

Rule of six and three-tier system in England: fostering briefing

The following briefing aims to provide clarity on the rule of six and the three-tier system in relation to the fostering role in England.

As of the 2 December 2020, new regulations came into force that re-introduced the rule of six and the three-tier local Covid-19 alert level system in England. There are some slight differences compared to the previous tier system regulations.

The rule of six means that, all households, when meeting friends and family they do not live with (or have formed a support or childcare bubble with) must not meet in a group of more than six, indoors or outdoors. In England, **children are not an exception to the rule of six** (apart from children below the age of five attending support groups, more information below), but elsewhere in the UK, children under a certain age are (children under 12 in Northern Ireland and Scotland and children under 11 in Wales).

You can find out what tier parts of the country are in, [here](#).

This briefing was last updated: 2 December 2020.

Guidance and regulations

The relevant guidance:

- [Coronavirus \(COVID-19\): guidance for children's social care services](#)
- [Local COVID alert levels: what you need to know](#)
- [Coronavirus \(COVID-19\): Social Distancing](#)

The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020:

These health protection [regulations](#) list exceptions under which the rule of six does not apply from the 2 December 2020 onwards in all three tiers in England.

Henceforth, the Coronavirus (COVID-19): guidance for children's social care services is referred to as 'the guidance' and The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 are referred to as 'the regulations'.

What does this mean for fostering?

Fostering households are largely considered as private dwellings in relation to the coronavirus guidance and regulations, and not workplaces, childcare or considered to be looking after a vulnerable person (see regulatory definitions below). There are times where exceptions to the regulations apply to the fostering household/foster carer and these are in relation to:

- Contact arrangements
- Short breaks (respite)
- Social worker visits
- Panels and reviews
- Moving to adoption
- Moving into or within the care system
- Support groups
- Training

Contact arrangements

Contact arrangements with birth parents and siblings are an exception to the rule of six and can continue face to face, indoors or outdoors across all three tiers levels. Foster carers and social workers whose attendance is necessary for the contact arrangement are also exempt. The rule of six still applies to other family members therefore it may be necessary for children and other friends and family to make alternative arrangements.

Decisions around whether to resume/continue face to face contact should be based on a risk assessment and:

- keep the individual needs of the child at the heart,
- take into consideration the feelings of the birth family
- take into consideration the feelings of the foster family,
- include an evaluation of the local circumstances, and,
- adhere to social distancing and public health guidelines.

Our [contact checklists for foster carers and social workers](#) can help think through this decision making process.

The regulations state:

Gatherings necessary for certain purposes are an exception. These certain purposes include:

- Contact with birth parents – that the gathering is ‘*reasonably necessary for the purposes of arrangements for access to, and contact between, parents and children where the children do not live in the same household as their parents or one of their parents*’
- Contact with siblings – that the gathering is ‘*reasonably necessary for the purposes of arrangements for contact between siblings where they do not live in the same household and one or more of them is—*’
 - *(i) a child looked after by a local authority, within the meaning of section 22 of the Children Act 1989(4), or*
 - *(ii) a relevant child, within the meaning of section 23A(5) of that Act*

The guidance states:

We expect that contact between children in care and their birth relatives will continue... However, there may be local or individual circumstances where face-to-face contact may not be possible, including where members of households are isolating or continuing to take precautions due to clinical vulnerability.

Contact arrangements should, therefore, be assessed on a case by case basis taking into account a range of factors, including the government's current [social distancing guidance](#) and [guidance on meeting people outside your household](#) and the needs of the child.

Short breaks (respite)

Short breaks for looked after children are an exception to the three tier system. Exploring what is available to best support a child's needs should be of prime consideration and confirmed in the child's care plan. Equally, any assessment of the child's needs should consider the support that a foster carer needs to enable them to provide the best care possible.

Decisions regarding planned breaks must be made on what is best now, in the current public health context, risk assessing in line with the current situation locally regarding Covid-19, and not based on much earlier decision making or long-standing arrangements. Our [factors to consider when resuming planned breaks](#) resource can act as a guide to decision-making in this context.

The regulations state:

Gatherings necessary for certain purposes are an exception. These certain purposes include:

- 'a short break being provided in respect of a looked after child (within the meaning given in section 22(7) of the Children Act 1989)'.

The guidance states:

Looked after children and their foster families can access respite care (short breaks), where it is needed to prevent potential placement breakdown or to provide some additional support to the family.

These provisions allow children to leave their foster home to stay with a respite carer, or for another carer to come into the fostering household to give the carer an opportunity to recharge.

We would encourage fostering services to consider how they can offer respite care safely during the coming weeks, whilst making every effort to manage the risks that contact between different households may present. This may be through existing support bubbles, community care models, or relationships between local carers, for example.

Other forms of support available:

There are exceptions for legally linked households that, once linked, are treated as a single household, therefore allowing overnight stays. Households can be linked if one of the households

comprises of a lone adult (a [single adult support bubble](#)) or if the households are linked for childcare purposes (a [childcare bubble](#)). These bubbles can be formed across all tiers. You should, wherever possible, keep your distance from people you do not live with (unless you have formed a support bubble with them).

The guidance states:

Where families rely on informal arrangements provided by family or friends, families are able to form a 'childcare bubble' with another household for the purposes of informal childcare, where the child is 13 or under, as part of a consistent childcare arrangement. Where a young person with SEND is over the age of 13, a linked childcare household cannot be provided. However, the exception that allows for respite care to be provided applies to those who are vulnerable or people with a disability and it applies to the carers of such people.

Social worker visits

Visits from a social worker to a fostering household are an exception to the rule of six as they are for work purposes. This is the same across all the tier levels. However, additionally, the Adoption and Children (Coronavirus) (Amendment) (No2) Regulations 2020 allow visits to a looked-after child, as required by the Care Planning, Placement and Case Review (England) Regulations 2010, to be carried out over the telephone, a video link or other electronic communication methods. For more information about the amendments, please read [our briefing](#).

The regulations state:

- Gatherings necessary for certain purposes are an exception. These certain purposes include for work purposes – that the gathering is 'reasonably necessary for work purposes or for the provision of voluntary or charitable services'

The guidance states:

Across all [local restriction tiers](#) the use of virtual visits should be the exception and can be used as a result of public health advice or when it is not reasonably practicable to have a face-to-face visit otherwise for a reason relating to the incidence or transmission of coronavirus (COVID-19). This could include in the event of local or national restrictions, self-isolation or social distancing advice due to coronavirus (COVID-19).

As good practice, children and young people should be told why a face-to-face visit is not possible and be advised of their right to advocacy or support.

This does not provide blanket cover for all such visits to be held virtually. Wherever possible, visits should be held face-to-face. This can include considering whether it is possible to move the time or location of the meeting within the statutory timescales.

Panels and reviews

Any panel or review meeting in fostering would also be an exception to the rule of six. Exceptions apply differently, depending on where meetings take place.

If the panel or review meeting occurs in the fostering household, then the work exception (listed above) applies to social workers or other individuals leading or participating in the meeting and going into the foster carer's home for work purposes.

Where panel or review meetings happen outside of the foster home, and the foster carer attends another venue to join the meeting, it is the foster carer that is an exception to the rule of six as they are in attendance for work purposes.

This is the same across all three tiers. As the tiering provisions state, face-to-face meetings should only be happening where entirely essential and appropriate risk assessments taken.

Moving to adoption

The regulations provide exceptions to the rule of six and to the rule of household mixing for the purpose of making arrangements for prospective adopters (including their household) to meet a child or children who may be placed with them for adoption. Foster carers can also be present at the introductory meetings, if their presence is reasonably necessary for the purposes of the introductory meetings. This ensures that foster carers and approved adopters can continue take part in adoption introductory meetings and prevent unnecessary delays to children moving in with their adoptive family.

The regulations state:

Gatherings necessary for certain purposes are an exception. These certain purposes include:

- *(c) for the purposes of arrangements for prospective adopters (including their household) to meet a child or children who may be placed with the prospective adopters as provided for by an adoption placement plan drawn up in accordance with the Adoption Agencies Regulations 2005 (see regulation 35(2) of those Regulations);*

The guidance states:

Whilst we understand that introductory meetings will sometimes be challenging in the current circumstances, there needs to be a case by case, risk-based decision about what is right in the circumstances.

Face to face introductory meetings, such as adopters and foster carers visiting each other's homes so the child(ren) can get to know the adopters before moving in with them, can continue to take place if it is possible to do so and if all parties are comfortable with the arrangements. Individuals should consider what is most appropriate in their specific circumstances.

We accept that for some children introductory meetings may have to be postponed for example, where someone in the foster family is in a vulnerable category and that other ways may need to be found to prioritise permanent placements for children in line with their best interests.

Moving into or within the care system

In addition, all moves for the purposes of placing children in the care of another person by social services is now also an exception.

The regulations state:

Gatherings necessary for certain purposes are an exception. These certain purposes include:

- *(d) for the purposes of placing children, or facilitating children being placed, in the care of another person by social services, whether on a temporary or permanent basis;*

Support groups

Support groups for foster carers are an exception to the rule of six across all three tier levels. However, some restrictions still apply.

The regulations state:

Gatherings necessary for certain purposes are an exception. These certain purposes include:

- (a) the gathering—
 - (i) is of a support group,
 - (ii) consists of no more than 15 persons, and
 - (iii) takes place at premises other than a private dwelling, and
- (b) it is reasonably necessary for members of the group to be physically present at the gathering.
- (10) In determining whether the limit in sub-paragraph (9)(a)(ii) is complied with, no account is to be taken of any child who is below the age of five.

Training

Training is an exception to the rule of six.

The regulations state:

Gatherings necessary for certain purposes are an exception. These certain purposes include:

- *(i) preparing for work through a skills programme consisting of—*
 - *(i) a work experience placement, or*
 - *(ii) work preparation training;*
- *(j) applying for, and obtaining, work;*

- *(k)meeting a requirement for a particular area of work;*
- *(l)professional training that is working towards an external accreditation recognised by a professional body;*
- *(m)exams and assessments carried out in connection with any of the matters mentioned in paragraphs (a) to (l).*

Useful definitions

According to the regulations:

- “childcare” has the same meaning as in section 18 of the Childcare Act 2006(11). In these regulations “childcare” **does not include** care provided for a child by— a person who is a local authority foster parent in relation to the child; a person who is a foster parent with whom the child has been placed by a voluntary organisation; or a person who fosters the child privately.
- “vulnerable person” includes—
 - (a)any person aged 70 or older;
 - (b)any person aged under 70 who has an underlying health condition, including (but not limited to) the conditions listed in sub-paragraph (3);
 - (c)any person who is pregnant.
- “support group” means a group which is organised by a business, a charitable, benevolent or philanthropic institution or a public body to provide mutual aid, therapy or any other form of support to its members or those who attend its meetings.

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