

British Association of Social Workers (BASW) response to The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 which came into force 24 April 2020

BASW is the UK's professional association for social work, led by and accountable to a growing membership of 21,000 social workers. Our members work in direct social work practice, management, research and academic positions in diverse social work settings across the UK. BASW members share a collective commitment to the professional Code of Ethics, core social work values and principles that will secure the best possible outcomes for children and young people, adults, families and communities.

The Adoption and Children (Coronavirus) (Amendment) Regulations 2020, henceforth described here as 'the Regulations', were published on Thursday 23 April and came into force on Friday 24 April.

It is easy to lose sight of how significant 'the Regulations' are: partly because of the title which fails to convey the breadth of the changes, partly the way 'the Regulations' are drafted as amendments to some ten other pieces of legislation and statutory guidance^[i] (which then involves accessing ten other pieces of legislation) plus other 'connected' law and statutory guidance and partly how the accompanying explanatory guidance is drafted.

The Regulations, among other things, make significant changes to statutory visits and statutory reviews for looked after children, fostering and adoption panels, adoption agencies, fostering agencies, private fostering, children's homes, complaints and representations amongst other areas.

A great deal of the text of the Regulations uses the phrase 'as soon as is reasonably practicable', thus while the Regulations lower 'the floor' of some key standards, local authorities are perfectly at liberty to maintain the current (higher) standards.

The Regulations expire on 25th September (Regulation 14) but may be renewed subject to a review by the Secretary of State (Regulation 13).

Statutory visits and reviews

This briefing focusses on two specific areas of change: statutory visits and statutory reviews for looked after children.

- **Statutory Visits.** Social work visits and talking to the child are key to establishing the safeguarding and well-being of a child. Section 28 of the 'Care Planning, Placement and Case Review Regulations 2010' requires the minimum of a social work visit within one week of a new placement, thereafter every six weeks, and then in a long-term placement every six months (with the child's consent). The Regulations (Regulation 8(13)) amend this to permit visits 'as soon as is reasonably practicable' and also states the 'visit' can be 'conducted by telephone, video-link or other electronic means'.

- **Statutory Reviews.** Regular 'looked after child' reviews, are key to the well-being and safeguarding of a child, ensuring all professionals work together in the child's interests, and subjecting the process to the independent scrutiny of the Independent Reviewing Officer. Section 33 (2) of the 'Care Planning, Placement and Case Review Regulations 2010' requires 'the second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months.' The Regulations substitute this six-month requirement to 'where reasonably practicable thereafter.'

BASW notes:

Covid -19 presents a national threat. Flexibility is required to meet this threat. Social workers exercise professional judgement within a framework of law, policy and appropriate organisational accountability. This professional judgement is particularly valuable in working with the reality of Covid -19.

It is odd that the one-page explanatory note that comes with the guidance omits to address perhaps the most high-profile changes: i.e. to statutory visits and reviews for looked after children.

Some of the changes in the Regulations seem suspiciously close to the 'freedoms' that were in the Children and Social Work Bill 2016/17, clauses that were subsequently thrown out by a coalition of Parliamentarians, after a vigorous campaign by civil society groups and service users.

The safeguards against the continuation of these changes after 26th September 2020 seem absolutely minimal (a review by the Secretary of State).

Legislation and statutory guidance is often accompanied by a declaration of compatibility with human rights in law. The Regulations contain no such declaration.

Looked after children and young people are among the most vulnerable in society. Hard won rights in law are not simply bureaucratic processes but exist to protect children and young people and promote their well-being.

BASW is extremely concerned about the lack of due democratic parliamentary process and the formal enactment of this statutory instrument, which risks removing fundamental protections for children.

Many of the regulatory amendments wholly undermine children's rights and do not put the welfare, best interests and rights of the child at the heart of these changes.

BASW was not consulted on the statutory instrument and our members have not reported being directly involved in any online, virtual or other digital consultation events.

The role of social workers in a pandemic is to continue to be the defenders of social justice, to promote human rights and to ensure there is parity of equity for children, young people, adults and families.

Social workers are working in unprecedented times, the government and employers need to ensure social workers are given the tools, including Personal Protective Equipment to undertake their roles safely, including visiting and having direct contact with vulnerable children in line with former statutory and regulatory requirements.

The easing of regulations contained in this instrument raises significant concerns especially around the welfare and safeguarding of vulnerable children, children in need, children looked after and children on protection plans.

We urge the government to withdraw this instrument and consult the sector and parliamentarians.

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