ***Additional copies***

Additional copies are available electronically and can be downloaded from the following website: <https://consultations.nidirect.gov.uk/>

## *The response*

To help us analyse the responses please use the online system wherever possible. Visit <https://consultations.nidirect.gov.uk/> to submit your response to the Department of Health **by 22 April 2021** and a consultation report will be published on the Department of Health website at: [www.health-ni.gov.uk](http://www.health-ni.gov.uk) when the consultation concludes.

If for exceptional reasons, you are unable to use the online system, you may download a word document version of the form and email it to [Lookedafterchildren@health-ni.gov.uk](mailto:Lookedafterchildren@health-ni.gov.uk) **by 22 April 2021**.

## Background

- 1 On 11 March 2020, the World Health Organisation (WHO) confirmed coronavirus (COVID-19) was a global pandemic. In response, the Department of Health [the Department] made urgent temporary modifications to HSCTs' statutory functions in respect of looked after children, including some children awaiting adoption, and care leavers. The modifications were given effect by the Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020.
- 2 The Regulations were put in place for an initial period of 6 months. On 30 October 2020, a Statutory Rule was made to extend the Regulations' period of operation for a further six months, until 7 May 2021. The Regulations were brought forward with the express aim of keeping children, young people and staff as safe and well as possible in the context of the exercise of statutory functions under the Children (Northern Ireland) Order 1995 [the Children Order] and Regulations made under the Children Order.
- 3 While the Regulations provide flexibility in terms of timescales and different ways of doing things, this may not always be required in all circumstances and at all times. It should be borne in mind that flexibility is being offered to deal with service pressures expected and occurring as a result of the COVID-19 pandemic arising, for example, because of staff absence and requirements to act in accordance with public health advice. It is acknowledged that some of those pressures may continue or might re-emerge at the end of the pandemic as demand for children's social services continue to grow.
- 4 We are consulting on a small number of modifications to Regulations required because pressures in the service areas/practice issues to which they relate have not sufficiently diminished. Following consultation, we will revise and update the draft regulations, as necessary. It remains the Department's

position that any temporary modifications will only remain in place for as long as they are needed and this will be kept under review.

## Consultation

- 5 The existing Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020 will expire on 7 May 2021. This consultation seeks your views on making a further set of modification Regulations for up to a further six months with provision relating to the following:
- i. provision which permits virtual visits by social workers to looked after children;
  - ii. provision which enables registered providers to undertake virtual monthly visits to children's homes;
  - iii. provision which extends the timeframe of an emergency placement with foster carers;
  - iv. provision which extends the timeframe for an immediate placement with kinship foster carers prior to approval;
  - v. provision which extends the timeframe to complete reviews of foster carers prior to approval.

### The rationale for extending the modification regulations for a further period

- 6 The Department has always been clear that the flexibility provided by the Regulations already in place would continue only for as long as needed and would expire on 7 May 2021. However, the challenges from the pandemic remain significant, not least given the context of the new, more transmissible variants of the virus and an increase in infection rates.
- 7 As a result, the Department does not consider it possible to revoke the existing modification Regulations in full at this stage. Rather, it is considered that a level of flexibility in a small number of areas

continues to be required for a further period to support staff to safeguard and promote the welfare of children in their care within the confines of what it required of them in law.

- 8 As was the case previously, the practice supported by the modifications is intended to apply only where absolutely necessary and until normal services can be resumed. Plans to assist children's social services to return as soon as possible to business as usual are in development.
- 9 As before, a further more limited set of modification Regulations is intended to enable certain functions to be undertaken within slightly longer timescales or in different ways, for example, using remote audio-visual communication technology rather than meeting in person in order to meet social distancing and social isolation requirements.

## Assurance mechanisms

- 10 While the Department is proposing to extend flexibility in a limited number of areas up to 7 November 2021, it will continue to recommend in guidance that the flexibility should be used only when absolutely necessary, and in response to the pandemic. Following consideration of current modifications, 12 will fall away, leaving five modifications/easements in place. Each HSCT which applies the flexibility permitted will ensure that it is subject to robust scrutiny and monitoring by senior officers; and the reasons for applying the flexibility should be recorded. Existing guidance will be updated and re-issued to accompany any new legislation. However, most of the current advice will remain relevant, allowing for adjustments to some timescales.
- 11 The flexibility permitted by way of a further set of Regulations will also continue to be underpinned by:
  - The full application of the principle of paramountcy of the child;



- A comprehensive risk and needs assessment of each child's and family's circumstances
  - The exercise of professional judgment on the basis of assessments undertaken;
  - Consideration of the views of the child or young person in decisions that affect them;
  - Ongoing support for the child or young person, including access to advocacy services;
  - A robust risk management plan developed in partnership with other agencies if necessary;
  - Ongoing or continuous monitoring of individual cases, leading to revised risk management plans if necessary;
  - Immediate responses where they are considered necessary;
  - The continuation of services in accordance with previously agreed plans (with adjustments for public health purposes if required); and
  - The provision of new or additional services, where risks or needs identified indicate that they are required to meet needs and/or minimise or mitigate risks to the child either in safeguarding or welfare terms.
- 12 Monitoring arrangements, including the publication of a monthly monitoring report will continue. The report will continue to be provided to the Assembly Health Committee and to key stakeholders, in particular, the Northern Ireland Commissioner for Children and Young People.

### *The proposals in detail*

- 13 As outlined above, the proposal is to make a set of Regulations, which retain a small number of the modifications contained in Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020. The decision to retain some but not all of the modifications is based on the data obtained through the monitoring arrangements put in place to support the implementation of the original Regulations. There is evidence to demonstrate that the flexibilities have been

used proportionately to date and that would continue to be the Department's expectation going forward. It is also based on discussions with Directors of Children's Services in Health and Social Care Trusts and in the Health and Social Care Board. Relevant monitoring information is provided at **Annex A**. It is intended that the Regulations will remain in place for up to a further 6 months (until 7 November 2021). They will be revoked more quickly if the evidence obtained through monitoring arrangements suggests that they can. The modifications proposed are set out below.

#### **a. Visits by social workers**

##### ***What we are proposing***

The proposal is to modify the following Regulations:

- the Placement of Children with Parents etc. Regulations (Northern Ireland) 1996/463,
- the Foster Placement (Children) Regulations (Northern Ireland) 1996/467, and
- the Adoption Agencies Regulations (Northern Ireland) 1989/253.

##### ***What will this mean?***

This will enable HSC Trusts to conduct visits to looked after children virtually. A virtual visit may be conducted by telephone, video-link or other electronic means. As before, the general rules around virtual visits to looked after children will be stipulated in guidance, which will make clear that they should only take place: in exceptional circumstances; where a face to face visit would either be contrary to public health advice in relation to COVID-19; or where it is not reasonably practicable for the visit to take place face-to-face for a reason relating to the incidence or transmission of coronavirus (COVID-19).

The continuing inclusion of virtual visits recognises that there are some circumstances where face-to-face visits may be contrary to public health guidance and guidance on coronavirus, for example, if children or workers were required to self-isolate. Virtual working and visits enable the delivery of local children's social care services and safeguarding to continue, with a level of contact with children to check that they are safe, that they would not have otherwise. The HSCTs will be required to keep a record of any visit (virtual or otherwise) carried out.

This is not a blanket permission for all such visits to be held virtually. The Department is clear that visits should happen, whenever possible, face to face, and should be sufficient to meet the intended purpose of the visit whether that is safeguarding or promotion of the child's welfare.

### *Why is this necessary?*

Monitoring data provides evidence that HSCTs continue to need the option of conducting a visit to a child using telephone, video-link or other electronic means where it would be contrary to public health requirements to visit him or her in person. Data shows that over the past 9 months the proportion of visits that HSCTs have conducted remotely has fluctuated in broad correlation with the incidence of Covid-19 in Northern Ireland. There is also a correlation between incidences of localised outbreaks and resultant higher levels of visits being conducted remotely in affected HSCT areas. This offers strong evidence that the flexibility to conduct visits remotely is being used as intended, that is, where face-to-face visits would be contrary to public health guidance. For example, in January 2021, when infection levels were at their highest, 56.4% of visits were conducted remotely, whilst only 18% of visits were conducted remotely in August, when incidence of the virus was relatively low.

**See Annex A, Table 1 for statistical evidence of use.**

## **b. Visits by registered providers**

### ***What we are proposing***

The proposal is to modify the following Regulations:

- the Children's Homes Regulations (Northern Ireland) 2005/176

### ***What will this mean?***

This will enable visits by the registered provider to a children's home to be undertaken virtually and in accordance with departmental guidance. The registered provider is required to continue to contact the children's home at least once per month. However, remote engagement methods can be used and, in these circumstances, they should consider maintaining more regular contact with the home(s). In order to minimise footfall in the home and to the risk of introducing and/or spreading infection, visits directly into children's homes should only be undertaken in accordance with public health advice.

Where possible, the registered provider's contact with children, parents and workers should continue remotely using alternative methods of communication and participation, such as audio-visual technologies. Monthly monitoring reports must continue to be produced and submitted to the Regulation & Quality Improvement Authority, the manager, the placing authority and, where appropriate, directors / partners.

### ***Why is this necessary?***

We know from monitoring data that registered providers of children's homes continue to need the option of conducting a visit to homes using telephone, video-link or other electronic means where it would be contrary to public health

requirements to visit in person, in particular where there is a requirement to self-isolate because of Covid-19. The data shows that during periods when infection rates have been particularly high resulting in imposition of lockdowns, levels of use of this flexibility have increased – for example, in August and September 2020 39% of visits were conducted remotely, whilst this figure increased to 86% in January and February 2021.

**See Annex A, Table 2 for statistical evidence of use.**

### **c. Foster Care reviews**

#### ***What we are proposing***

The proposal is to modify the following Regulations:

- the Foster Placement (Children) Regulations (Northern Ireland) 1996/467

#### ***What will this mean?***

This will enable HSC Trusts and Independent (Not for Profit) Fostering Agencies to work flexibly, if needed, to maintain essential fostering services. Annual reviews of foster carers and their household should still be undertaken and, wherever possible, the 12 month timescale should be adhered to. However, they may be delayed beyond the 12 month period up to a maximum period of 15 months, if necessary. It is important to note that the approving authority may still terminate the arrangement if they are no longer satisfied that the foster carer or their household continue to be suitable.

#### ***Why is this necessary?***

We know from monitoring data that a number of HSCTs continue to require an extended period to complete annual

foster carer reviews. Since the onset of the pandemic, staffing challenges and increased demand for children's social care services have continued to diminish the capacity in some HSCTs to conduct all foster carer reviews within the usual 12-month timeframe. During the pandemic a number of carers took a break from fostering, in some cases due to shielding or illness, meaning it has not been appropriate to conduct an annual review until the carer resumes fostering. There remains a need, therefore, to provide Trusts with scope to delay reviews by up to 3 months in such circumstances.

**See Annex A, Table 3 for statistical evidence of use.**

#### **d. Emergency Foster Care Placements**

##### ***What we are proposing***

The proposal is to modify the following Regulations:

- the Foster Placement (Children) Regulations (Northern Ireland) 1996/467.

##### ***What will this mean?***

This will mean that it will be possible for a child to remain in the care of an approved foster carer in emergency circumstances for a longer period than would normally be the case. This was originally proposed to enable a child who is required to self-isolate, for example, to remain with the same foster carer for the duration of the period of self-isolation. To reflect the reduction in the required self-isolation period from 14 to 10 days, we propose to limit the duration of emergency placements to 10 days under the new regulations.

This means that in an emergency, Trusts may place a child with an approved foster carer for a period not exceeding 10

days (rather than 24 hours as is normally the case). Emergency placements beyond 24 hours should, in the main, be restricted to circumstances where a child is required to self-isolate due to COVID-19 related symptoms or in confirmed cases of infection

### *Why is this necessary?*

We know from monitoring data that there remains a need for HSCTs to place children in an emergency foster care placement for longer than 24 hours. This has been particularly evident during the latest eave of the pandemic in early 2021, when 15 emergency placements of 24 hours to 14 days were made in January and 19 in February. Rates of extended emergency placements have varied by HSCT, reflecting variations in availability of foster carers, differing rates of admissions of children to care and incidence of placement disruption. For example, in one HSCT area high rates of admissions of children to care and the need to accommodate sibling groups in September resulted in 9 emergency placements lasting beyond 24 hours. Emergency placements have also been extended where children needed to self-isolate after having been in contact with a Covid-19 positive case prior to admission to care. During periods of lower infection levels, rates of emergency placements for longer periods have declined, showing that they are being used for their intended purpose: there were only 3 such placements across Northern Ireland in August 2020 and 3 in September 2020. Monitoring has shown that longer emergency placements enable HSCTs to make temporary arrangements for placement of children whose foster carers have Covid-19 or who are otherwise affected by the pandemic, for example a requirement to shield. They are also required where there is difficulty securing a placement for adolescents.

**See Annex A, Table 3 for statistical evidence of use.**

## **e. Immediate Foster Care Placements**

### ***What we are proposing***

The proposal is to modify the following Regulations:

- the Foster Placement (Children) Regulations (Northern Ireland) 1996/467.

### ***What will this mean?***

This will mean that the approval of a kinship foster carer by a foster panel can take longer than in normal circumstances. While the child is in the care of the foster carers, assessments are taking place, fostering allowances are paid and support is provided if considered necessary. Again, the general expectation is that approval by foster panel should take place within normal statutory timescales.

We propose to minimise the impact of this modification as far as possible. As a result, we propose to limit the duration of immediate placements to 16 weeks under the new regulations (an increase of 4 weeks from the 12 week requirement under the original regulations but a reduction from 20 weeks under the current modifications).

### ***Why is this necessary?***

We know from monitoring data that challenges associated with the pandemic have resulted in HSCTs taking longer in some cases to take a child's placement to foster panel for approval. In some cases, this is because of the challenge in convening panel meetings, in others because it has been difficult to complete the full range of assessments necessary - often because of Covid-19 restrictions or delays in associated processes such as court proceedings, accessing interpreting services and completing statutory checks. There were 37 immediate foster care placements lasting 6-20 weeks in



February 2021, and between 22 and 29 children remained in their placements for longer without the approval of a foster panel in every month between July and January. In one Trust area, high levels of admission to kinship care placed demands on the kinship assessment team, resulting in a need to extend the duration of immediate placements.

**See Annex A, Table 3 for statistical evidence of use.**

## Consultation Questions

- 1. Do you think that we should extend the existing temporary modifications to allow virtual contact/visits by social workers where a face to face visit is not possible, for up to a further six months, until 7 November 2021?**

Agree

Disagree

### Comments (maximum 250 words)

- 2. Do you think that we should extend the existing temporary modifications to allow virtual contact/visits by registered providers where a face to face visit is not possible, for up to a further six months, until 7 November 2021?**

Agree

Disagree

### Comments

**3. Do you think that we should extend the existing temporary modifications to allow the time taken to undertake a review of a foster carer to be extended from 12 months to a maximum of 15 months, for up to a further six months, until 7 November 2021?**

Agree

Disagree

**Comments**

**4. Do you think that we should extend the existing temporary modifications to allow for an emergency placement of a child with an approved foster carer to be extended from 24 hours to 10 days, for up to a further six months, until 7 November 2021?**

Agree

Disagree

**Comments**

**5. Do you think that we should extend the existing temporary modifications to allow for an immediate placement of a child with a foster carer without approval by foster panel to be extended from 12 weeks to 16 weeks, for up to a further six months, until 7 November 2021?**

Agree

Disagree

**Comments**

**Personal Information**

**About You:**

- 1. Please provide your name**
- 2. What is your email address?**
- 3. What HSC Trust area are you based in?**
- 4. Are you responding as an individual, or as part of an organisation (please circle)?**

**Individual/HSC Trust/charity/political party/other organisation**

## ANNEX A

## MONITORING DATA – WHAT IT SHOWS

TABLE 1										
Category Monitored		Month Ending:								
		Jun 2020	July 2020	Aug 2020	Sept 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021
<b>Visit</b>										
<b>Visits to Looked After Children</b>	No. and % of visits that took place during month	99% (4,095 out of a planned 4,118)	99% (4,555 out of a planned 4,568)	99% (3,961 out of a planned 4,016)	99% (3,960 out of a planned 3,982)	99% (3,911 out of a planned 3,938)	99.5% (4,030 out of a planned 4,049)	99% (4,124 out of a planned 4,136)	99.5% (3,962 out of a planned 3,980)	99.6% (4,071 out of a planned 4,088)
	No. and % of visits deferred	0.5% (23)	<1% (13) (60% ↓)	1% (55) (100% ↑)	<1% (22) (↔)	0.6% (27) (20% ↑)	0.5% (19) (↔)	0.3% (12) (40% ↓)	0.5% (18) (↔)	0.4% (17) (20% ↓)
	% of visits that continued on a face-to-face basis	56%	72% (29% ↑)	81% (45% ↑)	84% (50% ↑)	79% (41% ↑)	82% (46% ↑)	83% (48% ↑)	43.1% (23% ↓)	42% (25% ↓)
	% that took place remotely	44%	28% (36% ↓)	18% (59% ↓)	15% (66% ↓)	20% (55% ↓)	17.5% (60% ↓)	17% (61% ↓)	56.4% (28% ↑)	57.6% (30% ↑)

TABLE 2										
Category Monitored		Month Ending:								
		Jun 2020	July 2020	Aug 2020	Sept 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021
<b>Visit</b>										
<b>Registered Provider visits to children’s homes</b>	No. of monthly monitoring reports submitted by registered providers of children’s homes to RQIA	47	50 (6% ↑)	51 (9% ↑)	51 (9% ↑)	50 (6% ↑)	50 (6% ↑)	50 (6% ↑)	49 (4% ↑)	50 (6% ↑)
	% of visits that took place remotely	87%	58% (33% ↓)	39% (55% ↓)	39% (55% ↓)	46% (47% ↓)	70% (19.5% ↓)	70% (20% ↓)	86% (1% ↓)	86% (1% ↓)

TABLE 3										
Category Monitored		Month Ending:								
		Jun 2020	July 2020	Aug 2020	Sept 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021
<b>Approval</b>										
<b>Children in Foster Care</b>	No. of children placed in an emergency for a period between 24 hours and 14 days	15	19 (27% ↑)	3 (80% ↓)	3 (80% ↓)	9 (40% ↓)	7 (53% ↓)	8 (47% ↓)	15 (↔)	19 (27% ↑)
	No. of children placed in an immediate placement for between 12 and 20 weeks	50	22 (56% ↓)	26 (48% ↓)	23 (54% ↓)	24 (52% ↓)	29 (42% ↓)	24 (52% ↓)	25 (50% ↓)	37 (26% ↓)
	No. foster carers did not receive their 12 monthly review this month	65	52 (20% ↓)	46 (29% ↓)	60 (8% ↓)	69 (6% ↑)	63 (3% ↓)	46 (29% ↓)	27 (52% ↓)	50 (23% ↓)
	No. of foster care reviews completed more than 3 months after the annual review was due.	112	237 (112% ↑)	242 (116% ↑)	255 (128% ↑)	262 (134% ↑)	195 (74% ↑)	186 (66% ↑)	212 (89% ↑)	234 (109% ↑)

