



Welsh Government

Consultation – summary of response

ADOPTION AND FOSTERING (WALES) (MISCELLANEOUS AMENDMENTS) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2021

March 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.



Overview

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

MA/JM/0834/21 - Making of The Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) (Amendment) Regulations 2021

The consultation was published on 16th February 2021 and closed on 2nd March 2021.

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

Action Required

For information only.

Further information

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Section 1

1. Background	3
1.1. Adoption Agencies (Wales) Regulations 2005	3
1.2 Care Planning, Placement and case review (Wales) Regulations 2015	4
1.3 Consultation	4

The Purpose for Change

Section 2

1. Feedback on proposals	5
2. Welsh Government Response	5
3.1 Adoption Agencies (Wales) Regulations	5
1.2 Care Planning, Placement and Case Review (Wales) Regulations 2015	6

Annexes

Annex A – List of respondents	7
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Consultation Response Summary

Section 1:

1. Background

The Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 (“the 2020 Regulations”) came into force on 1st November 2020. They made amendments to the regulations which regulate adoption and fostering in Wales: the changes were introduced in light of the pressures on adoption and fostering sectors due to the pandemic, and 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 amendments made by the 2020 Regulations are due to expire on 31st March 2021. They make changes to 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 therefore granted on the 1st April 2020 to enable stage 1 and stage 2 of the two stage assessment process to run concurrently. This meant, for example, that health assessments could be undertaken during stage 2 of the process.

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

Applicants were advised that they were not able to access the Independent Review Mechanism (IRM) in the event that their applications were unsuccessful for

reasons relating to, for example to DBS or health checks, as would have been the case if these checks were completed in stage 1. Adopters were able to access the IRM after stage 2, if their application failed for any other reason not relating to DBS, health or local authority checks such as child protection issues.

(i) Easements of timescales for completion of stages 1 and 2 and length of time prospective adopter can pause between stage 1 and 2

The 2020 Regulations give legislative effect to these administrative easements and also amended (for the duration of the 2020 Regulations) 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 are only be required to meet the timescales **where reasonably practicable**.
- The 6 month limit on the length of time a prospective adopter could leave between stage 1 and stage 2 has been removed.

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

The 2020 Regulations 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.

1.3 Consultation

Due to the continuing issues associated with the pandemic and the pressures that the local authorities, third sector and health teams are experiencing, a 2 week consultation was undertaken between 16th February and 2nd March to seek views on whether there is a need to continue these arrangements over a longer period to further support delivery of services.

To amend the expiry date and the date within the consequential savings provision specified in the 2020 Regulations, an amending set of Regulations, The Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) (Amendment) Regulations 2021 would need to come into force from 30th March to support the extension. The 2020 Regulations will therefore continue to have effect from 1st April to 30th September. If the Welsh Government considers the situation to be improving, it can revoke these Regulations at an earlier date

7 responses were received to the consultation. All responses have been considered equally in terms of the comments received. A list of respondents is attached at Annex A.

A summary of the responses, together with the Welsh Government's analysis and conclusions, can be found at Section 2.

Section 2:

2 Summary of Responses received

There was a consensus that the Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 have enabled the continuation of services and helped assure that children awaiting placements do not experience unnecessary delays in being placed with families.

With the current flexibility to the Adoption Agencies (Wales) Regulations 2005, regional collaboratives and voluntary adoption agencies are effectively able to recruit, assess and approve adopters, thus ensuring that there are no issues with delays for adopters.

The changes to the Care Planning, Placement and Case Review (Wales) Regulations 2015 has also been highlighted as benefitting the sector during the pandemic where it has been difficult to obtain certain references and reports within 16 to 24 weeks.

It is clear that the flexibilities introduced to both sets of Regulations are also directly supporting the difficulties the fostering and adoption sectors are experiencing with obtaining reports from applicants' GPs, particularly as GP practices are involved in the Covid-19 vaccination programme.

The general feeling was that it is important that the easements and flexibilities associated with the 2020 Regulations continues over a longer period as agencies are still dealing with the effects and pressures associated with the Covid-19 pandemic. It was agreed that this should be kept in place until the situation has considerably improved.

3 Welsh Government Response

Welsh Government recognises the overwhelming support for the change to the expiry date of the 2020 Regulations.

3.1 Adoption Agencies (Wales) Regulations 2005

This easement will continue to provide an important protective factor to mitigate against lengthy delays in the placing of children and will therefore support placement sufficiency and efficiency. The process continues to offer 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 is clear that services are not able to work as normal, there are still some delays with accessing some checks such as medical assessments and these easements are therefore supporting the assessment and approval process to progress where they can, and operate effectively and efficiently during the pandemic. This is in turn preventing backlogs in the system.

The National Adoption Service published a guidance document to support the introduction of the easements brought into effect through the 2020 Regulations. This has been

welcomed by the adoption sector in ensuring a consistent approach is implemented throughout Wales. The guidance document will be updated to support the 2021 Regulations.

The National Adoption Service operates a Performance Management System which is closely monitoring the effectiveness of the easements associated with assessing and approving adopters. It is clear that the implementation of this easement during the pandemic is positively impacting the sector as the average time to assess and approve an adopter from application stage has been maintained at an acceptable level.

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

The continuation of providing an 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. It is clear that this extension will continue to support the sector during the pandemic where it has been difficult to obtain certain references and reports within 16 to 24 weeks.

The 2021 Regulations extend the expiry date of the 2020 regulations and does not introduce any other substantial amendments. Therefore, any current placements will not be automatically extended and will still be subject to the 24 week period (as introduced by the 2020 regulations). If an appropriate authority did seek to extend a placement, they would need to follow the procedure in regulation 27

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.

Association for Adoption and Fostering Wales (AFA Cymru) has produced a good practice guide to support the changes which were brought into effect through the 2020 Regulations and this has been welcomed by the sector. This will be updated to support the 2021 Regulations.

Annex A – List of respondents

No	Confidential Y / N	Organisation/On behalf of
1.	✓	Ynys Mon County Borough Council
2.	✓	Flintshire County Borough Council
3.	✓	Children's Commissioner for Wales
4.	✓	Conwy County Borough Council
5.	✓	Torfaen County Borough Council
6.	✓	Public Health Wales
7.	✓	Powys County Council