



# Association of **Lawyers for Children**

Promoting justice for children and young people

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The Association of Lawyers for Children (hereafter “ALC”) is a national association of lawyers working in the field of children law. It has close to 1,000 members, mainly solicitors and family law barristers who represent children, parents and other adult parties, or local authorities. Other legal practitioners and academics are also members. Its Executive Committee members are drawn from a wide range of experienced practitioners from both sides of the legal profession practising in different areas of the country. Several leading members are specialists with over 20 years’ experience in children law, including local government legal services. Many have written books and articles and lectured about aspects of children law and hold judicial office.

The ALC exists to promote access to and equality of justice for children and young people within the legal system in England and Wales in the following ways:

- i. lobbying in favour of establishing properly funded legal mechanisms to enable all children and young people to have access to justice;
- ii. lobbying against the diminution of such mechanisms;
- iii. campaigning and advocating on against any form of discrimination which may affect children within the family justice system
- iv. providing high quality legal training, focusing on the needs of lawyers and non-lawyers concerned with cases relating to the rights, welfare, health and development of children;
- v. providing a forum for the exchange of information and views on the development of the law in relation to children and young people;
- vi. being a reference point for members of the profession, governmental organisations and pressure groups interested in children law and practice; and
- vii. funding or co-funding research where we perceive gaps in knowledge or evidence relating to changes in policy and practice in children proceedings.

The ALC is a stakeholder in respect of all government consultations pertaining to law and practice in the field of children law and welcomes this opportunity to provide its views in respect of this consultation.

Open Letter in response to the temporary amendments in legislation, brought about by The Adoption and Children (Coronavirus) (Amendment) Regulations 2020.

The following does not address each of the amendments in turn, or at length but rather voices the position of the ALC Executive on some of the main issues raised by these amendments and any proposed continuation.

Given the unprecedented circumstances we find ourselves in, the ALC understands the need for local authorities to be relieved from strict compliance with timeframes for some of their regulatory and inspection functions, and the duty to carry out visits and reviews in person. We keep in mind the shortages of staff within any local authority. This includes personnel off work due to illness or those unable to attend an office, home or placement in person because shielding or isolation, making physical visits impossible.

It is particularly notable that many young people in care are placed at a distance from their home area. This is usually with good reason, to separate them from the risk that they are exposed to in that area, or to provide them with the best service for their particular needs. A local authority may not now be able to physically visit these young people, due to current limitations on travel, and restrictions upon people entering these placements. The provisions that allow for virtual interactions, including statutory visits, looked after child reviews and other meetings is acknowledged to be an appropriate and necessary step. What does cause our membership concern is the lack of guidance in respect of timescales for these meetings or visits to take place. It would have been prudent to include provision that these visits be undertaken within the timeframes normally required, and an extension to that timescale only where this is not possible. This would mitigate against any concern that these steps would not be undertaken at all. As drafted the concern is those duties seem all but extinguished during this period if they are to be undertaken “as soon as is reasonably practicable”. That being said, the ALC notes that the ‘Coronavirus Covid-19 Guidance for Local Authorities on Children’s Social Care’ sets out that where the legislative flexibilities are utilised the reasons for doing so should be properly recorded with reasons, which the ALC would expect to for each child’s individual case not a blanket extension across authorities.

It is recognised by the ALC that the relaxation on temporary approval of carers is motivated by an anticipated rise in children coming into care, in tandem with a shortage of approved

placements. The duty to review the suitability of foster carers was an annual review, that has now been replaced by a duty to do so “as soon as reasonably practicable” which does not appear to be a necessary extension of time. By way of analogy, we note that the Department for Transport has dealt with annual MoT tests by granting a blanket, but time-limited, extension of six months. We are aware that many professionals and representative bodies (our membership included) are concerned that “as soon as reasonably practicable” may drift into “never”. Having a fixed term extension (which could be further extended if necessary) would help to allay those concerns.

The requirement to annually or bi-annually inspect or review placements and providers of those placements, has also been replaced with the “as soon as is practicable” clause. Again, the ALC would prefer to see more stringent timescales applied, acknowledging that it may be appropriate to extend the usual requirements but with specific extensions of time provided for.

The ALC is aware that the amendments expire on 25 September 2020 and it is not anticipated that these measures continue in the long term. Our membership would be extremely concerned by any suggestion that these amendments should continue past the date above. The consultation process in respect of these emergency provisions was, limited in scope and time. It did not take the form of a usual consultation that would have been expected given the gravity of the changes and the concerns that have arisen following their implementation, albeit time-limited.. Should consideration be given to extending any, or all, of the amendments which are currently in force, the ALC would urge full consultation with a proper time period for responses to be gathered and considered. The ALC would welcome involvement in any such consultation.

Dated: 15 May 2020