Coronavirus Measures Updates

7 May 2020
Children in care

On 7 May 2020, the Department of Health regulations aimed at temporarily modifying children’s social care arrangements during the pandemic came into force.¹ The regulations remove or relax statutory requirements for a period of six months, instead requiring that decisions are made on the basis of Departmental guidance, except in the case of secure accommodation where any change to statutory requirements must be made by legislation.² The Departmental guidance is subject to ongoing review and may be updated as required.³ Additionally, the regulations can be revoked at an earlier stage, if possible.⁴

Originally, a child placed with parents, foster carers or for adoption should be visited within one week of a new placement, at least every four weeks during the first year and at least every three months thereafter,⁵ under the new regulations this arrangement is subject to any changes issued through departmental guidance.⁶ The guidance currently states that these visits should continue with the normal timescales where possible and any changes should be kept under continuous review.⁷

In the context of care homes, regulations only exist for visits by the registered provider to a children’s home, which require that a registered provider visits the respective children’s home at least once per month to conduct interviews and inspect the premises. The registered provider must also prepare a written report of each visit that is supplied to the Regulation and Improvement Authority, registered manager of the children’s home, placing authority and, where relevant, directors and partners.⁸ The new regulations and guidance state that no direct visits should be undertaken to children’s homes until further notice, but that

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¹ Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020.
² Regulation 10, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020.
⁴ Ibid, at para 1.
⁵ Regulation 9, The Placement of Children with Parents etc Regulations (Northern Ireland) 1996; Foster Placement (Children) Regulations (Northern Ireland) 1996; Adoption Agencies Regulations (Northern Ireland) 1989.
⁶ Regulation 2, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020.
⁸ Regulation 32, Children’s Homes Regulations (Northern Ireland) 2005.
remote engagement methods should be used by the registered provider to continue to contact the children’s home at least once per month and monthly monitoring reports must continue to be produced and submitted.

The regulations permit accelerated approval of foster carers and the placement of children with approved prospective adopters and registered childminders.\(^9\) They enable the timeframes for reviews of foster parents to be extended from 12 months to ‘as soon as practicable’, but no longer than 15 months.\(^10\) They extend the timeframe for emergency placements with an approved foster parent from 24 hours to 14 days, and for immediate placements with a relative or friend from 12 weeks to 20 weeks.\(^11\)

The guidance is clear that if a Health and Social Care Trust has the capacity to do so, it should continue to comply with the normal timescales for reviews.\(^12\) However, if this is not possible, regulations enable the requirement for a first review of a looked after child placed at home, in foster care or in children’s homes to take place within four weeks (it should take place within two weeks), the second review to take place within six months after the first review (it should take place within three months), and subsequent reviews should continue to be conducted not more than six months after the date of the previous review.\(^13\) Looked after children in secure accommodation continue to have their first review within one month of the commencement of the placement and subsequent reviews should be conducted at intervals not exceeding four months (as opposed to the current three months).\(^14\) The existing timescales for reviews of looked after children placed on a series of short breaks continue to require an initial review at three months and subsequent reviews every six months, but this may be subject to change.

\(^9\) Regulation 3, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020. See also Foster Placement (Children) Regulations (Northern Ireland) 1996.

\(^10\) Regulation 3, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020.


\(^12\) Department of Health, ‘COVID-19: Guidance to Accompany the Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020, at 11.

\(^13\) Regulations 4 and 9, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020; Department of Health, ‘COVID-19: Guidance to Accompany the Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020, at 9-10. See also Children’s Homes Regulations (Northern Ireland) 2005.

\(^14\) Regulation 6, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020; Department of Health, ‘COVID-19: Guidance to Accompany the Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020, at 10. See also Children (Secure Accommodation) Regulations (Northern Ireland) 1996.
under the new regulations. Reviews for looked after children placed for adoption, must take place if an application for an adoption order has not been made within six months of the placement. For children freed for adoption, but not yet placed, where nine months have elapsed the adoption agency must review the child’s case at that point and every six months thereafter. Pathway plans for children leaving care usually must take place every six months, but the regulations extend this to every nine months, unless an earlier review is requested by a young person or personal adviser.

For secure accommodation, the number required to review keeping a child in secure accommodation is reduced from three to two people by the regulations.

Regarding complaints, the regulations extend the period for local resolution from 14 to 28 days. The authority and independent person has two months to respond, which has increased from 28 days. The complainant has two months to give notice of dissatisfaction and seek reference to the panel, which has also increased from 28 days. The panel must continue to meet within 28 days of receiving the complaint’s notification. The panel must decide and record its recommendation within 72 hours, which is increased from 24 hours.

These regulations undertook accelerated passage through the legislative processes. The NI Assembly’s Examiner of Statutory Rules and Committee for Health, will be considering the regulations retrospectively and can take steps, if deemed appropriate, to annul the regulations. From 7 May 2020, the regulations were in full operation and will remain so, within the expiration date (six months from 7 May 2020). However, in the absence

15 Regulation 4, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020; Department of Health, ‘COVID-19: Guidance to Accompany the Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020, at 10. See also Review of Children’s Cases Regulations (Northern Ireland) 1996.
16 Regulation 4 and 7, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020; Department of Health, ‘COVID-19: Guidance to Accompany the Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020, at 10. See also Adoption Agencies Regulations (Northern Ireland) 1989.
17 Children (Leaving Care) Regulations (Northern Ireland) 2005.
18 Regulation 5, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020.
19 Regulation 6, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020. See also Children (Secure Accommodation) Regulations (Northern Ireland) 1996.
20 Regulation 8, Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020. See also Representations Procedure (Children) Regulations (Northern Ireland) 1996.
of any further steps being taken by the Examiner or Committee for Health the regulations will remain operational until the expiration date.

4 May 2020

Evictions
On 28 April 2020, the NI Assembly passed legislation that applies a 12 week notice to quit period to all tenancies during the emergency period, irrespective of the duration of the tenancy.\(^{21}\) It was given Royal Assent on 4 May 2020.

The emergency period is defined in the legislation as from the day after Royal Assent (5 May 2020) until 30 September 2020, but this period may be extended up to two years from the date of Royal Assent or shortened to a period specified by the Department for Communities. The legislation also allows the 12 week notice period to be extend to a maximum period of six months.

The legislation does not have retrospective effect and will not apply to a notice service before 4 May 2020.

1 May 2020

Planning consultations
From 1 May 2020, there is a temporary relaxation of pre-application community consultation requirements during the COVID-19 emergency period. This applies to an application for planning permission submitted either during the emergency period or within the period of six months immediately following the expiry of the emergency period. A proposal of application notice must be given to the Council or Department for Infrastructure before or during the emergency period.\(^{22}\)

\(^{21}\) Private Tenancies (Coronavirus) Modifications Act 2020.
\(^{22}\) Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020.
25 April 2020

Parental pay
From 25 April 2020, if an employee is furloughed, the reduction in income is not to affect their eligibility for statutory maternity, paternity shared parental or adoption pay or maternity allowance, if they would have otherwise been eligible on the basis of normal weekly earnings.\(^\text{23}\)

24 April 2020

Untaken leave
From 24 April 2020, if where in any leave year it was not reasonably practicable for a worker to take some or all of the leave to which the worker was entitled as a result of the effects of coronavirus (including on the worker, the employer or the wider economy or society), the worker can carry forward and take such leave in the two leave years immediately following the leave year in respect of which it was due. In other words, if a worker is unable to take leave in 2020/2021 due to coronavirus, this leave can be carried forward to 2021/2022 and 2022/2023. Furthermore, an employer may only require a worker not to take leave on particular days where the employer has good reason to do so.\(^\text{24}\)

If a worker’s employment is terminated and on the termination date the worker remains entitled to leave in respect of any previous leave year which was carried forward due to coronavirus, the employer must make the worker a payment in lieu of leave equal to the sum due for the period of untaken leave.\(^\text{25}\)

22 April 2020

Free school meals
At the end of March 2020, the Department for Communities and Department of Education announced that direct payments would be made

\(^\text{23}\) Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Normal Weekly Earnings etc) (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020; Maternity Allowance and Statutory Maternity Pay (Normal Weekly Earnings etc) (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020.

\(^\text{24}\) Working Time (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020.

\(^\text{25}\) Ibid.
into the bank accounts of families with children that were entitled to free school meals.\textsuperscript{26} On 22 April 2020, to accommodate such families that are unable to open a bank account, such as asylum seekers, the Home Office started issuing payments for free school meals through top up payments on Aspen Cards. These top ups are to made fortnightly until the end of June 2020 or until schools reopen (whichever comes first).

\textbf{21 April 2020}

\textbf{Discretionary Support Payments}

On 21 April 2020, the annual income threshold for discretionary support payments was increased to £20,405. This includes the income of any partner. This is based on the National Minimum Wage of £8.72 a week for people over 25 working for a 45 hour week.\textsuperscript{27}

\textbf{16 April 2020}

\textbf{Statutory sick pay}

From 16 April 2020, statutory sick pay eligibility extends to a person defined in public health guidance issued by the Regional Agency for Public Health and Social Well Being as extremely vulnerable and at very high risk of severe illness from coronavirus because of an underlying health condition and has been advised, by notification sent to, or in respect of, that person in accordance with that guidance, to follow rigorously shielding measures for the period specified in the notification.\textsuperscript{28}

\textsuperscript{27} Discretionary Support (Amendment No 2) (COVID-19) Regulations (Northern Ireland) 2020.
\textsuperscript{28} Statutory Sick Pay (General) Coronavirus Amendment) No 3) Regulations (Northern Ireland) 2020.