

Regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010

1 Legislative Context

Regulation 24 of the Care Planning, Placement and Case Review (England) Regulations 2010, which became effective from 1 April 2011, replaced Regulation 38 (2) of the Fostering Services Regulations 2002, which related to immediate placements of children with relatives and friends not previously approved as foster carers.

Regulation 24(1) provides that where the local authority is satisfied that an immediate placement with a Connected Carer is the most appropriate placement for the child notwithstanding that the proposed carers are not approved as foster carers, the carers can have temporary approval for a period of up to 16 weeks provided that an assessment of their suitability under Regulation 24(2) has taken place.

Of note!

Regulation 24 is the legal framework for an assessment of a connected carer, known in Devon County Council as a Viability Assessment (VA). The term Viability Assessment (Reg.24) will be used moved forward.

2. Connected Person

A Connected Person is defined as 'a relative, friend or other person connected with a child. The latter is someone who would not fit the term 'relative or friend', but who has a pre-existing relationship with the child. It could be someone who knows the child in a more professional capacity such as (for example) a child-minder, a teacher or a youth worker'.

Relative is defined as 'a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent'.

3. When should a Viability Assessment (Reg.24) be considered?

A Reg. 24 assessment, known as a Viability Assessment (VA) should be considered when the locality authority assess that a child will be at risk of, or is likely to be at risk of significant harm, if:

- a) they were to remain in the care of their parent(s) or guardian
- b) they are living with family or friends as part of a family arrangement and would be at risk of significant harm or is likely

to be at risk of significant harm if they were to return to the care of their parent(s) or guardian.

Key principle!

When a child is not able to return to the care of their parent(s) or guardian in the above circumstances and needs to be looked after outside of these arrangements, family and friend (connected carer) options must be the primary consideration, before requesting a child be accommodated in local authority care i.e., foster care, residential, supported accommodation

4. A Viability Assessment (Reg.24) should be considered in the following circumstances.

As part of the child's contingency plan; short-, medium-, and long-term assessment and planning:

- a) Following a Family Group Conference (FGC) when exploring extended networks of support
- b) When a child is subject to Child Protection Planning
- c) When a child is subject to pre-proceedings (PLO)
- d) When a child is in the care of the local authority and family or friends' options are being considered (in an emergency or planned)
- e) During care proceedings when family or friend networks are being considered as connected carers for the child

When it is not safe for a child to remain or return to the care of their parent(s) or guardian and local authority are taking action to intervene:

- f) When a child is deemed at immediate risk of harm and needs to be moved to a place of safety
(This may be following a Sec. 47 enquiry, the application of Police Protection Powers, or the application for an Emergency Protection Order (EPO) (Section 44, CA 1989)
- g) Following a voluntary agreement with parents (Section. 20, CA 1989)
- h) Prior to an application being made to Court to request an Interim Care Order (ICO) (Section 38, CA 1989) with removal from their parent(s) or guardian's care

Key principle!

*The local authority should not move a child to a family or friend arrangement in any of the above circumstances without first completing a Viability Assessment. **Without a Viability Assessment (Reg. 24) the arrangement is 'unlawful'.***

Where a child has been moved to a family or friend arrangement in an emergency, such as Police Protection Powers a Viability Assessment should be completed the next working day to ensure safety and to provide temporary approval. Without this the arrangement is unlawful.

If in doubt, discuss with your Area Manager/Locality Director/Senior Manager and/or seek legal advice.

5. What if a child has been placed with a family or friend and a Viability Assessment (Reg.24) has not been completed?

If the local authority has placed a child with a family or friend or if a child is living with a family or friend and the local authority assess it is not safe for the child to return home to their parent(s) or guardian, a Viability Assessment (Reg. 24) must be completed the first working day.

In the above circumstance, if there is evidence that the child is not safe in the family and friend arrangement, or there are too many unknown factors, pending the completion of the Viability Assessment (Reg. 24), the child should be moved to a place of safety.

The Viability Assessment can then be concluded over the relevant period, to enable the local authority to gather relevant information to make an informed assessment, regarding suitability for temporary approval.

Key principle!

Where a child is placed with a family or friend and a Viability Assessment (Reg. 24) has not been completed you should alert your line manager /Area Manager/Locality Director/Senior Manager and/or seek legal advice.

6. The Viability Assessment (Reg. 24)

The Viability Assessment (Reg. 24) should be completed before a child is placed with a family or friend. Where there is an urgent need to consider family or friend options for a child, the assessment can be completed within 24 hours or in 1 working day.

A Viability Assessment (Reg. 24) is an initial, pre-screening assessment to determine if family and friend carers are a safe arrangement for a child to live, prior to a full Connected Carer and/or Special Guardianship Assessment be undertaken.

As a minimum the Viability Assessment (Reg. 24) and before placing a child to live with a family or friend the following must be assessed and completed:

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- PNC checks of connected carers and any adult (18+) living in the household
- DBS request completion
- Local Authority checks
- Is there an existing relationship and connection to the child?
- Visible assessment of the home, environment, locality
- Where will the child sleep? Do they have their own room?
- Do the prospective carers understand the child's care, education, health and safeguarding needs? Are they able to respond and meet these needs?
- Are there other children in the household that need to be considered? Would there be an appropriate match? Age, stage of development, need, views?
- What is the prospective carers experience of parenting or caring for children?
- Is the prospective carer able to meet the child's holistic needs?

A positive Viability Assessment (Reg. 24) provides temporary Connected Carer approval of 16 weeks; whilst a full Connected Carer and/or Special Guardianship Assessment is completed.

Therefore, a referral should be made to the Kinship Service with a request for a Connected Carer and/or Special Guardianship assessment at the point of the Viability Assessment being completed and authorised.

Of note:

The Viability Assessment (Reg.24) authorisation can only be made following Quality Assurance and oversight of the Kinship Service, the Kinship Area Manager making a recommendation to approve or not, that is presented to the relevant Locality Director/ Senior Manager for final approval.

7. When a Viability Assessment (Reg. 24) has a negative outcome or is not approved?

When a Viability Assessment (Reg.24) outcome is negative or temporary approval is not granted a child should not be placed with the family or friend as this will become an 'unlawful' arrangement.

If the outcome of the Viability Assessment (Reg.24) does not grant temporary approval a recommendation may be made, for the Kinship Service to undertake a full Connected Carer and/or Special Guardianship assessment. This should be requested at the point of the Viability Assessment (Reg. 24) being authorised.

The child should not be placed with the family or friend until the completion and positive outcome of a Connected Carer and/or Special Guardianship assessment as this will be an 'unlawful' arrangement.

Key principle!

*If the child is already living with the family or friend, and the Viability Assessment (Reg.24) temporary approval has not approved, the child should be moved to a place of safety immediately, or where this is not possible immediately, an interim safety plan should be initiated whilst the right home is identified for the child. **You should also alert your line manager /Area Manager/Locality Director/Senior Manager and/or seek legal advice.***

8. When the 16 weeks (Reg.24) temporary approval has expired

When a positive Viability Assessment (Reg. 24) temporary approval has been approved, a full Connected Carer and/or Special Guardianship assessment should be in progress. If for any reason the Connected Carer and/or Special Guardianship assessment has not been completed within the 16-week approval window, a request for an extension to the temporary approval can be made.

A request for an extension to the temporary approval must be presented to the Fostering Panel for consideration, in advance of the 16-week approval window expiring. An extension request is considered in extenuating circumstances only. For example, delay in the return of medical assessments or DBS.

The maximum extension period is 8-weeks and is for the purpose of completing the Connected Carer and/or Special Guardianship assessment in full and being presented to Fostering Panel before the 8-week extension expires.

Key principle!

The family and friend arrangement becomes 'unlawful', if:

- *the 16-week temporary approval expires without seeking an 8-week extension via Fostering Panel, in advance*
- *A date for Fostering Panel has been identified, to consider an 8-week extension, but this is outside of the 16-week temporary approval*
- *An extension of 8-weeks has been approved by Fostering Panel and has subsequently expired, before the completion/approval of the Connected Carer assessment*
- *The Connected Carer assessment is presented to Fostering Panel and ADM with recommended approval.*

In these circumstances, you should also alert your line manager /Area Manager/Locality Director/Senior Manager and/or seek legal advice at the earliest opportunity. This will enable management oversight to consider the safety of the child, presenting risks or concerns, to determine the next steps to ensure the child's safety and actions.

Please see Addendum - Viability Assessment (Reg 24) process