

DERBYSHIRE COUNTY COUNCIL

CABINET

9 July 2020

Report of the Executive Director - Commissioning, Communities and Policy

Urgent Officer Decisions

Strategic Leadership, Culture and Tourism

1. Purpose of the Report

To ask Cabinet to note decisions made under urgent delegated powers arising from the Covid-19 virus pandemic.

2. Information and Analysis

The current challenges relating to the Covid 19 virus have necessitated urgent decision-making processes by Executive Directors and Directors to be implemented in order to ensure the welfare of service users and the public and to safeguard the interests of the Council

The Coronavirus Act 2020 has now been implemented alongside a range of related Regulations. The Regulations include provision for virtual meetings of Council bodies including Cabinet. These regulations took effect on 4 April 2020.

Members will appreciate that prior to these Regulations being introduced and Cabinet meetings resuming, it has been necessary for a range of decisions to be made. These decisions have been made under the urgent delegated powers to Executive Directors as set out in the Constitution. The relevant provision is as follows-

SPECIFIC DELEGATIONS TO EXECUTIVE DIRECTORS

Notwithstanding any other provision of this constitution, the Executive Directors shall have power, after discussion, if practicable, with the leader of the Council or the relevant Cabinet Member or Chairman, to take such action deemed to be necessary and expedient in matters requiring urgent consideration and which, because of the time scales involved, or the need to safeguard the interests of the County Council, cannot be dealt with by

submission to the next following meeting of the Council, Cabinet, Cabinet Member or Committee.

The following two decisions are being reported:

Appendix 1 – Home to School Transport – Interim Arrangements for the Summer Term 2020 due to Corona Virus

Appendix 2 - The Adoption and Children (Coronavirus) (Amendment) Regulations 2020

In the main, the decisions relate to short-term temporary arrangements which are subject to regular review. This is particularly important where subsequent Government guidance has been issued notably in area of Adult Care. It intended that as Cabinet is now able to function by meetings being held 'remotely' the need for officers to make urgent decisions will diminish over time.

3. Financial Considerations, Human Resources Considerations and Legal Considerations

As part of the urgent officer decision-making process, regard has been had to equality implications alongside legal, human resources and financial implications within the demanding time scales applying. However, a consolidated Equality Impact Assessment is being undertaken on all the decisions to date and will be considered at this Cabinet meeting.

4. Other Considerations

In preparing this report the relevance of the following factors has been considered: Human Rights, equality of opportunity, health, environmental, transport, property, social value, and crime and disorder considerations.

5. Background Papers

Details of officer decisions held within Departments.

6. Key Decision

As indicated in reports

7. Is it required that the Call-in period be waived in respect of the decisions being proposed within this report?

Not applicable

8. Officer's Recommendation

To note decisions made under urgent delegated powers arising from the Covid-19 virus pandemic.

Emma Alexander
Executive Director – Commissioning, Communities and Policy

DERBYSHIRE COUNTY COUNCIL**CABINET****9 July 2020**

Joint Report of the Executive Director – Economy, Transport and Environment
and the Strategic Director of Children’s Services

**HOME TO SCHOOL TRANSPORT – INTERIM ARRANGEMENTS FOR THE
SUMMER TERM 2020 DUE TO CORONAVIRUS (COVID-19) MEASURES
(HIGHWAYS, TRANSPORT AND INFRASTRUCTURE)**

(1) **Purpose of Report** To note the urgent decision taken by the Executive Director - Economy, Transport and Environment and the Strategic Director of Children’s Services, in accordance with the Council’s Constitution, for the revised temporary measures for school transport for mainstream and special schools and educational settings in response to measures required as a result of the Coronavirus (COVID-19) pandemic.

(2) **Information and Analysis** Due to the urgent timescales, including the announcement on 10 May 2020 by Prime Minister, Boris Johnson, that schools should re-open from 1 June 2020 and the necessity to communicate to all schools and educational settings prior to the break up for half term (22 May 2020); along with planning with transport providers, it has been necessary for an emergency decision to be taken by the Executive Director – Economy, Transport and Environment and the Strategic Director of Children’s Services which was approved on 28 May 2020.

Similarly, the urgency to plan for a managed return of school transport has meant that there has been insufficient time to undertake consultation to address all equality aspects. Wherever possible, however, equality consideration, particularly with regard to special educational needs and disabilities students, will be given priority.

The Government issued instruction for the re-opening of schools and educational settings to more students from 1 June 2020. Specifically, it prioritised the early year groups in Reception, Year 1 and Year 6 as most likely to benefit from returning. In addition, the Prime Minister confirmed on 24 May 2020 that secondary schools, sixth forms and colleges will also provide some face to face contact for up to a quarter of Year 10 and Year 12 students from 15 June 2020 to allow them to prepare for exams next year.

In addition to and within each year group, the following should be prioritised by schools:

- Children and young people in care and those with an Educational, Health and Care Plan (ENCP)
- Children and young people with a social worker, i.e. vulnerable children
- Key worker children.

Derbyshire County Council has a statutory duty to provide transport assistance for eligible students under Section 508B of the Education Act 1996 to mainstream and special educational needs and disabilities (SEND) educational settings up until the end of Year 11. However, many Year 12 mainstream students (6th formers) travel on the contracted network and pay a cash fare. As Year 12 are non-entitled students and they are not issued with a bus pass, there is less knowledge about the numbers who travel and the contact details of these families are unknown. In addition, some Year 10 students who are not entitled to travel assistance (e.g. those living under the 3 mile distance to their normal area school) also pay a fare to travel on either the spare capacity on the contracted network or on service buses.

The approximate numbers in each cohort is as follows:

	Mainstream	SEND	Total
Early years	0	14	14
Reception	7	27	34
Year 1	6	31	37
Year 6	28	97	125
Year 10	1171	167	1338
Year 12	600*	111	711*

(*Year 12 mainstream is an estimate only as they are fare payers and not known to the Council).

Planning has been on-going for several weeks in readiness for a safe resumption of home to school transport provision. Considerations include:

1. The numbers for entitled primary students are lower so the school transport teams (Mainstream and SEND) have contacted schools to establish how many of their younger pupils will travel into school from 1 June onwards. The school transport teams are reasonably confident that capacity will not be a problem for these younger year groups.
2. The transport teams have been working with secondary schools to establish the numbers of entitled Year 10 students who may be returning to school from 15 June 2020 onwards. This has proved more challenging than primaries with the greater numbers involved and the nervousness from SEND parents/carers, in particular, about sending their children back

to school. In addition, schools are still reviewing the safety measures which may have an impact on numbers attending, so it is an evolving situation.

3. Transport providers have been contacted to discuss seating capacity due to the required social distancing of 2 metres and to ascertain what alternatives, if any, can be implemented, such as plastic screening, removing seats, face coverings, etc.
4. For SEND transport, the transport team has been working on the general assumption that only one SEND student, unless they are siblings, and a passenger assistant will travel in a 4 or 6 seat taxi at any one time.
5. The transport teams have prepared several guidance notes for transport operators summarising latest advice from the Department for Transport. This guidance includes reference to the importance of detailed risk assessment, as well as the use of Personal Protective Equipment (PPE). An updated note was circulated week ending 29 May 2020. This advice is also intended to offer reassurance to schools that adequate support is being offered to transport providers and also that operators are considering risk and mitigation measures.

Proposals

Many schools are approaching the transport teams requesting flexible opening and closing times. Children's Services and the Economy, Transport and Environment Department have concluded that it is unrealistic to provide bespoke transport provision to every educational setting as this would put increased demand on the available provision. In addition, the constraints of both social distancing and health and safety measures may mean that the Council may not be able to provide full coverage for all the proposed year groups from the planned return dates.

Therefore, it is necessary to provide all schools and educational settings with some principles in order to prioritise those with greatest need in the identified year groups, as well as fulfil the Council's statutory duty. This may result in a reduction from normal levels of provision, although it is difficult to predict if this will happen with any certainty, given that it remains unclear exactly how many students will return on any one day.

These measures were communicated to all schools and educational settings before the close of play for Spring Bank half term. For the remainder of the school academic year only and until further review takes place, the interim measures will be as follows:

1. **Encourage non-use of public transport** Remind schools to encourage the non-use of public transport or contracted buses in line with Government advice. The emphasis should be on walking, cycling or private car use as the first mode of transport to school.
2. **Prioritising year groups** Schools should prioritise the year groups and key students who are classified in line with the Government guidance,

‘Actions for education and childcare settings to prepare for wider opening’
(updated 1 June 2020)

3. **Limited seating capacity** School Transport will work with individual schools about the anticipated capacity that can safely be provided for their site. This will be based on a combination of how many vehicles are currently contracted into their setting and the revised safe capacity on each of those vehicles, based on public transport distancing guidelines. By way of example, indications from the transport sector are that 53 seat vehicles may only take 10 passengers, 75 seat double decks may only take 16 passengers and 16 seat minibuses take 3-4 passengers. However, this is not a definitive position and seating ratios vary enormously as they are dependent on individual vehicle types, registered seating configurations and whether passengers are carried in wheelchairs (which reduces the seating capacity).
4. **Prioritising key students** It is likely that it will not be possible to accommodate all students on contracted transport. In the event of this, schools will be signposted to Government advice with regard to prioritisation about vulnerable students, children of key workers and primary age students and for their consideration of how the transport and attendance needs can best be managed with the capacity available
5. **Provision not normally made for Year 12 (non-entitled) students** - We will not normally provide transport for non-entitled Year 12 students for the summer term only (unless they have entitlement due to an Educational, Health and Care Plan). This is on the basis that Year 12 are not normally entitled to home to school transport provision and they are mostly fare paying. There are additional risks inherent in allowing cash fares to be collected on boarding for drivers, and on the whole, Year 12 are more able to access face to face school support by other means such as walking, cycling or parent/carers transporting. Individual hardship by Year 12 SEND students will be assessed with the school on a case by case basis
6. **Regular transport timetable** The Council will not routinely provide transport for schools at other required times, such as lunchtimes or different arrival/departure times, or to offer a bespoke service to each individual school or setting unless officers can negotiate directly with operators and no additional costs to the Council are incurred.

If overcapacity becomes an issue for entitled transport students, the Council will also consider offering parental reimbursement in lieu of school transport provision in adhering to its statutory duty. However, this again will only be an interim measure for the rest of the academic year or until further review takes place.

Other issues which have informed the proposals include:

- The over-riding need to only offer school transport if a) absolutely essential and b) safe for all parties.

- For schools to prioritise transport for those with greatest need in the Government's identified categories.
- The limited availability of extra vehicles in the market to offer a fully-compliant socially distanced service.
- Concerns from some operators about the ability of drivers to be able to monitor and enforce social distancing measures on school buses.
- The potential for considerable additional costs to the Council if bespoke services are agreed at each school setting, even if additional vehicles were to be available.
- The fact that the age profile of most drivers is male and in the over 50s year group which is therefore in a higher risk category.

These proposals will be monitored and formally reviewed by the Economy, Transport and Environment Department and Children's Services by the end of June 2020, unless there is a requirement to consider them before this date.

Alternative Options

These were considered as follows:

- 1) **Unmanaged return of home to school transport** To allow an unmanaged resumption of transport by not introducing control measures would be reckless and would cause overcrowding on vehicles; therefore, this is not considered an appropriate option given the health and safety risks around transmission of COVID-19 and Government advice around social distancing
- 2) **Provide no transport** This is not considered an appropriate option given the Council's statutory duty to provide home to school transport to entitled students. Also, the Council has been providing a lower level during lockdown to vulnerable students and the children of key workers and want to respond to help schools in light of recent Government advice
- 3) **Provide transport for entitled students in all priority year groups in accordance with individual school requests and schedules for attendance (as opposed to adhering to normal timetable schedules)**
This is not considered an appropriate or deliverable option given the increased requirement for greater numbers of vehicles and drivers and the market limitations along with the increased costs to the Council.

In considering the risks of the proposals, health and safety and other concerns have led officers to conclude that any risks are manageable whilst balancing the requirement to adhere to Government guidance specified within this decision record.

(3) **Financial Considerations** It is most difficult to arrive at an estimate should the contracted network be unable to cope with numbers returning to secondary schools (where the higher numbers are) and there is a requirement to commission additional resources. The Council may be looking at an additional £80,000 from 15 June 2020 until the end of the summer term, although it must be emphasised this is for estimate purposes only.

(4) **Legal Considerations** Under [Section 508B](#) and [Schedule 35B](#) of the Education Act 1996, local authorities are under a duty to provide free school transport to 'eligible children', and under [Section 508A](#) of the Education Act 1996, local authorities must also promote the use of sustainable travel and transport for all children and young people of compulsory school age who travel to receive education in the local Council's area. The proposed course of action will ensure that the aforementioned 'eligible children' will continue to receive free school transport and that appropriate steps will be taken to ensure the safety of the transport provided in terms of social distancing and the prevailing Government guidance. In relation to non-eligible children, the Council will continue to offer assistance and support, including where appropriate, the use of parent/carers reimbursement. The Council will also continue to promote the use of sustainable travel and transport arrangements. Consideration of these proposals will be included in the combined Equality Impact Assessment regarding measures taken in response to the COVID-19 pandemic. The proposals are a proportionate response to the impact of the pandemic on the provision of school transportation.

(5) **Equality and Diversity Considerations** Ordinarily, changes relating to home to school transport provision are usually the subject of public consultation, however, these temporary measures are considered urgent due to the unprecedented situation caused by the COVID-19 pandemic and its impact on resumption of safe passenger travel.

Communication and engagement with schools has remained open and constructive with both mainstream and SEND schools and educational settings during lockdown as some home to school transport has continued, albeit at much reduced levels.

These discussions have increased significantly in the last few weeks as Government's advice about schools re-opening was announced and plans put in place. In addition, a Transport Officer has been involved with the 'Site and Transport' sub-group of the 'Future Shape' planning group in Children's Services and also the Heads of Special Schools Group, both of which have been helpful in engagement about transport matters.

The transport teams have also been in contact with several parents/carers about transport arrangements and have accommodated requests where this has been possible throughout the lockdown period.

There will be no changes to the nature of the transport provision in terms of reduced accessibility on vehicles for SEND students as wherever possible, transport providers will be using the same vehicles, drivers and passenger assistants as prior to lockdown.

(6) **Human Resources Considerations** The workforce which undertakes home to school transport contract services are drivers and passenger assistants who are either employees or sub-contractors of external providers. It should be noted that there may be local difficulties with some companies where a number of their driving personnel remain unable to work due to COVID-19 shielding measures. Suppliers have been asked to make the transport teams aware of any difficulties in fulfilling the terms of their contracts due to personnel shortages, and this has not presented any insurmountable issues to date.

(7) **Environmental and Health Considerations** There are significant health and safety concerns from a transport perspective in responding to the Government directive. These concerns fall into the following categories:

- Social distancing (mainstream) – reduced provision due to social distancing (SD) requirements.
- Social distancing (SEND) – necessary to reduce capacity to one student and passenger assistant in one taxi and 2-3 students on a 16 seat minibus (depending if one travels in a wheelchair).
- Capacity of vehicles – the market does not have the drivers or vehicles to supply a large amount of additional routes.
- Operator concerns – age/gender profile of most drivers (older males); driver availability as some remain shielded; handling of cash; risk of transmission; enforcement of mask wearing and adherence to social distancing by students; limiting numbers alighting the vehicle at bus stops, etc.
- PPE availability and conformity – particularly relevant for the transport of SEND students who typically travel in smaller vehicles, such as taxis with an accompanying passenger assistant. Some SEND children have challenging behaviours (such as spitting, touching) and some require personal contact during the journey to school.

(8) **Social Value Considerations** The Council issues free bus passes to students who have a statutory entitlement to travelling assistance to enable them to travel to school on the contracted school bus network.

It should be noted that transport suppliers are all local small and medium enterprises (SMEs), thereby helping to support jobs and the local economy.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, property and transport considerations.

(9) **Key Decision** Yes.

(10) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(11) **Background Papers**

1. Actions for Educational and Childcare Settings to prepare for wider opening from 1 June 2020
www.gov.uk/government/publications/actions-for-educational-and-childcare-settings-to-prepare-for-wider-opening-from-1-june-2020
2. Opening Schools and Educational Settings to more pupils from 1 June: guidance for parents and carers
www.gov.uk/government/publications/closure-of-educational-settings-information-for-parents-and-carers/reopening-schools-and-other-educational-settings-from-1-june
3. Coronavirus (COVID-19): implementing protective measures in education and childcare settings
www.gov.uk/government/publications/coronavirus-covid-19-implementing-protective-measures-in-education-and-childcare-settings
4. Coronavirus (COVID-19): Safer transport – guidance for operators
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/884370/coronavirus-covid-19-safer-transport-guidance-for-operators.pdf

(12) **OFFICER'S RECOMMENDATION** That Cabinet notes the urgent decision taken by the Executive Director - Economy, Transport and Environment and the Strategic Director of Children's Services, in accordance with the Council's Constitution, for the revised temporary measures for school transport for mainstream and special schools and educational settings in response to measures required as a result of the Coronavirus (COVID-19) pandemic.

Mike Ashworth
Executive Director – Economy,
Transport and Environment

Jane Parfremment
Strategic Director -
Children's Services

DERBYSHIRE COUNTY COUNCIL

OFFICER DECISION AND DECISION REVIEW RECORD

<p>Officer: Jane Parfremment and Mike Ashworth <i>*For emergency powers, this would be the Executive Director</i></p>	<p>Service: Children's Services and Environment, Transport and Economy</p>
<p>Delegated Power Being Exercised: Emergency Powers <i>*The delegation detailed in the Constitution to the specified officer or emergency powers</i></p>	
<p>Subject of Decision: (i.e. services affected)</p>	<p>Home to School Transport – interim arrangements for the Summer Term 2020</p>
<p>Is this a review of a decision? If so, what was the date of the original decision?</p>	<p>No</p>
<p>Key decision? If so have Democratic Services been notified?</p>	<p>Yes – notice given 01.06.20.</p>
<p>Decision Taken (specify precise details, including the period over which the decision will be in place and when it will be (further) reviewed):</p>	<p>Revised temporary measures for school transport for mainstream and SEND schools and educational settings in response to measures required as a result of the Covid-19 pandemic. To be reviewed early July and prior to end of academic year 2019/20.</p>
<p>Reasons for the Decision (specify all reasons for taking the decisions including where necessary reference to Council policy</p>	<p>The Government has issued instruction for the re-opening of schools and educational settings to more students from 1st June 2020. Specifically they are prioritising the early year groups of Reception, Year 1 and Year 6 as most likely to benefit from returning. In addition, the Prime Minister confirmed on 24 May 2020 that secondary schools, sixth forms and colleges will also provide some face to face contact for up to a quarter of Year 10 and</p>

<p>and anticipated impact of the decision) Where the decision is subject to statutory guidance please state how this has been taken into consideration.</p>	<p>Year 12 students from 15 June 2020 to allow them to prepare for exams next year.</p> <p>Within each year group, the following should be prioritised by schools:</p> <ul style="list-style-type: none"> • Children in care and children with Educational, Health and Care Plans • Those with a social worker i.e. vulnerable children • Key worker children. <p>Derbyshire County Council has a statutory duty to provide transport assistance for eligible students under section 508B of the Education Act 1996 to mainstream and SEND educational settings up until the end of Year 11. However many Year 12 students (6th formers) travel on the contracted network and pay a fare. As Y12 are normally non-entitled students, we have less understanding about the numbers who travel and largely do not know the contact details of these families. In addition, some Y10 students who are not entitled to travel assistance (e.g. such as those living under the 3 mile distance to their normal area school) will also travel on the contracted network or on service (public) buses. So in relation to the planned phased return of Y10 and Y12 from 15 June, this fare paying cohort is one we have little information on as they are largely non-entitled.</p> <p>The approximate numbers in each cohort is as follows:</p> <table border="1" data-bbox="491 1263 1310 1518"> <thead> <tr> <th></th> <th>Mainstream</th> <th>SEND</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Early years</td> <td>0</td> <td>14</td> <td>14</td> </tr> <tr> <td>Reception</td> <td>7</td> <td>27</td> <td>34</td> </tr> <tr> <td>Y1</td> <td>6</td> <td>31</td> <td>37</td> </tr> <tr> <td>Y6</td> <td>28</td> <td>97</td> <td>125</td> </tr> <tr> <td>Y10</td> <td>1171</td> <td>167</td> <td>1338</td> </tr> <tr> <td>Y12</td> <td>?600?</td> <td>111</td> <td>711</td> </tr> </tbody> </table> <p>(Y12 mainstream is estimate only as they are fare payers).</p> <p>Transport Planning</p> <p>This has been on-going for several weeks in readiness for a safe and legal return to home to school transport provision. Planning has been taking place with guidance from colleagues in both Health and Safety and Public Health and includes the following considerations:</p> <ol style="list-style-type: none"> 1. The numbers for entitled primary students are lower so it has been a more straightforward task for the School Transport Teams (Mainstream and SEND) to contact all relevant schools to establish how many of their younger 		Mainstream	SEND	Total	Early years	0	14	14	Reception	7	27	34	Y1	6	31	37	Y6	28	97	125	Y10	1171	167	1338	Y12	?600?	111	711
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	<p>students will travel into school after 1 June. Although there has not been a high response rate from parents, the School Transport Teams are reasonably confident that capacity and availability of transport will not be a problem for these year groups</p> <ol style="list-style-type: none"> 2. The Transport Teams have also been trying to establish from secondary schools the numbers of entitled Y10 students who may be returning to school. This has proved more challenging with the greater numbers involved and the nervousness from parents/carers about sending their children back to school. In addition, schools still remain in planning mode about safely accommodating students within existing infrastructure 3. Transport providers have been contacted to confirm the seating ratios by recommended social distancing requirements of 2 metres and what alternatives, if any, they can look at in terms of practical solutions such as plastic screening, removing seats etc. 4. For SEND transport, we have been working on the assumption that only one SEND student, unless they are siblings, and a PA (passenger assistant) will travel in a 4 or 6 seat taxi at any one time 5. The transport teams have prepared several guidance notes for transport operators based on safety measures published from the Department for Transport. This guidance includes reference to the importance of detailed risk assessment as well as summarising the guidance on the use of PPE. An updated note was circulated week ending 29 May 2020. This advice is also intended to offer reassurance to schools that adequate support is being offered to transport providers and also that operators are considering all risks and mitigations. <p>Health and Safety Concerns</p> <p>There remain significant health and safety concerns from a transport perspective in responding to the government directive. These concerns fall into the following categories:</p> <ul style="list-style-type: none"> - Social distancing (mainstream) – reduced provision due to social distancing (SD) requirements. Example: a 53 seater coach may only take 10 passengers maximum. However, some operators have reported that with small numbers travelling throughout the Lockdown, students have not been observing social distancing rules once they have alighted vehicles - Social distancing (SEND) – necessary to reduce capacity to one student and PA in one taxi and 2-3 students on a 16 seat minibus (depending if one is in a wheelchair)
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- Operator concerns – age/gender profile of most drivers (older males); driver availability as some remain shielded; handling of cash; risk of transmission; enforcement of mask wearing and adherence to social distancing by students; limiting numbers alighting the vehicle at bus stops
- PPE availability and conformity – particularly relevant for the transport of SEND students who typically travel in smaller vehicles such as taxis with an accompanying passenger assistant. Some of our SEND children have challenging behaviours (such as spitting, touching) and some require personal contact during the journey to school.

Other Concerns

The School Transport Teams have seen an increase in the number of schools contacting them and requesting advice about transport. The queries include: planning for potential numbers attending; requesting confirmation about risk assessments and where any liability may lie; and planned changes to start and finish times including proposals to swap year groups at lunchtimes meaning additional journeys being provided.

Proposals

Given all these legitimate considerations from schools and operators, Children's Services and ETE have concluded that it is unrealistic and impractical to be able to provide bespoke transport provision for all the requests made by school settings as this would put increased demand on the service. In addition, the constraints of both SD and health and safety measures may mean that we are not able to provide full coverage for all the proposed year groups from the planned return dates. Therefore it is necessary to provide all schools and educational settings with some principles to work to in order to prioritise those with greatest need in the identified year groups, as well as meet the Council's statutory duty. This may result in a reduction from normal levels of provision, although it is difficult to predict if this will happen with any certainty given that it remains unclear exactly how many students will return on any one day.

These measures were communicated to all schools and educational settings before the close of play for Spring Bank half term. For the remainder of the school academic year only and until further review takes place, the interim measures will be as follows:

	<ol style="list-style-type: none"> 1. Encourage non-use of public transport - Remind schools to encourage the non-use of public transport or contracted buses in line with government advice. The emphasis should be on walking, cycling or private car use as the first mode of transport to school 2. Prioritising year groups - Schools should prioritise the year groups and those who are classified in line with government guidance 3. Limited seating capacity - School Transport will work with individual schools about the anticipated capacity that can safely be provided for their site. This will be based on a combination of how many vehicles are currently contracted into their setting and the revised safe capacity on each of those vehicles, based on public transport distancing guidelines. By way of example, indications from the transport sector are that 53 seat vehicles may only take 10 passengers, 75 seat double decks may only take 16 passengers and 16 seat minibuses take 3-4 passengers. However this is not a definitive position and seating ratios vary enormously as they are dependent on individual vehicle types, registered seating configurations and whether passengers are carried in wheelchairs (which reduces the seating capacity). The capacity is also dependent on PPE requirements and its availability 4. Prioritising key students - It is likely that it will not be possible to accommodate all students on contracted transport, in the event of this schools will be signposted to government advice with regard to prioritisation about vulnerable students, children of key workers and primary age students and for their consideration of how the transport and attendance needs can best be managed with the capacity available 5. Provision not normally made for Year 12 (non-entitled) students - We will <u>not</u> normally provide transport for non-entitled Y12 students for the summer term only (unless they have entitlement due to an Educational, Health and Care Plan). This is on the basis that Y12 are not normally entitled to home to school transport provision and they are mostly fare paying. There are additional risks inherent in allowing cash fares to be collected on boarding for drivers, and on the whole, Y12 are more able to access face to face school support by other means such as walking, cycling or parent/carers transporting. Individual hardship by Y12 SEND students will be assessed with the school on a case by case basis 6. Regular transport timetable - We will <u>not</u> routinely provide transport for schools at other required times
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	<p>such as lunchtimes or different arrival/departure times or to offer a bespoke service to each individual school or setting <u>unless</u> we can negotiate directly with operators and no additional costs are incurred.</p> <p>If overcapacity becomes an issue for entitled transport students, the Council may also consider offering parental reimbursement in lieu of school transport provision in adhering to its statutory duty. However this again will only be an interim measure for the rest of the academic year or until further review takes place.</p> <p>In addition during this period, the School Transport Teams will assist Children's Services in investigating the implications of increasing the take up of parental reimbursements in an effort to reduce the reliance on commissioned transport and address increasing costs. However this is a complicated area and we need to avoid complications such as double funding issues i.e. paying the operator for delivering the service and paying the parent for transporting their child. It will be a longer term aspiration to take the opportunity to look at all options in this area of high expenditure.</p> <p>The private hire coach and taxi sector is critical in supporting the Council's transport function in the areas of mainstream and SEND home to school services.</p> <p>The Council has an agreed priority in the Corporate Plan to support sustainable economic growth and the wider use of public transport. In addition, bus and taxi operators assist the Council in fulfilling its statutory duty to provide home to school transport. However during the pandemic and associated lockdown, bus and taxi use has dropped dramatically and COVID 19 has had a devastating impact already with day excursions, airport runs and school and day care runs being cancelled.</p> <p>The Council took the decision at the CMT Gold meeting on 20th March 2020 to continue to fund transport providers on the basis that they continued to operate services for key workers, were flexible in delivering alternative services, and would be sustained financially to return to supply when schools return. This decision was also reinforced by the guidance to local authority commissioners in the Cabinet Office Procurement Policy Note 02/20.</p> <p>Other issues which have informed the proposal include:</p> <ul style="list-style-type: none"> • The over-riding need to only offer school transport if a) absolutely essential and b) safe for all parties
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	<ul style="list-style-type: none"> • For schools to prioritise transport for those with greatest need in the government’s identified categories • The limited availability of extra vehicles in the market to offer a fully-compliant socially distanced service • Concerns from some operators about the ability of drivers to be able to monitor and enforce social distancing measures on school buses <p>The potential for considerable additional costs to the authority if bespoke services are agreed at each school setting, even if additional vehicles were to be available</p> <ul style="list-style-type: none"> • The fact that the age profile of most drivers is male, over 50s year group and therefore in higher risk category <p>This decision is urgent as schools commenced re-opening on Monday 1st June. Therefore, the decision cannot wait until the next meeting of Cabinet.</p>
<p>Alternative Options Considered (if appropriate) and reasons for rejection of other options</p>	<ol style="list-style-type: none"> 1) Unmanaged return of home to school transport – to allow an unmanaged resumption of transport by not introducing control measures would be reckless and would cause overcrowding on vehicles; therefore this is not considered an appropriate option given the health and safety risks around transmission of Covid-19 and the government advice around social distancing 2) Provide no transport – this is not considered an appropriate option given the authority’s statutory duty to provide home to school transport to entitled students. Also, we have been providing a lower level during lockdown to vulnerable students and the children of key workers and that we want to respond to help schools in light of recent government advice 3) Provide transport for entitled students in all priority year groups in accordance with individual school requests and schedules for attendance (as opposed to adhering to normal timetable schedules) – this is not considered an appropriate option given the increased requirement for greater numbers of vehicles and drivers along with the increased costs to the authority.
<p>Has a risk assessment been conducted?- if so what are the potential adverse impacts identified</p>	<p>The risks detailed in considering the other options above have resulted in the option described being considered the most appropriate.</p> <p>In considering the risks of the proposal, health and safety and other concerns are detailed above. It has been concluded</p>

<p>and how will these be mitigated?</p>	<p>that the risks under the proposed plan, as detailed above are the most manageable whilst balancing the requirement to adhere to the Government guidance specified within this decision record.</p>
<p>Would the decision normally have been the subject of consultation with service users and the public? If so, explain why this is not practicable and the steps that have or will be taken to communicate the decision</p>	<p>It should be noted that any changes relating to home to school transport are usually the subject of public consultation, however these temporary measures are considered urgent due to unprecedented situation caused by the Covid-19 pandemic and its impact on resumption of safe public travel. Home to school transport has continued, albeit at much reduced levels, throughout the lockdown period. During this time, the lines of communication have remained open and constructive with both mainstream and SEND schools and educational settings.</p> <p>These discussions have increased significantly in the last few weeks as the government's advice about schools re-opening were announced and plans put in place. In addition, a Transport officer has been involved with the 'Site and Transport' sub-group of the 'Future Shape' planning group in Children's Services and also the Heads of Special Schools Group, both of which have been helpful in engagement about transport matters.</p> <p>The Transport Teams have also been in contact with several parents/carers about transport arrangements and have accommodated requests where this has been possible throughout the lockdown period.</p> <p>There will be no changes to the nature of the transport provision in terms of reduced accessibility on vehicles for SEND students as wherever possible, transport providers will be using the same vehicles, drivers and passenger assistants as prior to lockdown.</p>
<p>Has any adverse impact on groups with protected characteristics been identified and if so, how will these be mitigated?</p>	<p>Consideration of these proposals will be included in the combined Equality Impact Assessment regarding measures taken in response to the Covid-19 pandemic.</p>
<p>Background/Reports/Information considered and attached (including Legal, HR, Financial, Equality and</p>	<p>HR considerations</p> <p>The workforce which undertakes home to school transport contract services are drivers and passenger assistants who are either employees or sub-contractors of external providers. It should be noted that there may be local difficulties with some companies where a number of their driving personnel remain unable to work due to Covid-19 shielding measures.</p>

<p>other considerations as required))</p>	<p>Suppliers have been asked to make the DCC Transport Teams aware of any difficulties in fulfilling the terms of their contracts due to personnel shortages, and this has not presented any insurmountable issues to date.</p> <p>Legal considerations Under section 508B and Schedule 35B of the Education Act 1996 local authorities are under a duty to provide free school transport to 'eligible children' and under section 508A of the Education Act 1996 local authorities must also promote the use of sustainable travel and transport for all children and young people of compulsory school age who travel to receive education in the local authority's area. The proposed course of action will ensure that the aforementioned 'eligible children' will continue to receive free school transport, including where appropriate, the use of parent/carers reimbursement, and that appropriate steps will be taken to ensure the safety of the transport provided in terms of social distancing and the prevailing government guidance. In relation to non-eligible children the Council will continue to make such travel arrangements it considers necessary under section 508C of the Education Act 1996. The Council will also continue to promote the use of sustainable travel and transport arrangements. Consideration of these proposals will be included in the combined Equality Impact Assessment regarding measures taken in response to the Covid-19 pandemic. The proposals are a proportionate response to the impact of the pandemic on the provision of school transportation.</p> <p>Financial considerations It is very difficult to arrive at an estimate of cost should the contracted network not be able to cope with numbers returning to secondary schools (where the higher numbers are) and there is a requirement to commission additional resources. The authority may be looking at an additional £80,000 from the 15 June until the remainder of the summer term, although it must be emphasised this is for estimate purposes only and the figure may be higher.</p> <p>Social Value Considerations The Council issues free bus passes to students who have a statutory entitlement to travelling assistance to enable them to travel to school on the contracted school bus network.</p> <p>It should be noted that transport suppliers are all local small and medium enterprises (SMEs), thereby helping to support jobs and the local economy.</p>
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	<p>Other relevant considerations Reference to government advice, specifically:</p> <ol style="list-style-type: none"> 1. Actions for Educational and Childcare Settings to prepare for wider opening from 1 June 2020 https://www.gov.uk/government/publications/actions-for-educational-and-childcare-settings-to-prepare-for-wider-opening-from-1-june-2020 2. Opening Schools and Educational Settings to more pupils from 1 June: guidance for parents and carers https://www.gov.uk/government/publications/closure-of-educational-settings-information-for-parents-and-carers/reopening-schools-and-other-educational-settings-from-1-june 3. Prime Minister press release confirming schools, colleges and nurseries on track to begin phased reopening 24 May 2020 https://www.gov.uk/government/news/pm-confirms-schools-colleges-and-nurseries-on-track-to-begin-phased-reopening 4. Coronavirus (COVID-19): implementing protective measures in education and childcare settings www.gov.uk/government/publications/coronavirus-covid-19-implementing-protective-measures-in-education-and-childcare-settings 5. Coronavirus (COVID-19): Safer transport – guidance for operators https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/884370/coronavirus-covid-19-safer-transport-guidance-for-operators.pdf
Consultation with relevant Cabinet Member (s) – please note this is obligatory.	Discussion between Jane Parfremment and Councillor Alex Dale on 28.05.20.
Approval of Chair of appropriate Improvement and Scrutiny Committee where call in is intended to be waived – please note this	Councillor Bull, Chairman of the Places Improvement and Scrutiny Committee was consulted on 1 st June 2020 and was satisfied that the decision was urgent and could not reasonably be deferred. He also sought further clarification that any arrangements would not have an adverse financial impact on any of the Community Transport operators in Derbyshire. .

is obligatory in those circumstances	Councillor Gary Musson, Chair of the People's Committee was consulted on 2 nd June 2020 and was also satisfied that the decision was urgent and could not be deferred.
Decision :	To approve the proposed interim arrangements for home to school transport – approved at CMT on 04.06.20
Signature and Date:	

Appendix 2

DERBYSHIRE COUNTY COUNCIL

OFFICER DECISION AND DECISION REVIEW RECORD

Officer: Jane Parfremment <i>*For emergency powers, this would be the Executive Director</i>	Service: Children's Services	
Delegated Power Being Exercised: <i>*The delegation detailed in the Constitution to the specified officer or emergency powers</i> Executive Director - delegated Power under the emergency powers contained in the constitution		
Subject of Decision: (i.e. services affected)	On the 24 th April 2020, 10 amendments were made to the regulations under the children act legislation. The Adoption and Children (Coronavirus) (Amendment) Regulations 2020, provides for flexibilities to be applied to the regulations during the current Covid 19 period until the 25 th September when these amendments will lapse. The amendments seek to support Local Authorities during these challenging times to ease administrative and procedural burdens to support the safeguarding delivery of social care services to children. In light of the strength of the current children's social care workforce not all the amendments are deemed necessary to be applied in Derbyshire and delegated powers are being sought to the Executive Director for Children's Services in the specific areas as listed below and greater details is provided in the attached report intended for Cabinet.	
Is this a review of a decision? If so, what was the date of the original decision?	No	
Key decision? If so have Democratic Services been notified?	Yes	
Decision Taken (specify precise details, including the period over which the decision will be in place and when it will be (further) reviewed):	<ul style="list-style-type: none"> • The amendments enable social work visits to be undertaken outside of statutory timescales if necessary and via virtual means, this variation in practice has already been applied in Derbyshire (3.1 in report) • To apply changes regarding emergency placement with existing foster carers, with additional safeguards to enable a swift 	

	<p>increase in placement sufficiency. (3.2 in report)</p> <ul style="list-style-type: none">• To apply amendments as outlined in a previous agreed ODR on the 9th April 2020, including that people assessed and temporarily approved do not have to have a connection with the child to be placed, with specified safeguards. (3.3 in report)• To apply, with additional safeguards, the flexibility of self-reporting of health information by the person making an application to foster. (3.4 in report)• To allow the modifications to the care planning for children who live with their parent or someone with parental responsibility and access short break placements with the same foster carer. (3.5 in report)• To apply the amendment for Fostering Panels to meet through virtual means and for smaller Covid-19 panels to be convened for less complex matters. (3.6 in report)• To accept the amendment which means that the way independent visits to children's homes are conducted will be continually assessed to ensure the correct protective measures are put in place. (3.7 in report)• Enforcing self-isolation requirements, this instrument allows children's homes to enforce a temporary deprivation of a child's liberty in respect of a young person who is infectious or suspected of being infectious with coronavirus (COVID-19) to prevent the virus from spreading. (3.8 in the report)• To agree that any further revisions of practice and procedure (falling within that permitted by The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 can be made utilising the delegated powers of the Executive Director in
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	consultation with the Lead Member for Children's Services.
Reasons for the Decision (specify all reasons for taking the decisions including where necessary reference to Council policy and anticipated impact of the decision) Where the decision is subject to statutory guidance please state how this has been taken into consideration.	Details in attached report – overarching theme is to maintain best practice wherever possible and only apply these amendments where there is a strong rationale to do so. Related Council policy objectives include; <ul style="list-style-type: none"> • Keeping children safe • Achieving timely adoption • Improving the Sufficiency of placements for Children in care
Alternative Options Considered (if appropriate) and reasons for rejection of other options	Full adoption of amendments – but the intention is to maintain robust practice wherever possible and only apply these permissive powers where there is a strong rationale to do so.
Has a risk assessment been conducted ?- if so what are the potential adverse impacts identified and how will these be mitigated?	Yes – as detailed in the EIA. Main points: <ul style="list-style-type: none"> • Where virtual visits risk missing the necessary scrutiny – other sources of information will be used to check the well-being of children. • Given the seriousness of exercising deprivation of liberty be it temporary or otherwise, it is proposed that the social worker and Independent Reviewing Officer will need to consider whether to change the care plan to allow this, and this would need to be authorised by the responsible Head of Service, Locality in addition to consideration by a Public Health Officer with the final decision to be made by the Assistant/Service Director
Would the decision normally have been the subject of consultation with service users and the public? If so, explain why this is not practicable and the steps that have or will be taken to communicate the decision	No

Has any adverse impact on groups with protected characteristics been identified and if so, how will these be mitigated?	As detailed in EIA – which has been seen by John Cowings
Background/Reports/Information considered and attached (including Legal, HR, Financial, Equality and other considerations as required))	<p>Report attached with HR, legal and financial implications. Background papers available:</p> <ul style="list-style-type: none"> • The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 • EXPLANATORY MEMORANDUM TO THE ADOPTION AND CHILDREN (CORONAVIRUS) (AMENDMENT) REGULATIONS 2020 No. 445 • The Fostering Network Briefing note on legislative amendments and additional report information to Midlands Local Authorities <p>The purpose of The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 is detailed in an accompanying explanatory memorandum as ‘The instrument temporarily amends 10 sets of Regulations relating to children’s social care to support services manage the coronavirus (COVID-19) outbreak. The changes prioritise the needs of children, whilst relaxing some administrative and procedural obligations to support delivery of children’s services but maintaining appropriate safeguards in such extraordinary circumstances. The changes will support services to try and manage the increased pressure on children’s social care and staff and carer shortages who are ill with coronavirus.’ The regulations provide a temporary change until 25th September 2020. The proposals detailed in the report are therefore a proportionate response to the COVID-19 outbreak.</p>
Consultation with relevant Cabinet Member (s) – please note this is obligatory.	Yes with Cllr Dale – 04.06.20
Approval of Chair of appropriate Improvement and Scrutiny Committee where call in is	

intended to be waived – please note this is obligatory in those circumstances	Yes - conversation with Cllr Gary Musson 3.6.20 with confirmation of his agreement in writing
Decision:	<ol style="list-style-type: none"> 1. To approve the amendments to practice and procedure as detailed above until 25th September 2020 or such earlier review of the The Adoption and Children (Coronavirus) (Amendment) Regulations 2020. 2. To agree that any further revisions of practice and procedure (falling within that permitted by the The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 can be made utilising the delegated powers of the Executive Director in consultation with the Lead Member for Children’s Services
Signature and Date:	

DERBYSHIRE COUNTY COUNCIL**DECISION TAKEN UNDER DELEGATED POWERS BY THE EXECUTIVE
DIRECTOR****3 June 2020****Report to the Executive Director for Children's Services****The Adoption and Children (Coronavirus) (Amendment) Regulations
2020****1. Purpose of Report**

To update regarding legislative amendments and to seek approval for specific related proposals; specifically:

To agree the proposals to temporary changes in practice as set out below, supported by the legislative amendments with the principle that practice remains consistent with the best interest of the child and these amendments are followed, with regular reviews of related practice guidance, during the COVID-19 period.

That any subsequent changes made in response to operational pressures but within the Amended Regulations, can be made using Delegated Powers by the Executive Director, with consultation with the Lead Member for Children's Services.

2. Information and Analysis**2.1. Introduction**

On 23rd April the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 were enacted on 24th April; to end 25th September 2020. Under the 'savings provisions', certain amendments will still apply after 25 September.

These regulations make temporary variations to provide additional flexibility for local authorities, fostering providers and related services in England to meet statutory duties while maintaining a clear focus on safeguards and promoting the welfare of children.

The changes are designed to support services to try and manage the increased pressure on children's social care and staff and carer shortages who are ill with coronavirus. They are seen by the Government to be low risk changes to ease administrative and procedural duties and are required to ensure stability of children's social care during the outbreak. Changes have been made to ten sets of regulations, Derbyshire is not proposing to adopt changes to all the sets of regulations; this paper refers only to those that are considered to be necessary.

The broad intention is not to change general practice around children without strong rationale; but to adopt some processes which will ease some complexity in light of current circumstances and reduce potential for delay in progressing/delivering on children's plans.

It is important to note that in line with the national guidance, there is an expectation that there will be full statutory compliance unless/until either that the LA is no longer in a position to do so or the existing statutory processes prevents the LA from discharging its responsibilities towards children effective in the current context.

3. **Proposed Amendments:**

3.1 Social work visits

The minimum requirements in respect of the frequency of social worker visits to children who are placed with foster carers flexibility can be applied where the social worker is unable to visit within the statutory timescale, the adjustment allows the local authority to ensure that the visit is completed 'as soon as is reasonably practicable.'

The amendments also allow the visits from the social worker to take place virtually such as by telephone, video-link or other electronic means.

Derbyshire had implemented this change in visiting practice, and continue to do so, in response to the lockdown measures and previous messages from the Government.

Practice guidance has been provided to social workers and their managers on their responsibility to make professional judgements of risk for vulnerable children and decide what form of contact a family may need to have by agencies (including the social worker) in order to ensure the safety of children and young people. Face to face visits are being carried out where required following the necessary pre-visit screening guidance.

The decisions regarding the frequency and contact method are recorded on the Covid-19 risk assessment for each child and authorised by team managers.

It is therefore proposed that these changes continue to be in place and social work practice remain consistent with the child's best interests and these amendments are evaluated through regular reviews of the related local practice guidance.

3.2 Emergency placement with existing foster carers

This amendment enables children to be placed with foster carers outside their terms of approval. This has been changed from, no longer than six working days to no longer than 24 weeks. This provides useful flexibility, as it allows sufficiency of placements at such an extraordinary time.

However, safeguards are required to reduce the risk of unsafe placements, the manager of the responsible team will ensure the following is monitored:

- That account is taken of any previous concerns which limited the number of placements
- That a bedroom sharing risk assessment is completed, where required.
- That the child's social worker consults the Independent Reviewing Officer within two weeks of placement.
- That the Fostering Operations Manager and Agency Decision Maker are notified of any changes in placement capacity of carers: and related monitoring process to be established via the panel admin team file.
- That local review of the placement is held within 8 weeks of the placement.

3.3 Placements with Connected Persons

A connected person is a relative, friend or other person connected with a child and is not an approved foster carer but can be assessed and temporarily approved as foster carers.

This amendment means that people assessed and temporarily approved do not have to have a connection with the child to be placed, rather, subject to assessment, any person can be approved, and so long as the responsible authority is satisfied it is the most appropriate placement for the child. This temporary approval is changed from the current 16 weeks to a period not exceeding 24 weeks.

This new legislation supports the change agreed by the Officer Decision Record submitted on 9th April, allowing emergency placements with DCC staff and using willing ex- foster carers /adopters which also broadens the range of potential carers available.

It is proposed that the changes are adopted, with additional safeguards to include:

- That carers complete a brief form, preferably in advance of placement, which includes consent to checks being undertaken, with the minimum safety checks being of Mosaic, Derbyshire's electronic social care case recording system, and Police National Computer.
- That, in relation to DCC staff, it would not be appropriate to place children with carers who may be involved in litigation concerning the child or someone giving evidence in the context of care proceedings or other litigation.
- That a full fostering assessment is commenced
- A panel view being sought at stage two if/when the assessment is likely to have a negative recommendation
- An assessment report going to a full fostering panel within 24 weeks wherever possible

3.4 Care Planning, Placement and Case Review and Fostering Service

There is a requirement that health information within the fostering assessment is supported by a medical report. This requirement has been temporarily relaxed, allowing for self-reporting of health information by the applicant.

Whilst this flexibility enables fostering assessments to be fast tracked, there are a number of significant risks, therefore the following safeguards are put in place:

- That the medical advisor's view is sought if there are concerns
- That the GP is written to explaining the intention to assess the applicant as a foster carer and asking them to advise the local authority if they have information to the contrary, within 14 days.
- That a medical report is obtained as soon as possible.

3.5 Duration of short break placements

The usual requirement is that short break placements last no more than 17 consecutive days (75 days in total in a 12-month period). Under these amendments, a child can now remain in the same short break placement for up to 75 days.

Adopting this amendment will support the continuity and stability of these placements.

3.6 Foster Care Panels

At the time the Government first announced the lockdown on 23rd March and subsequently the communication from Ofsted on 09th April, Derbyshire set up systems to enable the fostering panel to meet virtually so that it can continue to meet and fulfil its function as usual, though virtually.

However, it is proposed that where quicker and less complex matters require a panel view or recommendation, the fostering services will establish a smaller 'Covid-19 Fostering panel' with the minimum membership of chair; a Social Worker (suitably qualified) and one independent member and to include a panel advisor which will enable efficient and flexible panel scrutiny. The availability of this option will enable greater agility to meet new demands in a timely manner or less complex matters such as first reviews can be dealt with where the judgment of all professionals involved is positive, as smaller panels are quicker to convene.

3.7 Children's Homes

The relevant key change in relation to the children's homes that Derbyshire is proposing to adopt, relates to the conduct of the independent person who is required to undertake a monthly visit and report on how a home is being run.

Since the Government announced the lockdown, these visits to Derbyshire's children's homes have been undertaken virtually, which include:

- Meeting with the homes' managers and a virtual tour of the building.
- A detailed discussion on medication to ensure the QA manager undertaking the visit is confident that current procedures are being followed effectively, with an update on staffing, building, Covid-19 implications for the home and complaints and compliments received.
- Skype or similar call with a member of staff and where possible observe a hand-over meeting
- Skype or similar call with a young person where this is appropriate taking into account their communication ability and particular circumstances.

This arrangement will continue until circumstances and guidance allow for full statutory compliance. The temporary change will be continually assessed to ensure the correct protective measures are put in place and relevant to emerging situations.

3.8 Enforcing self-isolation

This instrument allows children's homes to enforce a temporary deprivation of a child's liberty in respect of a young person who is infectious, or suspected of being infectious with coronavirus (COVID-19), to prevent the virus from spreading. To date Derbyshire have had no need to enforce any deprivation of liberty powers for any child in the care of the local authority. However, the delegation of the implementation of this regulation to the Executive Director is specifically sought to enable an urgent response should such circumstances arise and a diagnosed or suspected infected child in care is not complying with self-isolating expectations.

In practical terms this would mean consideration by a Public Health Officer and isolation enforced through a range of means as set out in Department of Health and Social Care guidance. The amendment would only capture cases where the young person is infectious or suspected of being infectious and could not be used to generally enforce restrictions of a child's movement.

In all other cases where restrictions of movement that amount to a deprivation of liberty are being sought to be enforced, an application would need to be

made to the Court for a deprivation of liberty order under the existing legislation.

4. Human Resources Considerations

There are no implications to human resources as a result of the acceptance of the amendments to legislation, proposed in this paper.

5. Financial Considerations

The proposals detailed above regarding proposed amendments will not overall incur additional costs, as they relate to temporary changes to practice, which can be met through existing resources.

Whilst local authorities are responsible for the children's social care system the proposed changes are not anticipated to result in additional costs or significant changes to working practices.

6. Legal Considerations

The purpose of The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 is detailed in an accompanying explanatory memorandum as 'The instrument temporarily amends 10 sets of Regulations relating to children's social care to support services manage the coronavirus (COVID-19) outbreak. The changes prioritise the needs of children, whilst relaxing some administrative and procedural obligations to support delivery of children's services but maintaining appropriate safeguards in such extraordinary circumstances. The changes will support services to try and manage the increased pressure on children's social care and staff and carer shortages who are ill with coronavirus.' The regulations provide a temporary change until 25th September 2020. The proposals detailed in the report are therefore a proportionate response to the COVID-19 outbreak.

7. Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime & disorder, equality of opportunity, health, environmental, property and transport considerations.

Background papers:

- The Adoption and Children (Coronavirus) (Amendment) Regulations 2020
- EXPLANATORY MEMORANDUM TO THE ADOPTION AND CHILDREN (CORONAVIRUS) (AMENDMENT) REGULATIONS 2020 No. 445

- The Fostering Network Briefing note on legislative amendments and additional report information to Midlands Local Authorities

Recommendations

1. To approve the amendments to practice and procedure as detailed in the report.
2. To agree that any further revisions of practice and procedure (falling within that permitted by The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 can be made utilising the delegated powers of the Executive Director in consultation with the Lead Member for Children's Services.

Mary Wilton

Head of Service – Children in Care

Equality Impact Analysis Record Form 2020 – Derbyshire County Council (Corona Virus Emergency)

Part 1: Introduction and Context		
Policy/ Service under development/ decision	Applying specific amendments to Regulations under the Children Act and related legislation, as described in the Adoption and Children (Coronavirus) (Amendment) Regulations 2020.	
Department/ Service area	Children's Service – Early Help and Safeguarding and Performance, Quality and Partnerships	
Lead or contact officer	Mary Wilton	
EIA Team:	Mary Wilton, Adele Glover, David Cohen, James Hollingworth, Diana McKenna	
Date analysis commenced:	Date completed: 1.6.20	Date approved:
<p>Proposal</p> <p>To temporarily apply specific amendments to Regulations under the Children Act and related legislation, as described in the Adoption and Children (Coronavirus) (Amendment) Regulations 2020.</p>		
<p>Reason/ purpose</p> <p>On the 24th April 2020, 10 amendments were made to the regulations under the Children Act and related legislation.</p> <p>The Adoption and Children (Coronavirus) (Amendment) Regulations 2020, provides for flexibilities to be applied to the regulations during the current Covid 19 period until the 25th September when these amendments will lapse. The amendments seek to support Local Authorities during these challenging times to ease administrative and procedural burdens to support the safeguarding delivery of social care services to children.</p> <p>In light of the strength of the current children's social care workforce not all the amendments are deemed necessary to be applied in Derbyshire and delegated powers are being sought to the Executive Director for Children's Services in the specific areas as listed below and greater detail is provided in the attached report intended for Cabinet.</p>		
Are there any associated/ linked policies, services or procedures?	<p>Yes:</p> <p>Social work visits to children in care</p> <p>Fostering policies related to the assessment, approval and utilisation of Foster carers</p> <p>Flexibility regarding short break placements</p> <p>Visits by the independent person who is required to report on how a Children's home is being run under Regulation 44 of the Children's Homes Regulations.</p> <p>Public Health Officer consideration regarding care plans for children in care and isolation where the young person is infectious or suspected of being infectious with Covid 19.</p>	

Please list the main people or groups that this policy/ service is designed to benefit and any other stakeholder involvement?	Children in care are the main group and will benefit from: On-going safe contact with their social worker A wider range of possible placements Scrutiny of their DCC children's home
Will the policy/ service and any changes impact on any other organisations such as community and voluntary sector groups?	No

Part 2: Supporting evidence
<p>What needs to be done?</p> <p>Social work visits – enabling visits from the social worker to take place virtually such as by telephone, video-link or other electronic means. 3, 4, 5 and 6 - Changes to fostering assessments, approval processes including panel and placement usage.</p> <p>7. This relates to visits by the independent person who is required to undertake a monthly visit and report on how a children's home is being run.</p> <p>8. Enforcing self-isolation - This allows children's homes to enforce a temporary deprivation of a child's liberty in respect of a young person who is infectious or suspected of being infectious with coronavirus (COVID-19) to prevent the virus from spreading. To date Derbyshire have had no need to enforce any deprivation of liberty powers for any child in the care of the local authority.</p>
<p>Why?</p> <p>Social work visits - to ensure that children in care see their social worker on a frequent basis, albeit by phone or virtually. Virtually includes Skype, Zoom and What's App face to face contact, also mobile telephone calls with the child having a number they can call.</p> <p>3 and 4, 5,6 to enable an increase in fostering capacity, reduced bureaucracy and flexibility in the use of foster carers – whilst maintaining proportionate safeguards.</p> <p>7. To enable the independent person to exercise their scrutiny and reporting function virtually.</p> <p>8. To reduce the spread of CV19 – and prevent potential criminalisation of such young people for failing to comply with government guidance and police direction.</p>
When and how will it be implemented?

Social work visits - Derbyshire has already implemented this change in visiting practice, and continues to do so, in response to the lockdown measures and previous messages from the Government.

Already implemented as per ODR agreed 9.4.20.

Already partially implemented as per ODR agreed 9.4.20, the extension regarding definition of Connected persons and length of temporary approval will be implemented when agreed by Executive director, by changing relevant processes 5,6 – When agreed by Executive director, by changing relevant processes.

7. Independent person visits - Derbyshire has already implemented this change in visiting practice, and continues to do so, in response to the lockdown measures and previous messages from the Government. It includes:

Meeting with the homes' managers and a virtual tour of the building.

A detailed discussion on medication to ensure the QA manager undertaking the visit is confident that current procedures are being followed effectively, with an update on staffing, building, Covid-19 implications for the home and complaints and compliments received.

Skype or similar call with a member of staff and where possible observe the hand-over

Skype or similar call with a young person where this is appropriate taking into account their communication ability and particular circumstances.

8. To date Derbyshire have had no need to enforce any deprivation of liberty powers for any child in the care of the local authority. Given the seriousness of exercising deprivation of liberty be it temporary or otherwise, it is proposed that the social worker and Independent Reviewing Officer will need to consider whether to change the care plan to allow this, and this would need to be authorised by the responsible Head of Service, Locality in addition to consideration by a Public Health Officer with the final decision to be made by the Assistant/Service Director.

Supporting information or evidence

Data

At end April there were 863 children in care, of which 71 had a significant disability which required a specialist disability social worker and 21 were UASC.

At end May there were 343 Derbyshire fostering households.

Age Group	
Under 1	54
1 to 4	138
5 to 9	161
10 to 15	332

16 & Over	178
Total	863

Placement Type	Apr 2020 Outcome
Foster Placement (Agency)	252
Foster Placement (DCC)	369
Placed For Adoption	32
Residential Placement (Agency)	81
Residential Placement (DCC)	40
Placed With Parents	49
Independent Living	41
Secure Unit	2
Other	2

Timeframe for review or end if temporary:

The Amendments are scheduled to end 25th September 2020; though under the 'savings provisions', certain amendments will still apply after 25 September.

Interim review is planned for SMT on 1st August (date tbc) though the use of the easements would be regularly reviewed as the guidance on social distancing changes.

Part 3 – Analysing and assessing the impact by equality protected characteristic/ group

Use the information, customer feedback and other evidence to determine upon whom the policy/ service and any proposed changes will impact upon and how, highlighting where these are negative or positive, including where this could

constitute unfair treatment, additional inequality or disadvantage or result in hardship and exclusion.

Against any identified negative potential impacts you must provide details of any action or options which could mitigate against this, and in serious cases, you should highlight where the Council would be advised not to proceed with a new or changing policy or service, including any proposals which are being considered.

Please use your action plan attached to this analysis to record the action and the monitoring which will take place to deliver such mitigation.

Protected Characteristic or Group	Actual or potential positive outcome/ impact	Actual or potential negative outcome/ impact
Age – older/ younger	Under 18's – increased number of foster carers Under 18's – for some, virtual communication may be preferred These measures support children to maintain social distancing and reduce the risk of infection by reducing non-essential visits.	Communication with, and observation of, very young children is more robust in person and thus virtual contact may miss important information.
Disability – please detail if specific types	None identified	Communication with disabled children is more robust in person and allows a range of communication methods. Virtual contact may miss important information and some disabled children may find virtual methods inaccessible.
Gender re-assignment	It is assessed that the proposal to adopt the amendments should not have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Marriage & civil partnership ¹	It is assessed that the proposal to adopt the amendments should not	

¹ Under EA 2010 – someone in a CP must not be treated less favourably than a married person

	have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Pregnancy & maternity	It is assessed that the proposal to adopt the amendments should not have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Race & ethnicity	None identified	Communication with young people and their families for whom English is not their first language is often more robust in person and allows a range of communication methods. Virtual contact may miss important information.
Religion/ belief ²	It is assessed that the proposal to adopt the amendments should not have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Sex or gender ³	It is assessed that the proposal to adopt the amendments should not have an adverse impact on this protected	

² Under EA 2010 – must also consider non-religious belief

³ Sex and gender can be used at different times depending upon whether you are referring to the EA 2010 and the different duties which exist

	characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Sexual orientation	It is assessed that the proposal to adopt the amendments should not have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Human Rights	Increasing the number of Foster carers supports more children in care to live in a family.	<p>Given the seriousness of exercising deprivation of liberty be it temporary or otherwise, it is proposed that the social worker and Independent Reviewing Officer will need to consider whether to change the care plan to allow this, and this would need to be authorised by the responsible Head of Service, Locality in addition to consideration by a Public Health Officer with the final decision to be made by the Assistant/Service Director</p> <p>Full engagement with children, young people and their parents/carers/families and friends could be impaired by poor local broadband connectivity and limited equipment to access virtual means of communication. This could be reflected in challenges to decision making which may be deemed as impaired due to the virtual capacity of the parties involved.</p>
Thriving Communities	It is assessed that the proposal to adopt the	

	amendments should not have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Rural communities	It is assessed that the proposal to adopt the amendments should not have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
DCC Employees	These measures support social workers to follow DoE guidance re CV19.	
Community and Voluntary sector organisations working with protected characteristic groups	It is assessed that the proposal to adopt the amendments should not have an adverse impact on this protected characteristic, beyond those considered above. If any adverse impact emerges it should be addressed in the first instance by social work professionals.	
Other not listed above Foster carers	These measures support Foster carers to follow DoE guidance re CV19 by reducing non-essential visits.	

Part 4 – Equality Impact Action Plan			
Please complete this Action Plan for any negative or unknown impacts identified in the Analysis above.			
Issue identified	Action required to reduce impact/ mitigate	Timescale and responsibility	Monitoring and review arrangements
Virtual connectivity capacity of parties involved in all processes where this is used as the means of communication	Identify barriers to communication in advance of any key activity, use alternative venue's/equipment where required to enable connectivity or undertake the activity in person having fully risk assessed in relation to COVID 19 protection	Social workers, managers and leaders	Individual feedback and responses, QA activity and CV19 risk assessments
Social work visits and virtual reviews– ensure the views of younger and/or disabled children are heard	Seek feedback /information re well-being from other sources such as short break carers, school or health professionals	Social worker and team manager	QA audit of CV19 risk assts IRO monitoring and review
Social work visits and virtual reviews– ensure the views of those for whom English is not their first language are heard	Social workers and leaving care staff are using interpreters in skypes etc. where needed, carers have language line also if required. Some UASC young people have allocated cultural mentors who have been offering virtual support, and some of our young people who are being supported by the independent child trafficking	Social worker and team manager	QA audit of CV19 risk assts IRO monitoring and review

	guardian service are accessing a virtual 'youth club'.		
Virtual social work visits and virtual reviews – possible impact for all children in care	Participation worker and advocates will check with children – “How have you found talking to your social worker when you can't meet up face to face?”	Participation and rights team	QA monitoring and review
Exercising deprivation of liberty without the usual processes.	Given the seriousness of exercising deprivation of liberty be it temporary or otherwise the social worker and Independent Reviewing Officer will need to consider whether to change the care plan to allow this, and this would need to be authorised by the responsible Head of Service, Locality in addition to consideration by a Public Health Officer with the final decision to be made by the Assistant/Service Director.	Assistant/Service Director	Service Director

Date of any Cabinet/ Cabinet Member or Council Report to which this was attached:

Outcome from consideration by senior manager(s) (Please name) or if agreed by Cabinet/ Cabinet Portfolio Holder